

HOUSE BILL NO. 1301

Introduced by

Representative Ruby

Senator Nodland

1 A BILL for an Act to create and enact sections 39-05-35 and 47-10-26 of the North Dakota
2 Century Code, relating to the conversion of manufactured homes to real property and the
3 affixation of manufactured homes to real property and the conveyance and encumbrance of
4 manufactured homes as real property; and to amend and reenact sections 35-01-05.1,
5 39-05-01, 39-05-02.2, 39-05-09, 39-05-09.2, 39-05-19, 39-05-20, 39-05-22, 47-01-03,
6 57-02-04, and 57-55-01 of the North Dakota Century Code, relating to manufactured homes.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 35-01-05.1 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **35-01-05.1. When security interest in vehicle valid.**

11 1. No security interest, including a security interest under chapter 41-09, in a vehicle,
12 including a manufactured home, which is not inventory held for sale is valid as
13 against subsequent purchasers and encumbrances of the property in good faith
14 and for value unless the security interest is clearly indicated upon the certificate of
15 title to the vehicle or unless such certificate of title is in the possession of the
16 secured party, provided, however, that a purchase money security interest under
17 chapter 41-09 in a manufactured home is perfected against the rights of judicial
18 lien creditors and execution creditors on and after the date the purchase money
19 security interest attaches, and provided further the holder of a security interest in or
20 a lien on a manufactured home may deliver lien release documents to a person to
21 facilitate conveying or encumbering the manufactured home. A person receiving
22 documents so delivered holds the documents in trust for the security interest holder
23 or the lienholder.

- 1 2. Except as otherwise provided in section 47-10-26 and in subsections 1 and 2 of
2 section 39-05-35, after a certificate of title has been issued for a manufactured
3 home and as long as the manufactured home is subject to a security interest
4 perfected under this section, the department may not file an affidavit of affixation,
5 cancel the manufacturer's certificate of origin, or revoke the certificate of title, and
6 the validity and priority of a security interest perfected under this section continues,
7 notwithstanding any other provision of law.
- 8 3. The term "manufactured home" as used in subsections 1 and 2 is a manufactured
9 home as defined in section 41-09-02, excluding a manufactured home with respect
10 to which the requirements of subsections 1 through 3 of section 39-05-35, as
11 applicable, have been satisfied.
- 12 4. The term "vehicle" as used in this section includes any vehicle for which a
13 certificate of title is required under title 39 or other statutes of this state.
- 14 5. With respect to a manufactured home that is or will be permanently affixed to real
15 property, upon recordation of an affidavit of affixation under section 47-10-26 and
16 satisfaction of the requirements of subsections 1 through 3 of section 39-05-35, as
17 applicable, a perfection or termination of a security interest with respect to the
18 permanently affixed property is governed by chapter 47-10.

19 **SECTION 2. AMENDMENT.** Section 39-05-01 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **39-05-01. ~~Definition~~ Definitions.** In this chapter, unless the context or subject matter
22 otherwise requires, "motor vehicle" includes a housetrailer or mobile home and ~~any a~~
23 semitrailer designed to be towed by a truck tractor and "manufactured home" means a
24 manufactured home as defined in section 41-09-02.

25 **SECTION 3. AMENDMENT.** Section 39-05-02.2 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **39-05-02.2. Exclusions from the certificate of title requirement.** No certificate of
28 title need be obtained for:

- 29 1. A vehicle owned by the United States unless it is registered in this state.

- 1 2. A vehicle owned by a manufacturer or dealer and held for sale, even though
- 2 incidentally moved on the highway or used for purposes of testing or
- 3 demonstration, or a vehicle used by a manufacturer solely for testing.
- 4 3. A vehicle owned by a nonresident of this state and not required by law to be
- 5 registered in this state.
- 6 4. A vehicle regularly engaged in interstate transportation of persons or property for
- 7 which a currently effective certificate of title has been issued in another state.
- 8 5. A vehicle moved solely by human or animal power.
- 9 6. Implements of husbandry.
- 10 7. Special mobile equipment.
- 11 8. A self-propelled invalid wheelchair or invalid tricycle.
- 12 9. Any vehicle which is driven or moved upon a highway only for the purpose of
- 13 crossing the highway from one property to another. The vehicle shall cross the
- 14 highway at an angle of approximately ninety degrees to the direction of the
- 15 highway.
- 16 10. Other vehicles not required to be registered in this state or not required to display
- 17 distinctive plates.
- 18 11. A manufactured home with respect to which the requirements of subsections 1
- 19 through 3 of section 39-05-35, as applicable, have been satisfied.

20 **SECTION 4. AMENDMENT.** Section 39-05-09 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **39-05-09. Issuance, contents, delivery, and term of certificate.**

- 23 1. After checking the application for a certificate as provided in section 39-05-08 and
- 24 except as provided in subsection 4, the department, if it is satisfied that the
- 25 applicant is the person entitled to the possession of the vehicle, shall issue a
- 26 certificate of title which must contain:
 - 27 a. The name of the owner.
 - 28 b. The vehicle identification number.
 - 29 c. The signature of the director.
 - 30 d. The date issued.
 - 31 e. A description of the vehicle as determined by the department.

- 1 f. A statement of the owner's title and of all liens or encumbrances upon the
2 vehicle therein described and whether possession is held by the owner or
3 lienholder.
- 4 2. Upon the reverse side of such certificate must be contained forms for the
5 assignment of title or interest and warranty thereof by the owner with a space for
6 the notation of liens and encumbrances upon such vehicle at the time of a transfer.
- 7 3. The amount of any lien or encumbrance upon the vehicle need not be shown
8 anywhere on the certificate of title, only the fact of such lien or encumbrance, and
9 the identity of the lienholder or encumbrancer. The department shall deliver the
10 certificate of title to the owner or first lienholder. The certificate is good for the life
11 of the vehicle as long as the vehicle is owned or held by the original holder of the
12 certificate.
- 13 4. The department may not issue a certificate of title for a manufactured home with
14 respect to which there has been recorded an affidavit of affixation under section
15 47-10-26.
- 16 5. The holder of a manufacturer's certificate of origin to a manufactured home may
17 deliver it to a person to facilitate conveying or encumbering the manufactured
18 home. A person receiving a manufacturer's certificate of origin so delivered holds
19 the certificate in trust for the person delivering the certificate.
- 20 6. Notwithstanding any other provision of law, a certificate of title issued by the
21 department for a manufactured home is prima facie evidence of the facts
22 appearing on the certificate, notwithstanding that the manufactured home, at any
23 time, becomes affixed in any manner to real property.

24 **SECTION 5. AMENDMENT.** Section 39-05-09.2 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **39-05-09.2. Suspension or revocation of certificates of title.**

- 27 1. The department shall suspend or revoke a certificate of title, upon notice and
28 reasonable opportunity to be heard in accordance with chapter 28-32, when
29 authorized by any other provision of law or if it finds:
- 30 a. The certificate of title was fraudulently procured or erroneously issued;
- 31 b. The vehicle has been scrapped, dismantled, or destroyed; or

- 1 c. A person has acquired a vehicle but has failed to transfer the ownership as
2 required by this chapter.
- 3 2. For purposes of this section, the following apply:
- 4 a. Suspension or revocation of a certificate of title does not, in itself, affect the
5 validity of a security interest noted on it.
- 6 b. When the department suspends or revokes a certificate of title, the owner or
7 person in possession of it shall immediately upon receiving notice of the
8 suspension or revocation, mail or deliver the certificate to the department.
- 9 c. The department may seize and impound any certificate of title which has been
10 suspended or revoked.
- 11 3. Except as provided in subsection 2 of section 39-05-35, the department may not
12 suspend or revoke a certificate of title to a manufactured home by reason of the
13 fact that at any time the manufactured home becomes affixed in any manner to real
14 property.

15 **SECTION 6. AMENDMENT.** Section 39-05-19 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **39-05-19. Obtaining certificate of title for vehicle when ownership obtained by**
18 **other than voluntary means.** Whenever the ownership of any vehicle passes otherwise than
19 by voluntary transfer, the transferee may obtain a certificate of title for the vehicle from the
20 department upon application for the certificate and payment of a fee of five dollars. The
21 application for the certificate must be accompanied by instruments or documents of authority, or
22 copies thereof, as may be required by law to evidence or effect a transfer of title in or to chattels
23 in such case. The department, when satisfied of the genuineness and regularity of such
24 transfer, shall issue a new certificate of title to the person entitled thereto, provided that the
25 department may not issue a certificate of title for a manufactured home with respect to which
26 there has been recorded an affidavit of affixation under section 47-10-26.

27 **SECTION 7. AMENDMENT.** Section 39-05-20 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **39-05-20. Transferee may obtain new certificate of title upon inability to obtain**
30 **old certificate - Proof of ownership - Appeal.**

- 1 1. When the transferee of a vehicle is unable to obtain a properly assigned certificate
2 of title for a vehicle, and makes application for a new certificate and presents
3 satisfactory proof of ownership, the department may cancel the old certificate and
4 issue a new certificate to the transferee, provided that the department may not
5 issue a certificate of title for a manufactured home with respect to which there has
6 been recorded an affidavit of affixation under section 47-10-26. Satisfactory proof
7 of ownership must include compliance by the transferee with the procedures
8 outlined in title 35. The department may establish procedures for determining
9 satisfactory proof of ownership of a vehicle in those cases when the department is
10 unable to determine the legal owner of record. Any person aggrieved by a decision
11 of the department as to ownership of a vehicle may appeal that decision to the
12 district court under chapter 28-32.
- 13 2. A person holding a certificate of title whose interests in the vehicle have been
14 extinguished or transferred other than by voluntary transfer shall mail or deliver the
15 certificate to the department upon request of the department. The delivery of the
16 certificate pursuant to the request of the department does not affect the rights of
17 the person surrendering the certificate. The action of the department in issuing a
18 new certificate of title as provided herein is not conclusive upon the rights of the
19 owner or lienholder listed in the old certificate.

20 **SECTION 8. AMENDMENT.** Section 39-05-22 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **39-05-22. Department to maintain file of surrendered certificates of title - Purpose**
23 **- Records.** The department shall retain and appropriately file every surrendered certificate of
24 title, such file to be maintained to permit the tracing of title of vehicles designated therein.

- 25 1. The department shall file, upon receipt, each affidavit of affixation relating to a
26 manufactured home that is delivered in accordance with section 47-10-26 when
27 satisfied of the affidavit's genuineness and regularity.
- 28 2. The department shall maintain a record of each affidavit of affixation filed in
29 accordance with subsection 1. The record must state the name of each owner of
30 the related manufactured home, the county of recordation, the date of recordation,
31 the book and page number of each book of records in which there has been

- 1 recorded an affidavit of affixation under section 47-10-26, and any other
2 information the department prescribes.
- 3 3. The department shall file, upon receipt, each application for surrender of the
4 manufacturer's certificate of origin relating to a manufactured home that is
5 delivered in accordance with subsection 1 of section 39-05-35, when satisfied of
6 the application's genuineness and regularity.
- 7 4. The department shall file, upon receipt, each application for surrender of the
8 certificate of title relating to a manufactured home that is delivered in accordance
9 with subsection 2 of section 39-05-35, when satisfied of the application's
10 genuineness and regularity.
- 11 5. The department shall file, upon receipt, each application for confirmation of
12 conversion relating to a manufactured home that is delivered in accordance with
13 subsection 3 of section 39-05-35, when satisfied of the application's genuineness
14 and regularity.
- 15 6. The department shall maintain a record of each manufacturer's certificate of origin
16 accepted for surrender as provided in subsection 1 of section 39-05-35. The
17 record must state the name of each owner of the manufactured home, the date the
18 manufacturer's certificate of origin was accepted for surrender, the county of
19 recordation, the date of recordation, the book and page number of each book of
20 records in which there has been recorded an affidavit of affixation under section
21 47-10-26, and any other information the department prescribes.
- 22 7. The department shall maintain a record of each manufactured home certificate of
23 title accepted for surrender as provided in subsection 2 of section 39-05-35. The
24 record must state the name of each owner of the manufactured home, the date the
25 certificate of title was accepted for surrender, the county of recordation, the date of
26 recordation, the book and page number of each book of records in which there has
27 been recorded an affidavit of affixation under section 47-10-26, and any other
28 information the department prescribes.
- 29 8. The department shall maintain a record of each application for confirmation of
30 conversion accepted as provided in subsection 3 of section 39-05-35. The record
31 must state the name of each owner of the manufactured home, the county of

1 recordation, the date of recordation, the book and page number of each book of
2 records in which there has been recorded an affidavit of affixation under section
3 47-10-26, and any other information the department prescribes.

4 9. Such file of surrendered certificates of title and the records referred to in
5 subsections 6, 7, and 8 must be maintained for a period of five years or for such
6 further time that the director may determine.

7 **SECTION 9.** Section 39-05-35 of the North Dakota Century Code is created and
8 enacted as follows:

9 **39-05-35. Manufactured homes - Conversion to real property - Procedure - Rules.**

10 1. a. The owner or, if there is more than one owner, all owners, of a manufactured
11 home that is covered by a manufacturer's certificate of origin which the owner
12 is able to produce and that is permanently affixed to real property as defined
13 in subsection 1 of section 47-10-26, or which the owner intends to
14 permanently affix to real property as defined in subsection 1 of section
15 47-10-26, may surrender the manufacturer's certificate of origin to the
16 manufactured home to the department by filing with the department an
17 application for surrender of manufacturer's certificate of origin containing or
18 accompanied by:

19 (1) The name, residence, and mailing address of the owner;

20 (2) A description of the manufactured home, including the name of the
21 manufacturer, the make, the model name, the model year, the
22 dimensions, the manufacturer's serial number of the manufactured
23 home, whether the manufactured home is new or used, and any other
24 information the department requires;

25 (3) The date of purchase by the owner of the manufactured home, the
26 name and address of the person from whom the home was acquired,
27 and the names and addresses of any security interest holders and
28 lienholders in the order of their apparent priority;

29 (4) A statement, signed by the owner, stating either:

30 (a) Any facts or information known to the owner that may affect the
31 validity of the title to the manufactured home or the existence or

1 nonexistence of a security interest in or lien on the manufactured
2 home; or

3 (b) That no such facts or information are known to the owner;

4 (5) A copy of the recorded affidavit of affixation as provided in accordance
5 with subsection 5 of section 47-10-26;

6 (6) The original manufacturer's certificate of origin;

7 (7) The name and mailing address of each person wishing written
8 acknowledgment of surrender from the department;

9 (8) The applicable fee for filing the application for surrender; and

10 (9) Any other information and documents the department reasonably
11 requires to identify the owner of the manufactured home and to enable
12 the department to determine whether the owner satisfied the
13 requirements of subdivisions a through c of subsection 6 of section
14 47-10-26 and is entitled to surrender the manufacturer's certificate of
15 origin and the existence or nonexistence of security interests in or liens
16 on the manufactured home.

17 b. When satisfied of the genuineness and regularity of the surrender of a
18 manufacturer's certificate of origin to a manufactured home and upon
19 satisfaction of the requirements of subdivision a, the department shall:

20 (1) Cancel the manufacturer's certificate of origin and update the
21 department's records in accordance with the provisions of section
22 39-05-22; and

23 (2) Provide written acknowledgment of compliance with the provisions of
24 this section to each person identified on the application for surrender of
25 a manufacturer's certificate of origin under paragraph 7 of subdivision a.

26 c. Upon satisfaction of the requirements of this subsection, a manufactured
27 home may be conveyed or encumbered as provided in chapter 47-10. If the
28 application to surrender a manufacturer's certificate of origin is delivered to
29 the department within sixty days of recording the related affidavit of affixation
30 with the recorder in the county in which the real property to which the
31 manufactured home is or will be affixed and the application is thereafter

- 1 accepted by the department, the requirements of this subsection must be
2 deemed satisfied as of the date the affidavit of affixation was recorded.
- 3 d. Upon written request, the department shall provide written acknowledgment of
4 compliance with the provisions of this subsection.
- 5 2. a. The owner or, if there is more than one owner, all owners, of a manufactured
6 home that is covered by a certificate of title which the owner is able to
7 produce and that is permanently affixed to real property as defined in
8 subsection 1 of section 47-10-26, or which the owner intends to permanently
9 affix to real property as defined in subsection 1 of section 47-10-26, may
10 surrender the certificate of title to the manufactured home to the department
11 by filing with the department an application for surrender of title containing or
12 accompanied by:
- 13 (1) The name, residence, and mailing address of the owner;
14 (2) A description of the manufactured home, including the name of the
15 manufacturer, the make, the model name, the model year, the
16 dimensions, the manufacturer's serial number of the manufactured
17 home, whether the manufactured home is new or used, and any other
18 information the department requires;
19 (3) The date of purchase by the owner of the manufactured home, the
20 name and address of the person from whom the home was acquired,
21 and the names and addresses of any security interest holders and
22 lienholders in the order of their apparent priority;
23 (4) A statement, signed by the owner, stating either:
24 (a) Any facts or information known to the owner that may affect the
25 validity of the title to the manufactured home or the existence or
26 nonexistence of a security interest in or lien on the manufactured
27 home; or
28 (b) That no such facts or information are known to the owner;
29 (5) A copy of the recorded affidavit of affixation provided in accordance
30 with subsection 5 of section 47-10-26;
31 (6) The original certificate of title;

- 1 (7) The name and mailing address of each person wishing written
2 acknowledgment of surrender from the department;
- 3 (8) The applicable fee for filing the application for surrender; and
4 (9) Any other information and documents the department reasonably
5 requires to identify the owner of the manufactured home and to enable
6 the department to determine whether the owner satisfied the
7 requirements of subdivisions a through c of subsection 6 of section
8 47-10-26 and is entitled to surrender the certificate of title and the
9 existence or nonexistence of security interests in or liens on the
10 manufactured home.
- 11 b. The department may not accept for surrender a certificate of title to a
12 manufactured home unless and until all security interests or liens perfected
13 under section 35-01-05.1 have been released.
- 14 c. When satisfied of the genuineness and regularity of the surrender of a
15 certificate of title to a manufactured home and upon satisfaction of the
16 requirements of subdivisions a and b, the department shall:
- 17 (1) Cancel the certificate of title and update the department's records in
18 accordance with the provisions of section 39-05-22; and
- 19 (2) Provide written acknowledgment of compliance with the provisions of
20 this section to each person identified on the application for surrender of
21 title under paragraph 7 of subdivision a.
- 22 d. Upon satisfaction of the requirements of this subsection, a manufactured
23 home may be conveyed or encumbered as provided in chapter 47-10. If the
24 application to surrender a certificate of title is delivered to the department
25 within sixty days of recording the related affidavit of affixation with the
26 recorder in the county in which the real property to which the manufactured
27 home is or will be affixed, and the application is thereafter accepted by the
28 department, the requirements of this subsection must be deemed satisfied as
29 of the date the affidavit of affixation was recorded.
- 30 e. Upon written request, the department shall provide written acknowledgment of
31 compliance with the provisions of this subsection.

- 1 3. a. The owner or, if there is more than one owner, all owners, of a manufactured
2 home that is not covered by a manufacturer's certificate of origin or a
3 certificate of title, or of a manufactured home that is covered by a
4 manufacturer's certificate of origin or certificate of title but which the owner of
5 the manufactured home, after diligent search and inquiry, is unable to
6 produce, and that is permanently affixed to real property as defined in
7 subsection 1 of section 47-10-26, or which the owner intends to permanently
8 affix to real property as defined in subsection 1 of section 47-10-26, may
9 apply to the department by filing with the department an application for
10 confirmation of conversion containing or accompanied by:
- 11 (1) The name, residence, and mailing address of the owner;
12 (2) A description of the manufactured home, including the name of the
13 manufacturer, the make, the model name, the model year, the
14 dimensions, the manufacturer's serial number of the manufactured
15 home, whether the manufactured home is new or used, and any other
16 information the department requires;
17 (3) The date of purchase by the owner of the manufactured home, the
18 name and address of the person from whom the home was acquired,
19 and the names and addresses of any security interest holders and
20 lienholders in the order of their apparent priority;
21 (4) A statement, signed by the owner, stating either:
22 (a) Any facts or information known to the owner that could affect the
23 validity of the title to the manufactured home or the existence or
24 nonexistence of a security interest in or lien on the manufactured
25 home; or
26 (b) That no such facts or information are known to the owner;
27 (5) A recorded copy of the affidavit of affixation as provided in accordance
28 with subsection 5 of section 47-10-26;
29 (6) A sworn declaration by an attorney duly admitted to practice in this
30 state or an agent of a title insurance company duly licensed to issue
31 policies of title insurance in this state that the manufactured home is

- 1 free and clear of, or has been released from, all recorded security
2 interests, liens, and encumbrances; and
- 3 (a) Any facts or information known to that person that could affect
4 the validity of the title of the manufactured home or the existence
5 or nonexistence of any security interest in or lien on the
6 manufactured home; or
- 7 (b) That no such facts or information are known to that person;
- 8 (7) The name and mailing address of each person wishing written
9 acknowledgment of surrender from the department;
- 10 (8) The applicable fee for filing the application for surrender; and
- 11 (9) Any other information and documents the department reasonably
12 requires to identify the owner of the manufactured home and to enable
13 the department to determine whether the owner satisfied the
14 requirements of subdivisions a through c of subsection 6 of section
15 47-10-26 and the existence or nonexistence of security interests in or
16 liens on the manufactured home.
- 17 b. When satisfied of the genuineness and regularity of the application for
18 confirmation of conversion of a manufactured home and upon satisfaction of
19 the requirements of subdivision a, the department shall:
- 20 (1) Update its records in accordance with the provisions of section
21 39-05-22; and
- 22 (2) Provide written acknowledgment of compliance with the provisions of
23 this subsection to each person identified on the application for
24 confirmation of conversion under paragraph 7 of subdivision a.
- 25 c. Upon satisfaction of the requirements of this subsection, a manufactured
26 home may be conveyed or encumbered as provided in chapter 47-10. If the
27 application for confirmation of conversion of a manufactured home is
28 delivered to the department within sixty days of recording the related affidavit
29 of affixation with the recorder in the county in which the real property to which
30 the manufactured home is or will be affixed and the application is thereafter

1 accepted by the department, the requirements of this subsection must be
2 deemed satisfied as of the date the affidavit of affixation was recorded.
3 d. Upon written request, the department shall provide written acknowledgment of
4 compliance with the provisions of this subsection.

5 4. The department may adopt rules to implement the provisions of this section.

6 **SECTION 10. AMENDMENT.** Section 47-01-03 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **47-01-03. Real property defined.** Real or immovable property shall consist of:

- 9 1. Land;
- 10 2. That which is affixed to land, including manufactured homes as defined in section
11 41-09-02 with respect to which the requirements of subsections 1 through 3 of
12 section 39-05-35, as applicable, have been satisfied;
- 13 3. That which is incidental or appurtenant to land; and
- 14 4. That which is immovable by law.

15 **SECTION 11.** Section 47-10-26 of the North Dakota Century Code is created and
16 enacted as follows:

17 **47-10-26. Manufactured homes - Affixation to real property - Conveyance or**
18 **encumbrance as real property.**

- 19 1. For purposes of this section, "manufactured home" means a manufactured home
20 as defined in section 41-09-02. Notwithstanding this definition, for purposes of
21 11 U.S.C. 1322(b)(2), a manufactured home is deemed real property. For
22 purposes of this section, a manufactured home is permanently affixed if the
23 manufactured home is anchored to real property by attachment to a permanent
24 foundation; constructed in accordance with applicable state and local building
25 codes and manufacturer's specifications as provided in title 24, Code of Federal
26 Regulations, part 3285; and connected to residential utilities, such as water, gas,
27 electricity, or sewer or septic service.
- 28 2. To convey or voluntarily encumber a manufactured home as real property, the
29 following conditions must be met:
 - 30 a. The manufactured home must be permanently affixed to real property;

- 1 b. The ownership interests in the manufactured home and the real property to
2 which the manufactured home is or will be permanently affixed must be
3 identical, provided, however, that the owner of the manufactured home, if not
4 the owner of the real property, is in possession of the real property under the
5 terms of a lease in recordable form that has a term that continues for at least
6 twenty years after the date of execution and the consent of the lessor of the
7 real property;
- 8 c. The person having an ownership interest in the manufactured home executes
9 and records with the recorder of the county in which the real property is
10 located an affidavit of affixation as provided in subsection 3 and satisfies the
11 other applicable requirements of this section; and
- 12 d. Upon receipt of a recorded copy of the affidavit of affixation under
13 subsection 5, a person designated in the affidavit for filing with the department
14 of transportation files the recorded copy of the affidavit of affixation with the
15 department of transportation, except that:
- 16 (1) In a circumstance described in item 1 of subparagraph a of paragraph 4
17 of subdivision a of subsection 3, the recorded copy of the affidavit of
18 affixation and the original manufacturer's certificate of origin, each as
19 recorded in the county in which the real property is located, must be
20 filed with the department of transportation under subsection 1 of section
21 39-05-35;
- 22 (2) In a circumstance described in item 1 of subparagraph b of paragraph 4
23 of subdivision a of subsection 3, the recorded copy of the affidavit of
24 affixation, as recorded in the county in which the real property is
25 located, and the original certificate of title must be filed with the
26 department of transportation under subsection 2 of section 39-05-35;
27 and
- 28 (3) In a circumstance described in item 2 of subparagraph a of paragraph 4
29 of subdivision a of subsection 3, item 2 of subparagraph b of
30 paragraph 4 of subdivision a of subsection 3, or paragraph 6 of
31 subdivision a of subsection 3, the recorded copy of the affidavit of

1 affixation, as recorded in the county in which the real property is
2 located, and an application for confirmation of conversion must be filed
3 with the department of transportation under subsection 3 of section
4 39-05-35.

5 3. a. An affidavit of affixation must contain or be accompanied by:

6 (1) The name of the manufacturer, the make, the model name, the model
7 year, the dimensions, the manufacturer's serial number of the
8 manufactured home, and whether the manufactured home is new or
9 used;

10 (2) (a) A statement that the party executing the affidavit is the owner of
11 the real property described in the affidavit; or

12 (b) If not the owner of the real property:

13 [1] A statement that the party executing the affidavit is in
14 possession of the real property under the terms of a lease
15 in recordable form that has a term that continues for at
16 least twenty years after the date of execution of the
17 affidavit; and

18 [2] The consent of the lessor of the real property endorsed
19 upon or attached to the affidavit and acknowledged or
20 proved in the manner as to entitle a conveyance to be
21 recorded;

22 (3) The street address and the legal description of the real property to
23 which the manufactured home is or will be permanently affixed;

24 (4) (a) If the manufactured home is not covered by a certificate of title, a
25 statement by the owner to that effect, and either:

26 [1] A statement by the owner of the manufactured home that
27 the manufactured home is covered by a manufacturer's
28 certificate of origin, the date the manufacturer's certificate
29 of origin was issued, the manufacturer's serial number, and
30 a statement that annexed to the affidavit of affixation is the
31 original manufacturer's certificate of origin for the

1 manufactured home, duly endorsed to the owner of the
2 manufactured home, and that the owner of the
3 manufactured home will surrender the manufacturer's
4 certificate of origin to the department of transportation; or

5 [2] A statement that the owner of the manufactured home,
6 after diligent search and inquiry, is unable to produce the
7 original manufacturer's certificate of origin for the
8 manufactured home and that the owner of the
9 manufactured home will apply to the department of
10 transportation for a confirmation of conversion of the
11 manufactured home; or

12 (b) If the manufactured home is covered by a certificate of title,
13 either:

14 [1] A statement by the owner of the manufactured home that
15 the manufactured home is covered by a certificate of title,
16 the date the title was issued, the title number, and that the
17 owner of the manufactured home will surrender the title; or

18 [2] A statement that the owner of the manufactured home,
19 after diligent search and inquiry, is unable to produce the
20 certificate of title for the manufactured home and that the
21 owner of the manufactured home will apply to the
22 department of transportation for a confirmation of
23 conversion of the manufactured home;

24 (5) A statement whether the manufactured home is subject to one or more
25 security interests or liens and:

26 (a) If the manufactured home is subject to one or more security
27 interests or liens, the name and address of each party holding a
28 security interest in or lien on the manufactured home, including
29 each holder shown on any certificate of title issued by the
30 department of transportation, the original principal amount

- 1 secured by each security interest or lien, and a statement that the
2 security interest or lien will be released; or
- 3 (b) A statement that each security interest in or lien on the
4 manufactured home, if any, has been released, together with due
5 proof of each release;
- 6 (6) If the manufactured home is not covered by a manufacturer's certificate
7 of origin or a certificate of title, a statement by the owner of the
8 manufactured home to that effect and that the owner of the
9 manufactured home will apply to the department of transportation for a
10 confirmation of conversion of the manufactured home;
- 11 (7) A statement that the manufactured home is or will be permanently
12 affixed to the real property; and
- 13 (8) The name and address of a person designated for filing the recorded
14 copy of the affidavit of affixation with the department of transportation to
15 whom the recorder shall return the recorded copy of the affidavit of
16 affixation after the affidavit has been duly recorded in the real property
17 records as provided in subsection 5.
- 18 b. An affidavit of affixation must be duly acknowledged or proved in like manner
19 as to entitle a conveyance to be recorded, and when so acknowledged or
20 proved and upon payment of the lawful recording fees, the recorder shall
21 immediately cause the affidavit of affixation and any attachments to the
22 affidavit to be duly recorded and indexed under chapter 47-19.
- 23 c. The affidavit of affixation must be accompanied by an applicable fee for
24 recording and issuing a recorded copy of the affidavit.
- 25 4. The act of permanently affixing a manufactured home to real property or the
26 recording of the affidavit of affixation does not impair the rights of a holder of a
27 security interest in or lien on a manufactured home perfected as provided in
28 section 35-01-05.1, unless and until the due filing with and acceptance by the
29 department of transportation of an application to surrender the title as provided in
30 subsection 1 of section 39-05-35 and the release of the security interest or lien as

- 1 provided in section 39-05-16.1. Upon the filing of a release, the security interest or
2 lien perfected under section 35-01-05.1 is terminated.
- 3 5. The affidavit of affixation must be presented for recording pursuant to chapter
4 47-19, together with the fees provided by law. Upon receipt from the recorder of a
5 copy of the recorded affidavit of affixation by the person presenting the affidavit for
6 recording, that person shall deliver for filing to the department of transportation the
7 copy of the affidavit of affixation and the other documents as provided in
8 subdivision d of subsection 2.
- 9 6. A manufactured home is deemed to be real property when all of the following
10 events have occurred:
- 11 a. The home is permanently affixed to land as provided in subsection 1;
12 b. An affidavit of affixation conforming to the requirements of subsection 3 has
13 been recorded in the conveyance records in the office of the recorder in the
14 county where the manufactured home is permanently affixed;
- 15 c. A copy of the recorded affidavit of affixation has been delivered for filing to the
16 department of transportation as provided in subsection 5; and
- 17 d. The requirements of subsections 1 through 3 of section 39-05-35, as
18 applicable, have been satisfied.
- 19 7. Upon the satisfaction of the requirements of subsection 6, the manufactured home
20 is deemed to be real property; any mortgage, deed of trust, lien, or security interest
21 which can attach to land, buildings erected thereon, or fixtures affixed thereto
22 attach as of the date of its recording in the same manner as if the manufactured
23 home were built from ordinary building materials onsite. Title to the manufactured
24 home may be transferred by deed or other form of conveyance that is effective to
25 transfer an interest in real property, together with the land to which the structure
26 has been affixed. The manufactured home is deemed to be real property and is
27 governed by the laws applicable to real property.
- 28 8. Except as provided in subsections 3, 5, 6, and 7, an affidavit of affixation is not
29 necessary or effective to convey or encumber a manufactured home or to change
30 the character of the manufactured home to real property. A conveyance of land
31 upon which is located a manufactured home for which an affidavit of affixation has

1 been recorded does not affect a conveyance or transfer of an interest of any
2 interest in the manufactured home. A transfer or encumbrance may only be made
3 under the provisions of chapter 39-05. An agreement by a party to the transaction
4 whereby the requirements of this subsection are waived is void as contrary to
5 public policy.

6 9. Nothing in this section impairs any rights existing under law before the effective
7 date of this Act of anyone claiming an interest in a manufactured home.

8 **SECTION 12. AMENDMENT.** Section 57-02-04 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **57-02-04. Real property defined.** Real property, for the purpose of taxation, includes:

- 11 1. The land itself, whether laid out in town lots or otherwise, and improvements to the
12 land, such as ditching, surfacing, and leveling, except plowing and trees, and all
13 rights and privileges thereto belonging or in anywise appertaining, and all mines,
14 minerals, and quarries in and under the same and shall expressly include all such
15 improvements made by persons to lands held by them under the laws of the United
16 States, all such improvements to land the title to which still is vested in any railroad
17 company and which is not used exclusively for railroad purposes, and
18 improvements to land belonging to any other corporation or limited liability
19 company whose property is not subject to the same mode and rule of taxation as
20 other property.
- 21 2. All structures and buildings, including manufactured homes as defined in section
22 41-09-02 with respect to which the requirements of subsections 1 through 3 of
23 section 39-05-35, as applicable, have been satisfied, including systems for the
24 heating, air-conditioning, ventilating, sanitation, lighting, and plumbing of such
25 structures and buildings, and all rights and privileges thereto belonging or in
26 anywise appertaining, but shall not include items which pertain to the use of such
27 structures and buildings, such as machinery or equipment used for trade or
28 manufacture which are not constructed as an integral part of and are not essential
29 for the support of such structures or buildings, and which are removable without
30 materially limiting or restricting the use of such structures or buildings.

1 3. Machinery and equipment, but not including small tools and office equipment, used
2 or intended for use in any process of refining products from oil or gas extracted
3 from the earth, but not including such equipment or appurtenances located on
4 leased oil and gas production sites.

5 **SECTION 13. AMENDMENT.** Section 57-55-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-55-01. Definition.** For the purposes of this chapter, "mobile home" means a
8 structure, either single or multisectional, which is built on a permanent chassis, ordinarily
9 designed for human living quarters, either on a temporary or permanent basis, owned or used
10 as a residence or place of business of the owner or occupant, which is either attached to utility
11 services or is twenty-seven feet [8.23 meters] or more in length, and includes a manufactured
12 home as defined in section 41-09-02 other than a manufactured home with respect to which the
13 requirements of subsections 1 through 3 of section 39-05-35, as applicable, have been
14 satisfied. For purposes of this chapter, "utility services" means services purchased by the
15 occupant from a utility company under the jurisdiction of the public service commission, a rural
16 electric cooperative, or a political subdivision of the state.