Titling of Manufactured Homes: Challenges & Trends

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History

- Travel trailer origins
- “Mobile home” now “manufactured home”
- HUD Code standards – construction, safety
- Personal property/chattel vs. real estate
Not a Motor Vehicle

Yet historically treated as motor vehicles
Title Process

MN title bears legend: “THIS TITLE DESCRIBES A MANUFACTURED HOME NOT A MOTOR VEHICLE.”
2003 Changes

- Moratorium on loans on manufactured housing
- Pressure for legislative reforms
- Tighter restrictions by lenders

US Bank Home Mortgage has placed a moratorium on loans on manufactured housing in the following states. Reasons for the moratorium include the lack of surrender provisions for Certificates of Title and other title related issues. The moratorium list will be revised as states make changes to laws regarding surrender of the Certificate of Title.

Alaska, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maryland, Michigan, Minnesota, Missouri, Mississippi, Nebraska, New York, North Dakota, South Carolina, South Dakota, Tennessee, Vermont and West Virginia.

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New Lending Restrictions

- MH must be classified as real property
- Land must be owned, not rented
- Home must be attached to permanent foundation
- Mortgage or deed must be recorded in land records and must identify the property as including both the home and the land
- If state law requires, certificate of title must be surrendered for permanent cancellation

“Loans in which there is a chattel lien on the home plus a real property lien on the land are unacceptable.” – Fannie Mae
Current State Laws Differ

Manufactured homes may be classified as:

• Personal property, even if they are attached to land;
• Real property for all purposes;
• Real property for some purposes and personal property for others; or
• **Personal property until they become a fixture or until the title is “converted” from personal to real property** (most common)
Minnesota’s Law

168A.141 MANUFACTURED HOME AFFIXED TO REAL PROPERTY.

Subdivision 1. Certificates surrendered for cancellation. When a manufactured home is affixed, as defined in section 273.125, subdivision 8, paragraph (b), to real property, and financed by the giving of a mortgage on the real property, the owner of the manufactured home shall surrender the manufacturer's certificate of origin or certificate of title to the department for cancellation. The owner of the manufactured home shall give the department the address and legal description of the real property and a description of the manufactured home, the identification number, serial number, and date of manufacture of the manufactured home. The department shall, in turn, send aellee notice and the certificate of title or certificate of origin to the mortgagee, if known, and shall return the certificates of origin and title to the owner of the manufactured home if the mortgage is canceled or the mortgagee consents to the cancellation. If the mortgagee does not consent to the cancellation of the mortgage, the department shall send a copy of the mortgagee's refusal to have the mortgage canceled to the mortgagee. The department shall return the certificates of origin and title to the owner of the manufactured home if the mortgage is canceled or the mortgagee consents to the cancellation.

Interesting note: Manufactured home that is permanently affixed requires certificate of title if there is no mortgage.
So what’s the problem?

- Failure to adhere to law is discovered days before closing on a home sale
Enter the DMV

• Pending sale of permanently affixed MH with existing mortgage lien and
  • Title was never canceled, or
  • Title was never applied for

• Serial number mix-ups

• Confusion about law

• Court actions ensue
Other Examples

- Less common: Title has been surrendered for cancellation and owner wants to move the home to another county as personal property
- MN law does not permit reversal; some states do
  - How to ensure no mortgage liens or security interests exist?
Potential Solutions?

Texas: “Statement of Ownership & Location”

Consumer groups advocate for classification of all manufactured homes as real property from point of sale

Other solutions?
Can DMVs Get Out of the Business of Titling Manufactured Homes?

- Time-consuming for DMV to administer
- DMVs know vehicles, not real estate
- Legal issues often complicate the process
- Confusing for consumers
- Confusing for lenders
Discussion & Further Reading

References:

“Manufactured Housing: A Home that the Law Still Treats Like a Car,” Consumer’s Union, Austin, TX, February 2005.

