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Conference Engrossed

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
Second Regular Session  
2002

# HOUSE BILL 2263

AN ACT

AMENDING SECTIONS 28-2063 AND 42-15203, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 11, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 6; RELATING TO MOBILE HOMES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-2063, Arizona Revised Statutes, is amended to  
3 read:

4 28-2063. Mobile home certificate of title; exceptions; fee

5 A. A mobile home that is customarily kept in this state shall be  
6 titled with the department and the fee required under section 28-2003 shall  
7 be paid except for:

8 1. A mobile home that is owned and held by a dealer solely for  
9 purposes of sale.

10 2. A mobile home that is owned and operated exclusively in the public  
11 service by the United States, by this state or by any political subdivision  
12 of this state, except that it shall be titled.

13 3. A mobile home that is permanently affixed, as defined in section  
14 33-1501 OR 42-15201, and for which an affidavit of affixture has been  
15 recorded. The owner shall surrender the original certificates of title or  
16 manufacturer's statements of origin to permanently affixed mobile homes to  
17 the department in the manner prescribed by the department. The department  
18 shall issue a receipt for the documents surrendered pursuant to this  
19 paragraph.

20 B. The issuance of a certificate of title for a mobile home shall be  
21 as provided by law for titling motor vehicles, except that in the case of a  
22 mobile home that consists of two or more separate sections, each section  
23 shall have a separate certificate of title.

24 C. A mobile home is subject to all applicable provisions of this  
25 title, except those relating to registration.

26 D. If a title is applied for on a mobile home entering this state for  
27 sale or installation, a certificate of compliance or waiver issued by the  
28 office of manufactured housing is required and shall be submitted with the  
29 title application.

30 Sec. 2. Title 33, chapter 11, Arizona Revised Statutes, is amended by  
31 adding article 6, to read:

32 ARTICLE 6. AFFIDAVIT OF AFFIXTURE

33 33-1501. Affidavit of affixture for mobile home in mobile home  
34 park

35 A. NOTWITHSTANDING ANY OTHER STATUTE, A PERSON WHO OWNS A MOBILE HOME  
36 THAT IS LOCATED IN A MOBILE HOME PARK ON REAL PROPERTY THAT IS NOT OWNED BY  
37 THAT PERSON MAY FILE AN AFFIDAVIT OF AFFIXTURE WITH THE COUNTY RECORDER OF  
38 THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED IF ALL OF THE FOLLOWING  
39 CONDITIONS ARE MET:

40 1. THE MOBILE HOME HAS BEEN INSTALLED ON THE REAL PROPERTY WITH ALL  
41 WHEELS AND AXLES REMOVED IN COMPLIANCE WITH APPLICABLE STATE AND LOCAL MOBILE  
42 HOME INSTALLATION STANDARDS.

43 2. THE OWNER OF THE MOBILE HOME HAS ENTERED INTO A LEASE FOR THE REAL  
44 PROPERTY ON WHICH THE MOBILE HOME IS LOCATED FOR A PRIMARY TERM OF AT LEAST

1 TWENTY YEARS AND THE LEASE SPECIFICALLY PERMITS THE RECORDING OF AN AFFIDAVIT  
2 OF AFFIXTURE.

3 3. BEFORE FILING THE AFFIDAVIT OF AFFIXTURE, A MEMORANDUM OF LEASE IS  
4 RECORDED THAT INCLUDES ALL OF THE FOLLOWING:

5 (a) THE NAMES AND ADDRESSES OF THE LANDLORD AND THE TENANT.

6 (b) THE DURATION OF THE PRIMARY TERM OF THE LEASE.

7 (c) THE CONDITIONS OF ANY LEASE RENEWAL PROVISIONS.

8 (d) THE MAKE, YEAR, SIZE, MANUFACTURER'S LIST PRICE AND VEHICLE  
9 IDENTIFICATION NUMBERS OF THE MOBILE HOME.

10 (e) THE LEGAL DESCRIPTION OF THE REAL PROPERTY ON WHICH THE MOBILE  
11 HOME IS LOCATED.

12 (f) THE ACKNOWLEDGED SIGNATURES OF BOTH THE LANDLORD AND THE TENANT. A  
13 MEMORANDUM OF LEASE IS NOT VALID UNLESS THE SIGNATURES OF BOTH THE LANDLORD  
14 AND THE TENANT ARE INCLUDED ON THE MEMORANDUM AND ARE ACKNOWLEDGED.

15 B. FOR A MOBILE HOME PARK, A LEGAL DESCRIPTION OF THE REAL PROPERTY IS  
16 SUFFICIENT AS FOLLOWS:

17 1. FOR A MOBILE HOME PARK THAT HAS A SUBDIVISION PLAT RECORDED WITH  
18 THE COUNTY RECORDER THAT IDENTIFIES THE INDIVIDUAL LOTS, THE DESCRIPTION  
19 SHALL REFER TO THE LOT, THE NAME OF THE COMMUNITY AS SHOWN ON THE PLAT AND  
20 THE RECORDING INFORMATION FOR THE PLAT OF RECORD.

21 2. A MOBILE HOME PARK MAY RECORD A LEASEHOLD MAP OF THE MOBILE HOME  
22 PARK. A LEASEHOLD MAP SHALL, AT A MINIMUM, SET FORTH THE LEGAL DESCRIPTION  
23 OF THE LAND COMPRISING THE MOBILE HOME PARK, SHOW THE LOCATION OF ALL RENTAL  
24 SPACES OF THE MOBILE HOME PARK AND ASSIGN EACH SPACE A UNIQUE IDENTIFYING  
25 NUMBER. TO QUALIFY AS A LEASEHOLD MAP, THE MAP SHALL IDENTIFY THE MOBILE  
26 HOME PARK BY NAME AND CONTAIN A CERTIFICATION BY THE OWNER OF THE LAND THAT  
27 IT ACCURATELY DEPICTS THE LOCATION AND DIMENSIONS OF ALL MOBILE HOME SPACES  
28 IN THE MOBILE HOME PARK. LEASEHOLD MAPS SHALL BE RECORDED AS MAPS BY THE  
29 COUNTY RECORDER AND SHALL CONFORM TO SIZE AND OTHER RESTRICTIONS APPLICABLE  
30 TO THE RECORDING OF MAPS. FOR A MOBILE HOME PARK THAT HAS RECORDED A  
31 LEASEHOLD MAP, THE LEGAL DESCRIPTION IS SUFFICIENT IF IT REFERS TO THE SPACE  
32 NUMBER OF THE MOBILE HOME SPACE AS SHOWN ON THE LEASEHOLD MAP AND REFERS TO  
33 THE RECORDING DATA PERTAINING TO THE LEASEHOLD MAP.

34 3. FOR A MOBILE HOME PARK THAT DOES NOT HAVE A PLAT RECORDED WITH THE  
35 COUNTY RECORDER THAT IDENTIFIES INDIVIDUAL LOTS, THE DESCRIPTION SHALL COMPLY  
36 WITH ANY OF THE FOLLOWING:

37 (a) A METES AND BOUNDS DESCRIPTION OF THE REAL PROPERTY THAT IS  
38 SUBJECT TO THE LEASE. THIS DESCRIPTION SHALL ALSO SERVE AS THE LEGAL  
39 DESCRIPTION OF THE MOBILE HOME LOT IN THE LEASE.

40 (b) A REFERENCE TO A LOT NUMBER THAT IS CONTAINED IN AN UNRECORDED  
41 PLAT OF THE MOBILE HOME PARK IF A LEGIBLE COPY OF THE PLAT IS ATTACHED TO  
42 BOTH THE MEMORANDUM OF LEASE AND THE AFFIDAVIT OF AFFIXTURE AND EACH COPY OF  
43 THE UNRECORDED PLAT SETS FORTH THE EXACT DIMENSIONS OF THE MOBILE HOME LOT.  
44 THE LOCATION OF THE LOT SHALL BE SHOWN ON THE PLAT SO THAT THE LOT CAN BE  
45 LOCATED WITH CERTAINTY.

1 (c) A REFERENCE TO A LOT NUMBER THAT IS CONTAINED IN A DEVELOPMENT  
2 PLAN THAT HAS BEEN REVIEWED AND APPROVED BY THE COUNTY OR MUNICIPAL PLANNING  
3 DEPARTMENT THAT HAS JURISDICTION OVER THE LAND DEPICTED IN THE DEVELOPMENT  
4 PLAN. THE DESCRIPTION IS SUFFICIENT IF IT CONTAINS THE NAME AND DATE OF THE  
5 DEVELOPMENT PLAN, THE LOT NUMBER OF THE DESIGNATED LOT AND THE ACTUAL OR  
6 APPROXIMATE DATE OF APPROVAL OF THE DEVELOPMENT PLAN BY THE PLANNING  
7 DEPARTMENT. A LEGIBLE COPY OF THE DEVELOPMENT PLAN LOT SHALL BE ATTACHED TO  
8 BOTH THE MEMORANDUM OF LEASE AND THE AFFIDAVIT OF AFFIXTURE AND EACH COPY OF  
9 THE DEVELOPMENT PLAN LOT SHALL SET FORTH THE EXACT DIMENSIONS OF THE MOBILE  
10 HOME LOT AND SHALL SHOW ITS EXACT LOCATION.

11 C. AN AFFIDAVIT OF AFFIXTURE THAT IS FILED PURSUANT TO THIS SECTION  
12 SHALL CONTAIN ALL OF THE FOLLOWING:

13 1. THE MAKE, YEAR, SIZE, MANUFACTURER'S LIST PRICE AND VEHICLE  
14 IDENTIFICATION NUMBERS OF THE MOBILE HOME.

15 2. THE LEGAL DESCRIPTION OF THE REAL PROPERTY TO WHICH THE MOBILE HOME  
16 HAS BEEN AFFIXED.

17 3. A STATEMENT THAT THE MOBILE HOME HAS NOT PREVIOUSLY BEEN ASSESSED  
18 AND TAXED IN THIS STATE AS PERSONAL PROPERTY OR THE NAME AND ADDRESS OF THE  
19 PERSONS TO WHOM THE LAST TAX STATEMENT FOR THE MOBILE HOME WAS SENT AND THE  
20 LOCATION OF THE MOBILE HOME WHEN IT WAS LAST TAXED.

21 4. THE NAME OF THE HOLDER OF ANY SECURITY INTERESTS IN THE MOBILE HOME  
22 THAT ARE NOT TERMINATED BY THE CONSENT OF THE SECURED PARTY THAT IS CONTAINED  
23 IN THE AFFIDAVIT OF AFFIXTURE PURSUANT TO SUBSECTION E OF THIS SECTION AND  
24 THE ORIGINAL PRINCIPAL AMOUNT THAT IS SECURED BY THE SECURITY INTEREST.

25 D. THE DEPARTMENT OF TRANSPORTATION'S RECEIPT THAT IS ISSUED PURSUANT  
26 TO SECTION 28-2063, SUBSECTION A, PARAGRAPH 3 SHALL BE FILED WITH THE  
27 ASSESSOR IN THE COUNTY THE AFFIDAVIT OF AFFIXTURE IS RECORDED.

28 E. THE RECORDING OF AN AFFIDAVIT OF AFFIXTURE DOES NOT IMPAIR THE  
29 RIGHTS OF ANY HOLDER OF A PERFECTED SECURITY INTEREST IN THE MOBILE HOME  
30 UNLESS THE AFFIDAVIT OF AFFIXTURE CONTAINS THE ACKNOWLEDGED CONSENT OF THE  
31 SECURED PARTY TO THE TERMINATION OF THE SECURITY INTEREST. IF A SECURED  
32 PARTY SO CONSENTS, THAT SECURITY INTEREST TERMINATES WHEN THE AFFIDAVIT OF  
33 AFFIXTURE IS RECORDED.

34 F. IF AN AFFIDAVIT OF AFFIXTURE IS SUBMITTED FOR RECORDING ON A MOBILE  
35 HOME THAT ENTERS THIS STATE FOR SALE OR INSTALLATION, A CERTIFICATE OF  
36 COMPLIANCE OR WAIVER THAT IS ISSUED BY THE OFFICE OF MANUFACTURED HOUSING IS  
37 REQUIRED AND SHALL BE SUBMITTED WITH THE AFFIDAVIT OF AFFIXTURE.

38 G. THE LANDLORD UNDER THE LEASE WHO IS ALSO THE OWNER OF THE REAL  
39 PROPERTY ON WHICH THE MOBILE HOME IS LOCATED MAY RECORD A NOTICE AND  
40 AFFIDAVIT THAT TERMINATES AN AFFIDAVIT OF AFFIXTURE OF A MOBILE HOME ON THE  
41 LANDLORD'S REAL PROPERTY IF THE LEASE HAS BEEN TERMINATED BEFORE ITS  
42 EXPIRATION. IN THAT EVENT, THE LANDLORD SHALL ATTACH TO THE NOTICE AND  
43 AFFIDAVIT ONE OF THE FOLLOWING:

44 1. AN AGREEMENT EXECUTED BY BOTH THE LANDLORD AND THE TENANT IN WHICH  
45 BOTH PARTIES AGREE TO THE TERMINATION OF THE LEASE.

1           2. A COPY OF A JUDGMENT FOR FORCIBLE DETAINER THAT IS ENTERED BY A  
2 COURT OF COMPETENT JURISDICTION, THAT UPHOLDS THE TERMINATION OF THE LEASE  
3 AND THAT AWARDS POSSESSION OF THE REAL PROPERTY TO THE LANDLORD.

4           3. AN AFFIDAVIT OF THE LANDLORD STATING THAT THE MOBILE HOME HAS BEEN  
5 REMOVED FROM THE REAL PROPERTY.

6           H. AT ANY TIME AFTER THE LANDLORD RECORDS A NOTICE AND AFFIDAVIT  
7 TERMINATING AN AFFIDAVIT OF AFFIXTURE PURSUANT TO SUBSECTION G OF THIS  
8 SECTION, THE DEPARTMENT OF TRANSPORTATION SHALL RETITLE THE MOBILE HOME TO  
9 THE OWNER OF THE MOBILE HOME ON PRESENTATION OF A COPY OF THE NOTICE AND  
10 AFFIDAVIT THAT TERMINATES THE AFFIDAVIT OF AFFIXTURE, TOGETHER WITH A  
11 DOCUMENT THAT CONTAINS A TAX CLEARANCE FROM THE COUNTY TREASURER'S OFFICE,  
12 AND ON SATISFACTION OF OTHER REQUIREMENTS THAT THE DEPARTMENT OF  
13 TRANSPORTATION IMPOSES.

14           I. THE MOBILE HOME AND THE LEASEHOLD INTEREST TO WHICH IT IS AFFIXED  
15 SHALL BE TREATED AS REAL PROPERTY. THE PROVISIONS OF THIS CHAPTER APPLY TO  
16 THE RELATIONSHIP BETWEEN THE LANDLORD AND THE OWNER OF THE MOBILE HOME AS  
17 TENANT.

18           J. IF THERE IS A CHANGE IN THE IDENTITY OF THE OWNER OF THE MOBILE  
19 HOME DURING THE TERM OF ANY LEASE FOR WHICH AN AFFIDAVIT OF AFFIXTURE HAS  
20 BEEN RECORDED PURSUANT TO THIS SECTION, THE LANDLORD AND THE NEW OWNER OF THE  
21 MOBILE HOME AS SUCCESSOR TENANT SHALL EXECUTE AN AMENDED MEMORANDUM OF LEASE  
22 THAT IDENTIFIES THE SUCCESSOR TENANT AND THAT REFERS TO THE AFFIDAVIT OF  
23 AFFIXTURE BY DATE AND RECORDING INFORMATION. ON THE RECORDING OF THE AMENDED  
24 MEMORANDUM OF LEASE, THE SUCCESSOR TENANT SUCCEEDS TO THE RIGHTS AND  
25 OBLIGATIONS OF THE OWNER UNDER THE AFFIDAVIT OF AFFIXTURE.

26           Sec. 3. Section 42-15203, Arizona Revised Statutes, is amended to  
27 read:

28           42-15203. Affidavit of affixture

29           A. A person who owns a mobile home that is permanently affixed to real  
30 property may file an affidavit of affixture with the county recorder of the  
31 county in which the real property is located.

32           B. An affidavit of affixture shall contain all of the following:

33           1. The vehicle identification numbers of the mobile home.

34           2. The legal description of the real property to which the mobile home  
35 has been affixed.

36           3. A statement that the mobile home has not previously been assessed  
37 and taxed in this state as personal property or the name and address of the  
38 person to whom the last tax statement for the mobile home was sent and the  
39 location of the mobile home when it was last taxed.

40           4. The name of the holder of any security interests in the mobile home  
41 that are not terminated by consent of the secured party contained on the  
42 affidavit of affixture pursuant to subsection C of this section and the  
43 original principal amount secured by the security interest.

44           5. As an attachment, the department of transportation's receipt issued  
45 pursuant to section 28-2063, subsection A, paragraph 3.

1 C. The recording of an affidavit of affixture does not impair the  
2 rights of any holder of a perfected security interest in the mobile home  
3 unless the affidavit of affixture contains the acknowledged consent of the  
4 secured party to the termination of the security interest. If a secured  
5 party so consents, that security interest terminates when the affidavit of  
6 affixture is recorded.

7 D. If an affidavit of affixture is submitted for recording on a mobile  
8 home entering this state for sale or installation, a certificate of  
9 compliance or waiver issued by the office of manufactured housing is required  
10 and shall be submitted with the affidavit of affixture.

11 E. A MOBILE HOME IDENTIFIED IN AN AFFIDAVIT OF AFFIXTURE RECORDED  
12 PURSUANT TO SECTION 33-1501 SHALL BE ASSESSED AS PERSONAL PROPERTY.

13 Sec. 4. Emergency

14 This act is an emergency measure that is necessary to preserve the  
15 public peace, health or safety and is operative immediately as provided by  
16 law.