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House Engrossed

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

HOUSE BILL 2263

AN ACT

AMENDING TITLE 42, CHAPTER 15, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-15206; RELATING TO MOBILE HOME ASSESSMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1

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

2 Section 1. Title 42, chapter 15, article 5, Arizona Revised Statutes,
3 is amended by adding section 42-15206, to read:

4 42-15206. Affidavit of affixture for mobile home on leased
5 property

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

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

13 2. THE OWNER OF THE MOBILE HOME HAS ENTERED INTO A LEASE FOR THE REAL
14 PROPERTY ON WHICH THE MOBILE HOME IS LOCATED FOR A PRIMARY TERM OF AT LEAST
15 FIFTEEN YEARS AND THE LEASE SPECIFICALLY PERMITS THE RECORDING OF AN
16 AFFIDAVIT OF AFFIXTURE.

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

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

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

21 (c) THE TERMS AND CONDITIONS OF ANY LEASE RENEWAL PROVISIONS.

22 (d) THE MAKE, YEAR, SIZE AND VEHICLE IDENTIFICATION NUMBERS OF THE
23 MOBILE HOME.

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

26 (f) THE ACKNOWLEDGED SIGNATURES OF BOTH THE LANDLORD AND THE TENANT. A
27 MEMORANDUM OF LEASE IS NOT VALID UNLESS THE SIGNATURES OF BOTH THE LANDLORD
28 AND THE TENANT ARE INCLUDED ON THE MEMORANDUM AND ARE ACKNOWLEDGED.

29 B. FOR A MOBILE HOME PARK AS DEFINED IN SECTION 33-1409, A LEGAL
30 DESCRIPTION OF THE REAL PROPERTY IS SUFFICIENT AS FOLLOWS:

31 1. FOR A MOBILE HOME PARK THAT HAS A PLAT RECORDED WITH THE COUNTY
32 RECORDER THAT IDENTIFIES THE INDIVIDUAL LOTS, THE DESCRIPTION SHALL REFER TO
33 THE LOT, THE NAME OF THE COMMUNITY AS SHOWN ON THE PLAT AND THE RECORDING
34 INFORMATION FOR THE PLAT OF RECORD.

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

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

41 (b) A REFERENCE TO A LOT NUMBER THAT IS CONTAINED IN AN UNRECORDED
42 PLAT OF THE MOBILE HOME PARK IF A LEGIBLE COPY OF THE PLAT IS ATTACHED TO
43 BOTH THE MEMORANDUM OF LEASE AND THE AFFIDAVIT OF AFFIXTURE AND EACH COPY OF
44 THE UNRECORDED PLAT SETS FORTH THE EXACT DIMENSIONS OF THE MOBILE HOME LOT.

1 THE LOCATION OF THE LOT SHALL BE SHOWN ON THE PLAT SO THAT THE LOT CAN BE
2 LOCATED WITH CERTAINTY.

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

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

15 1. THE VEHICLE IDENTIFICATION NUMBERS OF THE MOBILE HOME.
16 2. THE LEGAL DESCRIPTION OF THE REAL PROPERTY TO WHICH THE MOBILE HOME
17 HAS BEEN AFFIXED.

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

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

26 5. AS AN ATTACHMENT, THE DEPARTMENT OF TRANSPORTATION'S RECEIPT THAT
27 IS ISSUED PURSUANT TO SECTION 28-2063, SUBSECTION A, PARAGRAPH 3.

28 D. 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 E. 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 F. 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 G. AT ANY TIME AFTER THE LANDLORD RECORDS A NOTICE AND AFFIDAVIT
7 TERMINATING AN AFFIDAVIT OF AFFIXTURE PURSUANT TO SUBSECTION F 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 H. ON RECORDING AN AFFIDAVIT OF AFFIXTURE PURSUANT TO THIS SECTION AND
15 UNTIL ITS TERMINATION, THE MOBILE HOME AND THE REAL PROPERTY TO WHICH IT IS
16 AFFIXED SHALL BE ASSESSED AS REAL PROPERTY. THE OWNER OF THE MOBILE HOME
17 SHALL BE TREATED AS THE OWNER OF THE REAL PROPERTY TO WHICH THE MOBILE HOME
18 HAS BEEN AFFIXED AS LONG AS THE AFFIDAVIT OF AFFIXTURE REMAINS EFFECTIVE.

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