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Senate Engrossed House Bill

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 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 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.