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BILL ANALYSIS

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Senate Bill 1312 (as introduced 6-22-04)
Sponsor: Senator Valde Garcia
Committee: Finance

Date Completed: 6-23-04

CONTENT

The bill would repeal sections of the Mobile Home Commission Act relating to the issuance, transference, cancellation, and surrender of a mobile home's certificate of title; the creation, transference and termination of a security interest in a mobile home; the attachment and detachment of a mobile home from real property; and the role of the Mobile Home Commission in distinguishing between the term "mobile home" and "trailer coach".

The specific sections of the Act that would to be repealed are described below.

Section 30 states that every mobile home located in the State is subject to the Act's certificate and title provisions, except for those held for sale by a manufacturer or licensed dealer; and a mobile home may not be sold or transferred except by a transfer of the certificate of title pursuant to the Act.

Section 30a requires that an application for a certificate of title be submitted on the appropriate form furnished by the Department of Labor and Economic Growth (DLEG) and accompanied by a \$45 fee, unless a lesser amount is specified by the Act, and lists the information that must be listed on the application. The section also allows DLEG to require a bond if it is not satisfied as to the proof of the mobile home's ownership before issuing the certificate of title, and lists the criteria for determining the amount of the bond and the conditions for its return. The Department must examine and determine the genuineness, regularity and legality of an application for a certificate of title for a mobile home, has the right to investigate the application, and must reject it if the Department is not fully satisfied. Finally, the section states that the fee for obtaining a duplicate, replacement, or corrected title, for placing or terminating a lien on the title, or for placing a name in the title is \$15 unless a lesser amount is specified by the Act.

Section 30b requires DLEG to issue a certificate of title after the application and proper fees have been received, describes the information to be listed on the front and back of a certificate of title, and specifies how it is to be delivered.

Section 30c lists the requirements for the transfer of the owner's title or interest in a mobile home; the effective date of the transfer; and the fees to accompany a request for the transfer of a certificate of title. The section provides that a new certificate of title must be issued upon the receipt of a certificate of title accompanied by the applicable fee; requires the parties to comply with Section 30d if a security interest is reserved or created at the time of the transfer; and states that a mobile home dealer holding the mobile home for retail is not required to forward the certificate of title to the Department, but may retain it.

Section 30d lists the requirements for creating a security interest in a mobile home through its certificate of title; permits the holder of a security interest to assign it; states that the filing of an application for a certificate of title showing the name and address of the holder of that interest under Section 30a or 30d is equivalent to the filing of a financing statement with respect to the security interest under Article 9 of the Uniform Commercial Code; and lists the requirements for terminating a security agreement after the underlying debt has been satisfied.

Section 30e prescribes the procedures for the issuance of a new certificate of title if the interest of the owner in a mobile home is terminated by the enforcement of a security agreement, or by sale pursuant to a levy of execution, attachment, or other process of the court.

Section 30f requires DLEG To retain and appropriately file every surrendered certificate of title, and maintain the file so as to permit the tracing of the mobile home's title in a surrendered certificate for 10 years.

Section 30g permits DLEG to cancel or refuse to issue a certificate of title: 1) if it is satisfied that the certificate of tile was fraudulently or erroneously issued; 2) if it determines that the required fee has not been paid upon reasonable notice or demand; 3) if it is authorized under any other provision in the Act; 4) upon receipt of notification from another state or foreign country that a certificate of title issued by the Department has been surrendered by the owner in conformity with that state's or country's laws; or 5) if it is shown by satisfactory evidence that delivery of a mobile home in the possession of a dealer was not made to the applicant to whom the certificate was issued. Before a cancellation under the first three circumstances, the person affected must be given notice and an opportunity to be heard.

Section 30h requires the Commission, in consultation with the Secretary of State, to promulgate rules to define and distinguish between the term mobile home as used in the Act and the term trailer coach as used in the Michigan Vehicle Code.

Section 30i (which was added by Public Act 44 of 2003) requirements and conditions that apply when a mobile home is affixed to real property in which the mobile home owner has an interest, as described below:

- The owner may deliver to DLEG an affidavit of affixture, the certificate of title, and a fee for the certificate of title.
- The Department must cancel the certificate of title and may not issue a new one, unless the home is later detached, as provided in this section.
- The mobile home owner must deliver a duplicate of the affidavit to the register of deeds.
- The Department must maintain the affidavit for 10 years.
- When DLEG receives the affidavit, the mobile home is considered to be real property and Sections 30 through 30h no longer apply; any remaining security interest in the mobile home is terminated and a lienholder may perfect and enforce a security interest or lien on the home only as provided by law for perfecting and enforcing a lien on real property; and the owner may convey the mobile home only as part of the real property to which it is affixed.
- If a mobile home was affixed to real property before the effective date of Public Act 44, a person who was the holder of a lien or security interest in both the mobile home and the real property to which it was affixed on that date may enforce the lien or security interest by accepting a deed in lieu of foreclosure or in the manner provided by law for enforcing liens on the real property.
- If the holder of a lien or security interest becomes the owner of a mobile home affixed to real property through the process of real property foreclosure or through a deed in lieu of foreclosure, the holder must submit the affidavit of the attachment to the DLEG after the

- redemption period for the foreclosure expires or the deed in lieu of foreclosure is recorded, and the Department must cancel the certificate of title for the mobile home.
- If the owner of both the mobile home and real property intends to detach the mobile home he or she must record an affidavit of detachment in the office of the register of deeds in the county where the affidavit of attachment was recorded before detaching the mobile home; and apply for a certificate of title for the mobile home.
- An owner of an affixed mobile home may not detach it from the real property before DLEG issues a certificate of title for the mobile home. If the certificate is issued, the mobile home is no longer considered part of the real property and sections 30 through 30h apply.

MCL 125.2330-125.2330i

Legislative Analyst: J.P. Finet

FISCAL IMPACT

The bill would repeal the certificate of title fees paid by owners of manufactured homes. These fees generated \$1.5 million in restricted revenue in FY 2002-03. These funds are used to support the regulatory responsibilities of the Department, including inspections and complaint investigation, as well as functions of the Secretary of State. The funds would need to be replaced with another source for the Department to meet the statutory obligations of regulating this industry.

Fiscal Analyst: Marie Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.