

Retirement of Title Certificate to Manufactured Homes

SECTION 56-19-500. Definitions.

As used in this article:

(1) "Affixed" means that the manufactured home is installed in accordance with the state required installation standards, with wheels, axles, and towing hitch removed, and with the owner of the home having an intention that the manufactured home becomes an improvement to the real property whereon it is situated as evidenced by the filing of the affidavits provided in this article. The filing of the affidavits provided for in this article is conclusive proof of the intent to affix the manufactured home to real property.

(2) "Division" means the Department of Motor Vehicles.

(3) "Homeowner" means, when referring to a manufactured home for which a title certificate is issued as required by Section 56-19-210, the person identified on the title certificate as the owner of the "manufactured home".

(4) "Manufactured home" means a "mobile home" as defined by law or a structure, transportable in one or more sections, which (a) in the traveling mode is eight body feet or more in width, or forty body feet or more in length, or (b) when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it.

(5) "Owner" means, when referring to a manufactured home for which the title certificate has been retired either pursuant to the procedure utilized before the effective date of this article by the department or pursuant to this article, the person who owns the real property or has a recorded leasehold estate of thirty-five or more years on the real property upon which the manufactured home has become affixed and the instrument creating the leasehold estate authorizes the lessee to encumber the real property with a lien.

(6) "Retire the title certificate" means to cancel through the procedure established by this article an existing manufactured home title certificate issued by this State.

(7) "Secured party" means any lienholder identified on the title certificate of a manufactured home, or the lender securing a loan through a mortgage, deed of trust, or real estate contract when referring to real property or real property to which a manufactured home has been affixed and the title certificate retired.

(8) "Security interest" means an interest in property to secure payment of a loan made by a secured party to a borrower or a lien created by operation of law.

(9) "Sever" means to physically remove the manufactured home from the real property to which it is affixed.

HISTORY: 2003 Act No. 88, Section 2.

SECTION 56-19-510. Owner affixing manufactured home to real property; Manufactured Home Affidavit for the Retirement of Title Certificate; recording and form of affidavit.

(A) An owner of a manufactured home may affix the home to real property by:

(1) installing the home in accordance with the required installation standards and removing the wheels, axles, and towing hitch; and

(2) filing with the register of deeds or clerk of court, as appropriate, for the county in which the manufactured home is located the

Manufactured Home Affidavit for the Retirement of Title Certificate in the form prescribed in this article together with proof of ownership as evidenced by a copy of the most recent deed of record or other instrument vesting title, and paying the filing fee required for affidavits by Section 8-21-310.

(B) The register of deeds or clerk of court must record the affidavit as if it were a deed to real property with the homeowner being identified as grantor and give notification to the county assessor.

(C) Upon the filing of the affidavit, the manufactured home is to be treated for all purposes except condemnation as real property and title to the manufactured home is thereby vested in the lawful owner of the real property to which it is affixed. A warning notice to those filing the affidavit must be included in the affidavit.

(D) The Manufactured Home Affidavit for the Retirement of Title Certificate must be in the following form:

STATE OF SOUTH CAROLINA) MANUFACTURED HOME AFFIDAVIT FOR RETIREMENT OF TITLE CERTIFICATE

COUNTY OF _____)

(1) Name of Owner: _____

(2) Description of Manufactured Home: _____

Date of Manufacture: _____ Manufacturer: _____ Model year: _____ Make: _____

Width: _____ Length: _____ Identification Number (VIN): _____

(3) Check whichever is applicable:

☐ The above described manufactured home is not subject to a security lien.

☐ The above described manufactured home is subject to a security lien and a separate affidavit, as required by law, will be filed naming the secured parties.

(4) Check whichever is applicable:

☐ The above described manufactured home is located in a jurisdiction with locally enforced building and safety codes adopted pursuant to Title 6, Chapter 9 and attached to this form is written evidence of compliance with the applicable codes as of the date the manufactured home was permanently affixed to the above described real property. Written evidence of compliance includes, but is not limited to, a copy of a certificate of occupancy, a statement from the code enforcement office, an inspection report, or any documentation of similar effect from the local code enforcement office having the appropriate jurisdiction. Only one document should be attached to this form.

☐ The above described manufactured home is not located in a jurisdiction with locally enforced building and safety codes adopted pursuant to Title 6, Chapter 9 applicable to manufactured homes.

(5) Full legal description of the property to which the manufactured home is currently, or is to be, affixed using metes and bounds or reference to recorded plat by book and page. (A separate sheet identified as "Exhibit A" may be attached.)

(6) Derivation: This being the identical or a portion of property conveyed or leased to the owner by deed or lease from _____ and recorded _____ in Book _____ at page _____.

Tax map number _____

Tax billing address _____

(7) The above-described manufactured home is permanently affixed or is to be permanently affixed to the above-described real property and the title certificate is to be retired in accordance with applicable law.

(8) Check if applicable:

☐ The owner of the manufactured home owns or has a leasehold estate of thirty-five or more years in the real property to which the manufactured home is affixed.

(9) WARNING: the execution and filing of this affidavit transfers ownership of the manufactured home to the lawful owner of the real property to which it is affixed.

The owner certifies that the above information provided by the owner is true and correct to the best information and belief of the owner.

Date: _____

Signature of owner: _____ Type or print name of owner _____

Witness: _____ Witness: _____

STATE OF SOUTH CAROLINA) COUNTY OF _____) PROBATE

Before me, the undersigned Notary Public, personally appeared _____, who, being duly sworn, deposed and said that (s)he saw _____, sign, seal, and deliver the foregoing Affidavit and that (s)he, together with _____ witnessed the execution thereof.

SWORN to before me this _____ day of Notary Public for _____ (L.S.) My Commission Expires:

HISTORY: 2003 Act No. 88, Section 2; 2005 Act No. 12, Section 4, eff upon approval (became law without the Governor's signature on January 13, 2005).

SECTION 56-19-520. Retirement of the title certificate to a manufactured home; release of lien; Satisfaction Affidavit.

(A) Commencing nine months following the effective date of this article, the Department of Motor Vehicles must retire the title certificate to the manufactured home upon receipt of the following:

(1) a clocked and stamped copy of the Manufactured Home Affidavit for the Retirement of Title Certificate filed with the Register of Deeds or Clerk of Court;

(2) the title certificate for the manufactured home, with either a release of lien or the consent of any secured party to the retirement of the title certificate indicated in writing on the title certificate by each secured party which authorizes the department to cancel its record of any lien as if it had been released. The release of lien may be accomplished by the appropriate notation on the title certificate or by an affidavit on the form provided in this article. Any licensed attorney admitted to practice in this State who can provide proof of payment of funds by evidence of payment made payable to a secured party or other party entitled to receive payment may record or cause to be recorded an affidavit duly executed in the presence of two witnesses and probated or acknowledged which states that full balance or payoff amount of the lien or other instrument securing the payment of money and being a lien upon the manufactured home has been made and that evidence of payment from the secured party exists. This affidavit, duly recorded in the appropriate county, shall serve as notice of satisfaction of the security interest and release of the lien upon the manufactured home. The filing of the affidavit with the department shall be sufficient to satisfy, release, or discharge the lien. This item may not be construed to require an attorney to record an affidavit or to create liability for failure to file the affidavit. The licensed attorney signing the affidavit which is false is guilty of perjury in violation of Section 16-9-10 and shall be liable for damages that any person may sustain as a result of the false affidavit, including reasonable attorney's fee incurred in connection with the recovery of the damages;

(3) a receipt demonstrating payment of the most recently billed property taxes for the manufactured home; and

(4) payment of a fee established by the department not to exceed fifty dollars for retirement of the title certificate and, notwithstanding any other provision of law, the fee collected by the department must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(B) The affidavit referred to in subsection (A) must be as follows:

STATE OF SOUTH CAROLINA) SATISFACTION AFFIDAVIT

COUNTY OF _____)

The undersigned on oath, being first duly sworn, hereby certifies:

(1) The undersigned is a licensed attorney admitted to practice in the State of South Carolina.

(2) With respect to the security interest given by _____ to _____ and dated _____;

(a) ☐ that the undersigned was given written payoff information and made the payoff and is in possession of a canceled check to the secured party; or

(b) ☐ that the undersigned was given written payoff information and made the payoff by wire transfer or other electronic means to the secured party and has confirmation from the undersigned's bank of the transfer to the account provided by the secured party.

Under penalties of perjury, I declare that I have examined this affidavit this _____ day of _____ and, to the best of my knowledge and belief, it is true, correct, and complete.

Witness: _____ Signature Witness: _____ Name (Please print) Attorney's Bar Number Street Address

City, State, Zip Code Telephone STATE OF SOUTH CAROLINA) COUNTY OF _____) PROBATE

Before me, the undersigned Notary Public, personally appeared _____, who, being duly sworn, deposed and said that he saw _____, sign, seal, and deliver the foregoing Affidavit and that he, together with _____ witnessed the execution thereof.

Subscribed and sworn to before me

this _____ day of _____

Notary Public for _____ (L.S.)

My commission expires: _____

(C) Upon presentation to the department of the material required by this section, the department is directed to mark the lien on the manufactured home satisfied.

HISTORY: 2003 Act No. 88, Section 2; 2016 Act No. 275 (S.1258), Section 84, eff July 1, 2016.

SECTION 56-19-530. Records of retired title certificates; written confirmation to homeowner.

The Department of Motor Vehicles must maintain a record of each manufactured home title certificate retired under this article, and provide written confirmation of the retirement of the title certificate to the homeowner.

HISTORY: 2003 Act No. 88, Section 2.

SECTION 56-19-540. Retirement of title certificate when lien reflected on affidavit but not evidenced by mortgage; separate Manufactured Home Lien Affidavit to be filed; form.

(A) If at the time of the filing of the Manufactured Home Affidavit for the Retirement of Title Certificate by the Register of Deeds or Clerk of Court, the manufactured home is subject to a lien reflected on the affidavit but not otherwise evidenced by a mortgage, then a separate Manufactured Home Lien Affidavit in the form prescribed by this article is also to be filed. Payment must also be made of the filing fee for affidavits provided in Section 8-21-310. Upon filing, the lien becomes a lien against the real property to which the manufactured home is affixed and is to be indexed in the name of the owner identified on the Manufactured Home Lien Affidavit as mortgagor and secured parties, as mortgagees. Any lien on the manufactured home at the time of retirement of the title certificate must be perfected and have priority in the manner provided for a lien on real property.

(B) The Manufactured Home Lien Affidavit must be in the following form:

STATE OF SOUTH CAROLINA) MANUFACTURED HOME LIEN AFFIDAVIT

COUNTY OF _____)

(1) Name of Owner: _____

(2) Description of Manufactured Home: _____ Date of Manufacture: _____ Manufacturer: Model year: _____
Make: Width: _____ Length: _____ Identification Number (VIN): _____

(3) The above described manufactured home is subject to a security lien and all secured parties with mailing addresses are listed below:

(4) Full legal description of new property to which manufactured home is to be affixed using metes and bounds or reference to recorded plat by book and page. (A separate sheet identified as "Exhibit A" may be attached.)

(5) Derivation: This being the identical or a portion of property conveyed or leased to the owner by deed or lease from _____ and recorded _____ in Book _____ at page _____.

Tax map number _____

Tax billing address _____

(6) Name of owner of real property if different from owner of manufactured home.

(7) The owner of the manufactured home affidavit was recorded on _____, in book _____, at page _____, in the County of _____.

The owner certifies that the above information provided by the owner is true and correct to the best information and belief of the owner.

Date: _____

Signature of Owner _____ Type or print name of owner _____

Witness: _____ Witness: _____

STATE OF SOUTH CAROLINA) COUNTY OF _____) PROBATE

Before me, the undersigned Notary Public, personally appeared _____, who, being duly sworn, deposed and said that he saw _____, sign, seal, and deliver the foregoing Affidavit and that he, together with _____ witnessed the execution thereof.

SWORN to before me this

_____ day of _____

Notary Public for _____ (L.S.)

My Commission Expires: _____

HISTORY: 2003 Act No. 88, Section 2.

SECTION 56-19-550. Severance of manufactured home from real property when it will be affixed to real property in new location; filing of Manufactured Home Severance Affidavit; if not to be affixed to real property, Attorney Affidavit of Security Interests of Record reflecting liens to be filed.

(A) A manufactured home for which the title certificate has been retired may be severed from real property only in accordance with the procedures prescribed in this article. Any person who removes a manufactured home for which the title certificate has been retired from the real property to which it has been affixed in a manner inconsistent with requirements of this article is guilty of a misdemeanor and, upon conviction, must be fined five hundred dollars.

(B) If a manufactured home for which the title certificate has been retired is to be severed from the real property to which it is affixed, it is not necessary for the owner of the manufactured home to obtain a new title certificate if the manufactured home is to be affixed to real property in its new location. However, the owner shall file a Manufactured Home Severance Affidavit in the form prescribed in this article with the Register of Deeds or Clerk of Court in the county or counties from which the manufactured home is being moved and where it is to be relocated and pay a fee for the filing of affidavits provided by Section 8-21-310. No manufactured home that is to be severed may be transported without first obtaining the appropriate moving permit and a receipt indicating payment of any taxes accrued, due, or payable on the manufactured home.

(C) The Manufactured Home Severance Affidavit must be in the following form:

STATE OF SOUTH CAROLINA)) MANUFACTURED HOME SEVERANCE AFFIDAVIT

COUNTY OF _____)

OWNERS SECTION

(1) Name of Owner: _____

(2) Description of Manufactured Home: _____ Date of Manufacture: _____
Manufacturer: _____ Model year: _____ Make: _____ Width: _____ Length: _____
Identification Number (VIN): _____

(3) Check whichever is applicable:

☐ The above described manufactured home will be removed from its current location and will not be permanently affixed in a new location.

☐ The above described manufactured home will be removed from its current location and will be permanently affixed in a new location.

(4) Full legal description of new property to which manufactured home is to be affixed using metes and bounds or reference to recorded plat by book and page. (A separate sheet identified as "Exhibit A" may be attached.)

(5) Derivation: This being the identical or a portion of property conveyed or leased to the owner by deed or lease from _____ and recorded _____ in Book _____ at page _____.

Tax map number _____

Tax billing address _____

(6) Name of owner of real property if different from owner of manufactured home.

(7) The initial manufactured home affidavit was recorded on _____, in book _____, at page _____, in the County of _____.

The owner certifies that the above information provided by the owner is true and correct to the best information and belief of the owner.

Date: _____

Signature of Owner _____ Type or Print Name of Owner _____

Witness: _____ Witness: _____

STATE OF SOUTH CAROLINA)) COUNTY OF _____) PROBATE

Before me, the undersigned Notary Public, personally appeared _____, who, being duly sworn, deposed and said that he saw _____, sign, seal, and deliver the foregoing affidavit and that he, together with _____, witnessed the execution thereof.

SWORN to before me this

_____ day of _____

Notary Public for _____ (L.S.)

My Commission Expires: _____

SECURED PARTY SECTION

(1) Names and mailing address of all parties with a security interest in the manufactured home:

(2) Consent to sever. This section must be completed by each secured party and the signature of each must be notarized. By my (our) signature(s) affixed hereto I (we) consent to the severance of the within described manufactured home from the real property identified herein.

Date: Signature of secured party Witness: Signature of secured party Witness: Print or type name of secured party Print or type name of secured party Date: Signature of secured party Witness: Signature of secured party Witness: Print or type name of secured party Print or type name of secured party STATE OF SOUTH CAROLINA) COUNTY OF _____)
PROBATE

Before me, the undersigned Notary Public, personally appeared _____, who, being duly sworn, deposed and said that he saw _____, sign, seal, and deliver the foregoing consent to sever and that he, together with _____ witnessed the execution thereof.

SWORN to before me this

_____ day of _____

Notary Public for _____ (L.S.)

My Commission Expires: _____

(D) If the manufactured home will not be affixed to real property, it is necessary for the owner of the manufactured home to obtain a new title certificate from the Department of Motor Vehicles by filing with the department an application for title on the form prescribed by the department, by paying the fee established by Section 56-19-420, and by furnishing a stamped, clocked copy of the Manufactured Home Severance Affidavit which must contain an affidavit executed by a licensed South Carolina attorney identifying in the order of their priority any secured party having a security interest in the real property. Liens reflected on the Manufactured Home Severance Affidavit must be reflected on the title certificate in order of their priority.

(E) The attorney's affidavit required by subsection (D) must be in the following form:

STATE OF SOUTH CAROLINA) ATTORNEY AFFIDAVIT OF SECURITY INTERESTS OF RECORD

COUNTY OF _____)

The undersigned on oath, being duly sworn, hereby certifies as follows:

- (1) The undersigned is a licensed attorney admitted to practice in the State of South Carolina.
- (2) The undersigned has conducted an examination of the real property records in the office of the Register of Deeds or Clerk of Court in the county of _____, and states that the following security interests listed below in their order of priority are recorded and in the undersigned's opinion are perfected as to the manufactured home identified in the attached Severance Affidavit. The parties are listed by name and address in order of priority of security interest:

Date: Signature of attorney Printed name of attorney and Bar Number Street Address City, State, Zip Code Witness: Witness:
STATE OF SOUTH CAROLINA) COUNTY OF _____) PROBATE

Before me, the undersigned Notary Public, personally appeared _____, who, being duly sworn, deposed and said that he saw _____, sign, seal, and deliver the foregoing Affidavit and that he, together with _____ witnessed the execution thereof.

SWORN to before me this

_____ day of _____

Notary Public for _____ (L.S.)

My Commission Expires: _____

(F) If a manufactured home which is to be severed from real property is subject to a lien or mortgage, the manufactured home may not be severed without the notarized, written consent of the lienholder to the severance and the discharge or release of the lien or mortgage as to the manufactured home as provided by law.

(G) Notwithstanding the provisions of this article, the security interest in a manufactured home in which the title certificate has been retired shall continue notwithstanding any relocation unless the lien on the manufactured home has been satisfied of record as required by law as to the satisfaction of liens or the lender indicates consent to the relocation on the Severance Affidavit provided for in subsection (C) and the owner files the affidavit with the Register of Deeds or Clerk of Court with whom the Manufactured Home Affidavit for Retirement of title certificate is filed.

(H) A copy of the application for a new title certificate along with the Manufactured Home Severance Affidavit required by this article must also be filed in the office of the Register of Deeds or Clerk of Court for the county in which is located the real property from which the manufactured home is severed together with payment of the fee for the filing of affidavits provided by Section 8-21-310.

HISTORY: 2003 Act No. 88, Section 2.

SECTION 56-19-560. Manufactured home treated as real property.

Upon an owner of a manufactured home meeting all requirements of this article for retiring the title certificate on his manufactured home and having the manufactured home and the real property to which it is affixed classified as real property, the register of deeds or clerk of court in the county where it is located in all indexes and transactions regarding the manufactured home and the real property to which it is affixed must confer upon it the treatment required by Section 56-19-510(C) and may not in any particulars still treat the manufactured home as personal property.

HISTORY: 2005 Act No. 174, Section 1, eff June 7, 2005.