

is released to the landlord. The prevailing party in any court action or arbitration brought under this section may also be awarded its costs and reasonable attorneys' fees.

(d) If a court determines a diminished rental value of the premises, the tenant may pay the rent due based on the diminished value of the premises into escrow until the landlord makes the necessary repairs.

(6)(a) If a landlord brings an action for the release of rent deposited, the court may, upon application of the landlord, release part of the rent on deposit for payment of the debt service on the premises, the insurance premiums for the premises, utility services, and repairs to the rental unit.

(b) In determining whether to release rent for the payments described in (a) of this subsection, the court shall consider the amount of rent the landlord receives from other rental units in the buildings of which the residential premises are a part, the cost of operating those units, and the costs which may be required to remedy the condition contained in the notice. The court shall also consider whether the expenses are due or have already been paid, whether the landlord has other financial resources, or whether the landlord or tenant will suffer irreparable damage. The court may request the landlord to provide additional security, such as a bond, prior to authorizing release of any of the funds in escrow.

NEW SECTION. Sec. 17. Sections 13 through 16 of this act are each added to chapter 59.18 RCW.

NEW SECTION. Sec. 18. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 19. This act shall take effect on August 1, 1989, and shall apply to landlord-tenant relationships existing on or entered into after the effective date of this act.

Passed the House April 20, 1989.

Passed the Senate April 19, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

CHAPTER 343

[Substitute House Bill No. 1630]

MANUFACTURED HOMES—CLASSIFICATION AS REAL OR PERSONAL PROPERTY

AN ACT Relating to clarifying the property classification of manufactured homes; amending RCW 46.12.290, 61.12.030, 46.70.135, 33.24.007, 46.04.302, and 82.50.010; adding a new chapter to Title 65 RCW; adding a new section to chapter 46.12 RCW; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. **PURPOSE.** The legislature recognizes that confusion exists regarding the classification of manufactured homes as personal or real property. This confusion is increased because manufactured homes are treated as vehicles in some parts of state statutes, however these homes are often used as residences to house persons residing in the state of Washington. This results in a variety of problems including: (1) Creating confusion as to the creation, perfection, and priority of security interests in manufactured homes; (2) making it more difficult and expensive to obtain financing and title insurance; (3) making it more difficult to utilize manufactured homes as an affordable housing option; and (4) increasing the risk of problems for and losses to the consumer. Therefore the purpose of this chapter is to clarify the type of property manufactured homes are, particularly relating to security interests, and to provide a statutory process to make the manufactured home real property by eliminating the title to a manufactured home when the home is affixed to land owned by the homeowner.

NEW SECTION. Sec. 2. **DEFINITIONS.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affixed" means that the manufactured home is installed in accordance with the installation standards in state law.

(2) "Department" means the department of licensing.

(3) "Eliminating the title" means to cancel an existing title issued by this state or a foreign jurisdiction or to waive the certificate of ownership required by chapter 46.12 RCW and recording the appropriate documents in the county real property records pursuant to this chapter.

(4) "Homeowner" means the owner of a manufactured home.

(5) "Land" means real property excluding the manufactured home.

(6) "Manufactured home" or "mobile home" means a structure, designed and constructed to be transportable in one or more sections and 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 that include plumbing, heating, and electrical systems contained therein. The structure must comply with the national mobile home construction and safety standards act of 1974 as adopted by chapter 43.22 RCW if applicable. "Manufactured home" does not include a modular home. A structure which met the definition of a "manufactured home" at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.

(7) "Owner" means, when referring to a manufactured home that is titled, the person who is the registered owner. When referring to a mobile home that is untitled pursuant to this chapter, the owner is the person who owns the land. When referring to land, the person may have fee simple title, have a leasehold estate of thirty-five years or more, or be purchasing the

property on a real estate contract. Owners include joint tenants, tenants in common, holders of legal life estates, and holders of remainder interests.

(8) "Person" means any individual, trustee, partnership, corporation, or other legal entity. "Person" may refer to more than one individual or entity.

(9) "Secured party" means the legal owner when referring to a titled mobile home, or the lender securing a loan through a mortgage, deed of trust, or real estate contract when referring to land or land containing an untitled manufactured home pursuant to this chapter.

(10) "Security interest" means an interest in property to secure payment of a loan made by a secured party to a borrower.

(11) "Title" or "titled" means a certificate of ownership issued pursuant to chapter 46.12 RCW.

NEW SECTION. Sec. 3. CLARIFICATION OF TYPE OF PROPERTY AND PERFECTION OF SECURITY INTERESTS. When a manufactured home is sold or transferred on or after the effective date of this act and when all ownership in the manufactured home is transferred through the sale or other transfer of the manufactured home to new owners, the manufactured home shall be real property when the new owners eliminate the title pursuant to this chapter. The manufactured home shall not be real property in any form, including fixture law, unless the title is eliminated under this chapter. Where any person who owned a used manufactured home on the effective date of this act continues to own the manufactured home on or after the effective date of this act, the interests and rights of owners, secured parties, lienholders, and others in the manufactured home shall be based on the law prior to the effective date of this act, except where the owner voluntarily eliminates the title to the manufactured home by complying with this chapter. If the title to the manufactured home is eliminated under this chapter, the manufactured home shall be treated the same as a site-built structure and ownership shall be based on ownership of the real property through real property law. If the title to the manufactured home has not been eliminated under this chapter, ownership shall be based on chapter 46.12 RCW.

For purposes of perfecting and realizing upon security interests, manufactured homes shall always be treated as follows: (1) If the title has not been eliminated under this chapter, security interests in the manufactured home shall be perfected only under chapter 46.12 RCW and the lien shall be treated as securing personal property for purposes of realizing upon the security interest. If the manufactured home is attached to land owned by the homeowner and the secured party seeks to remove the home pursuant to a contract, the secured party is liable for damage to the land to the extent the secured party would be liable if the manufactured home was a fixture under chapter 62A.9 RCW; or (2) if the title has been eliminated under this chapter, a separate security interest in the manufactured home shall not

exist, and the manufactured home shall only be secured as part of the real property through a mortgage, deed of trust, or real estate contract.

NEW SECTION. Sec. 4. **ELIMINATION OF THE TITLE—APPLICATION.** If a manufactured home is affixed to land that is owned by the homeowner, the homeowner may apply to the department to have the title to the manufactured home eliminated. The application package shall consist of the following:

(1) An affidavit, in the form prescribed by the department, signed by all the owners of the manufactured home and containing:

(a) The date;

(b) The names of all of the owners of record of the manufactured home;

(c) The legal description of the real property;

(d) A description of the manufactured home including model year, make, width, length, and vehicle identification number;

(e) The names of all secured parties in the manufactured home; and

(f) A statement that the owner of the manufactured home owns the real property to which it is affixed;

(2) Certificate of ownership for the manufactured home, or the manufacturer's statement of origin in the case of a new manufactured home. Where title is held by the secured party as legal owner, the consent of the secured party must be indicated by the legal owner releasing his or her security interest;

(3) A certification by the local government indicating that the manufactured home is affixed to the land;

(4) Payment of all licensing fees, excise tax, use tax, real estate tax, recording fees, and proof of payment of all property taxes then due; and

(5) Any other information the department may require.

NEW SECTION. Sec. 5. **ELIMINATION OF THE TITLE—APPROVAL.** The department shall approve the application for elimination of the title when all requirements listed in section 4 of this act have been satisfied and the registered and legal owners of the manufactured home have consented to the elimination of the title. After approval, the department shall have the approved application recorded in the county or counties in which the land is located and on which the manufactured home is affixed.

The county auditor shall record the approved application, and any other form prescribed by the department, in the county real property records. The manufactured home shall then be treated as real property as if it were a site-built structure. Removal of the manufactured home from the land is prohibited unless the procedures set forth in section 7 of this act are complied with.

The department shall cancel the title after verification that the county auditor has recorded the appropriate documents, and the department shall maintain a record of each manufactured home title eliminated under this

chapter by vehicle identification number. The title is deemed eliminated on the date the appropriate documents are recorded by the county auditor.

NEW SECTION. Sec. 6. ELIMINATING THE TITLE—LENDERS AND CONVEYANCES. It is the responsibility of the owner, secured parties, and others to take action as necessary to protect their respective interests in conjunction with the elimination of the title or reissuance of a previously eliminated title.

A manufactured home whose title has been eliminated shall be conveyed by deed or real estate contract and shall only be transferred together with the property to which it is affixed, unless procedures described in section 7 of this act are completed.

Nothing in this chapter shall be construed to require a lender to consent to the elimination of the title of a manufactured home, or to retitling a manufactured home under section 7 of this act. The obligation of the lender to consent is governed solely by the agreement between the lender and the owner of the manufactured home. Absent any express written contractual obligation, a lender may withhold consent in the lender's sole discretion. In addition, the homeowner shall comply with all reasonable requirements imposed by a lender for obtaining consent, and a lender may charge a reasonable fee for processing a request for consent.

NEW SECTION. Sec. 7. ELIMINATING THE TITLE—REMOVING A MANUFACTURED HOME WHEN THE TITLE HAS BEEN ELIMINATED. Before physical removal of an untitled manufactured home from the land the home is affixed to, the owner shall follow one of these two procedures:

- (1) Where a title is to be issued or the home has been destroyed:
 - (a) The owner shall apply to the department for a title pursuant to chapter 46.12 RCW. In addition the owner shall provide:
 - (i) An affidavit in the form prescribed by the department, signed by the owners of the land and all secured parties and other lienholders in the land consenting to the removal of the home;
 - (ii) Payment of recording fees;
 - (iii) A certification from a title insurance company listing the owners and lienholders in the land and dated within ten days of the date of application for a new title under this subsection; and
 - (iv) Any other information the department may require;
 - (b) The owner shall apply for and obtain permits necessary to move a manufactured home including but not limited to the permit required by RCW 46.44.170, and comply with other regulations regarding moving a manufactured home; and
 - (c) The department shall approve the application for title when the requirements of chapter 46.12 RCW and this subsection have been satisfied. Upon approval the department shall have the approved application and the affidavit recorded in the county or counties in which the land from which

the home is being removed is located and the department shall issue a title. The title is deemed effective on the date the appropriate documents are recorded with the county auditor.

(2) Where the manufactured home is to be moved to a new location but again will be affixed to land owned by the homeowner a new title need not be issued, but the following procedures must be complied with:

(a) The owner shall apply to the department for a transfer in location of the manufactured home and if a new owner, a transfer in ownership by filing an application pursuant to section 4 of this act. In addition the owner shall include:

(i) An affidavit in the form prescribed by the department signed by all of the owners of the real property from which the manufactured home is being moved indicating their consent. The affidavit shall include the consent of all secured parties and other lienholders in the land from which the manufactured home is being moved;

(ii) A legal description and property tax parcel number of the real property from which the home is being removed and a legal description and property tax parcel number of the land on which the home is being moved to; and

(iii) A certification from a title insurance company listing the owners and lienholders in the land and dated within ten days of the application for transfer in location under this subsection;

(b) The owner shall apply for and obtain permits necessary to move a manufactured home including but not limited to RCW 46.44.170, and comply with other regulations regarding moving a manufactured home; and

(c) After approval, including verification that the owners, secured parties, and other lienholders have consented to the move, the department shall have the approved application recorded in the county or counties in which the land from which the home is being removed and the land to which the home is being moved is located.

NEW SECTION. Sec. 8. ELIMINATING THE TITLE—UNIFORM FORMS. The department may prepare standard affidavits, lienholder's consents, and other forms to be used pursuant to this chapter.

NEW SECTION. Sec. 9. ELIMINATING THE TITLE—FEES. The director may, in addition to the title fees and other fees and taxes required under chapter 46.12 RCW establish by rule a reasonable fee to cover the cost of processing documents and performing services by the department required under this chapter.

Fees collected by the department for services provided by the department under this chapter shall be forwarded to the state treasurer. The state treasurer shall credit such moneys to the motor vehicle fund and all department expenses incurred in carrying out the provisions of this chapter shall be paid from such fund as authorized by legislative appropriation.

NEW SECTION. Sec. 10. GENERAL PENALTIES. Every person who falsifies or intentionally omits material information required in an affidavit, or otherwise intentionally violates a material provision of this chapter, is guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021.

NEW SECTION. Sec. 11. ELIMINATING THE TITLE. The department shall have the general supervision and control of the elimination of titles and shall have full power to do all things necessary and proper to carry out the provisions of this chapter. The director shall have the power to appoint the county auditors as the agents of the department.

NEW SECTION. Sec. 12. ELIMINATING THE TITLE—RULES. The department may make any reasonable rules relating to the enforcement and proper operation of this chapter.

NEW SECTION. Sec. 13. ELIMINATING THE TITLE—NOTIFYING. County auditors shall notify county assessors regarding elimination of titles to manufactured homes, the retitling of manufactured homes, and the movement of manufactured homes under section 7 of this act.

NEW SECTION. Sec. 14. PROSPECTIVE EFFECT. This chapter applies prospectively only. Section 3 of this act applies to all security interests perfected on or after the effective date of this act. This chapter applies to the sale or transfer of manufactured homes on or after the effective date of this act where all of the existing ownership rights and interests in the manufactured home are terminated in favor of new and different owners, or where persons who own a manufactured home on or after the effective date of this act voluntarily elect to eliminate the title to the manufactured home under this chapter.

NEW SECTION. Sec. 15. NO EFFECT ON TAXATION. Nothing in this chapter shall be construed to affect the taxation of manufactured homes.

NEW SECTION. Sec. 16. CAPTIONS NOT LAW. Section headings as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 17. SHORT TITLE. This chapter may be known and cited as the manufactured home real property act.

NEW SECTION. Sec. 18. Sections 1 through 17 of this act shall constitute a new chapter in Title 65 RCW.

NEW SECTION. Sec. 19. A new section is added to chapter 46.12 RCW to read as follows:

The certificate of ownership for a manufactured home may be eliminated or not issued when the manufactured home is registered pursuant to sections 1 through 17 of this act. When the certificate of ownership is eliminated or not issued the application for license shall be recorded in the county property records of the county where the real property to which the

home is affixed is located. All license fees and taxes applicable to mobile homes under this chapter are due and shall be collected prior to recording the ownership with the county auditor.

Sec. 20. Section 14, chapter 231, Laws of 1971 ex. sess. as last amended by section 2, chapter 304, Laws of 1981 and RCW 46.12.290 are each amended to read as follows:

The provisions of chapter 46.12 RCW insofar as they are not inconsistent with the provisions of this 1971 amendatory act or chapter 65.— RCW (sections 1 through 17 of this act) shall apply to mobile or manufactured homes (~~regulated by this 1971 amendatory act~~): PROVIDED, That RCW 46.12.080 and 46.12.250 through 46.12.270 shall not apply to mobile homes: PROVIDED FURTHER, That in order to lawfully transfer ownership of a community mobile home, both spouses must sign the title certificate. In addition, the director of licensing shall have the power to adopt such rules and regulations as he deems necessary to implement the provisions of chapter 46.12 RCW as they relate to mobile homes.

Sec. 21. Section 1, chapter 75, Laws of 1899 and RCW 61.12.030 are each amended to read as follows:

When any real estate in this state is subject to, or is security for, any mortgage, mortgages, lien or liens, other than general liens arising under personal judgments, it shall be unlawful for any person who is the owner, mortgagor, lessee, or occupant of such real estate to destroy or remove or to cause to be destroyed or removed from said real estate any fixtures, buildings, or permanent improvements including a manufactured home whose title has been eliminated under chapter 65.— RCW (sections 1 through 17 of this act), not including crops growing thereon, without having first obtained from the owners or holders of each and all of such mortgages or other liens his or their written consent for such removal or destruction.

Sec. 22. Section 36, chapter 304, Laws of 1981 and RCW 46.70.135 are each amended to read as follows:

Mobile home manufacturers and mobile home dealers who sell mobile homes to be assembled on site and used as residences in this state shall conform to the following requirements:

(1) No new manufactured home may be sold unless the purchaser is provided with a manufacturer's written warranty for construction of the home in compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183; 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

(2) No new manufactured home may be sold unless the purchaser is provided with a dealer's written warranty for all installation services performed by the dealer.

(3) The warranties required by subsections (1) and (2) of this section shall be valid for a minimum of one year from the date of sale and shall not be invalidated by resale by the original purchaser to a subsequent purchaser

or by the certificate of ownership being eliminated or not issued as described in chapter 65.— RCW (sections 1 through 17 of this act). Copies of the warranties shall be given to the purchaser upon signing a purchase agreement and shall include an explanation of remedies available to the purchaser under state and federal law for breach of warranty, the name and address of the federal department of housing and urban development and the state departments of licensing and labor and industries, and a brief description of the duties of these agencies concerning mobile homes.

(4) Warranty service shall be completed within forty-five days after the owner gives written notice of the defect unless there is a bona fide dispute between the parties. Warranty service for a defect affecting health or safety shall be completed within seventy-two hours of receipt of written notice. Warranty service shall be performed on site and a written work order describing labor performed and parts used shall be completed and signed by the service agent and the owner. If the owner's signature cannot be obtained, the reasons shall be described on the work order. Work orders shall be retained by the dealer or manufacturer for a period of three years.

(5) Before delivery of possession of the home to the purchaser, an inspection shall be performed by the dealer or his agent and by the purchaser or his agent which shall include a test of all systems of the home to insure proper operation. At the time of the inspection, the purchaser shall be given copies of all documents required by state or federal agencies to be supplied by the manufacturer with the home which have not previously been provided as required under subsection (3) of this section, and the dealer shall complete any required purchaser information card and forward the card to the manufacturer.

(6) Manufacturer and dealer advertising which states the dimensions of a home shall not include the length of the draw bar assembly in a listed dimension, and shall state the square footage of the actual floor area.

Sec. 23. Section 49, chapter 3, Laws of 1982 and RCW 33.24.007 are each amended to read as follows:

Unless the context clearly requires otherwise, "real property" means improved or unimproved real estate and includes leasehold interests in improved or unimproved real estate and includes ~~((mobile homes and))~~ manufactured housing whether temporarily, semipermanently, or permanently attached to land and mobile homes and manufactured homes whose title has been eliminated under chapter 65.— RCW (sections 1 through 17 of this act).

Sec. 24. Section 4, chapter 231, Laws of 1971 ex. sess. as amended by section 1, chapter 22, Laws of 1977 ex. sess. and RCW 46.04.302 are each amended to read as follows:

"Mobile home" or "manufactured home" means a structure, designed and constructed to be transportable in one or more sections, ~~((which is thirty-two body feet or more in length and is eight body feet or more in width,~~

and which)) and 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)~~) that include plumbing, heating, (~~(air-conditioning,)~~) and electrical systems contained therein(~~(, except as hereinafter specifically excluded, and excluding modular homes)~~). The structure must comply with the national mobile home construction and safety standards act of 1974 as adopted by chapter 43.22 RCW if applicable. Manufactured home does not include a modular home. A structure which met the definition of a "manufactured home" at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.

**Sec. 25. Section 82.50.010, chapter 15, Laws of 1961 as last amended by section 11, chapter 107, Laws of 1979 and RCW 82.50.010 are each amended to read as follows:*

"Mobile home" or "manufactured home" means a structure, designed and constructed to be transportable in one or more sections, (~~(which is thirty-two body feet or more in length and is eight body feet or more in width, and which)~~) and 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)~~) that include plumbing, heating, (~~(air-conditioning,)~~) and electrical systems contained therein(~~(, except as hereinafter specifically excluded, and excluding modular homes as defined below)~~). The structure must comply with the national mobile home construction and safety standards act of 1974 as adopted by chapter 43.22 RCW if applicable. Manufactured home does not include a modular home. A structure which met the definition of a "manufactured home" at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.

"Travel trailer" means all trailers of the type designed to be used upon the public streets and highways which are capable of being used as facilities for human habitation and which are less than thirty-two body feet in length and eight body feet or less in width, except as may be hereinafter specifically excluded.

"Modular home" means any factory-built housing designed primarily for residential occupancy by human beings which does not contain a permanent frame and must be mounted on a permanent foundation.

"Camper" means a structure designed to be mounted upon a motor vehicle which provides facilities for human habitation or for temporary outdoor or recreational lodging and which is five feet or more in overall length and five feet or more in height from its floor to its ceiling when fully extended, but shall not include motor homes as defined in this section.

"Motor homes" means motor vehicles originally designed, reconstructed, or permanently altered to provide facilities for human habitation.

"Director" means the director of licensing of the state.

*Sec. 25 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 26. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 27. EFFECTIVE DATE. This act shall take effect on March 1, 1990.

Passed the House March 6, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 25, Substitute House Bill No. 1630, entitled:

"AN ACT Relating to clarifying the property classification of manufactured homes."

Section 25 of Substitute House Bill No. 1630 amends the definition of "mobile home" contained in RCW 82.50.010. Section 20 of Substitute Senate Bill No. 5443 amends the same statute. The definition contained in section 20 of Substitute Senate Bill No. 5443 is more comprehensive than that contained in section 25 of Substitute House Bill No. 1630. To avoid confusion, I have vetoed section 25 of this bill.

With the exception of section 25, Substitute House Bill No. 1630 is approved."

CHAPTER 344

[House Bill No. 2131]

MOBILE HOME ELECTRICAL INSPECTIONS—PREREQUISITES

AN ACT Relating to mobile home electrical inspections; and amending RCW 19.28.210.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 8, chapter 169, Laws of 1935 as last amended by section 7, chapter 81, Laws of 1988 and RCW 19.28.210 are each amended to read as follows:

(1) The director shall cause an inspector to inspect all wiring, appliances, devices, and equipment to which this chapter applies. Nothing contained in this chapter may be construed as providing any authority for any subdivision of government to adopt by ordinance any provisions contained or provided for in this chapter except those pertaining to cities and towns pursuant to RCW 19.28.010(2).

(2) Upon request, electrical inspections will be made by the department within forty-eight hours, excluding holidays, Saturdays, and Sundays. If, upon written request, the electrical inspector fails to make an electrical inspection within twenty-four hours, the serving utility may immediately