

2017 HOUSE TRANSPORTATION

HB 1219

2017 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1219
2/2/2017
27851

- Subcommittee
 Conference Committee

Committee Clerk Signature

May Brueker

Explanation or reason for introduction of bill/resolution:

A bill relating to the process for converting manufactured housing to real property.

Minutes:

Attachments # 1-3

Chairman Ruby, District 38, introduced HB 1219. He explained there is an issue with the interpretation of the law about manufactured housing. Manufactured homes are difficult to get financing. There are times when the manufactured homes are set on foundations. When this occurs they become real property then it's easier for that transfer of ownership to take place because the title is released but the records are being kept. We made the change to allow that to be released. This has worked very well and had helped the industry, however, there was an issue with the interpretation of it from the title companies.

Marilyn Foss, General Counsel for the North Dakota Bankers Association, spoke to support HB 1219 and provided written testimony and an amendment. See attachments # 1 and # 2. There is also a technical change in the bill. There is a reference to a federal regulation related to what you have to do in detail to have a manufactured home be considered to be real estate. We're taking it out of the statute because federal regulations can change and we wouldn't want our law to be in any way inconsistent with that. The details are in the affidavit of affixation so you have a sworn statement about how it's been fixed. There might be some circumstances where there isn't a VIN so accessing the information via the website and VIN doesn't work. The suggestion was made that we had more ways to access the information on the website. We were informed by DOT that having a public website doesn't work under the driver's license Personal Information Protection Act and VIN does comply with that act. We also noted the same manual process for just getting more detailed title information would mostly not be necessary with the website. It will still exist in case there is an outlying situation.

Representative Paur: You said you are deleting the reference to the DFR because those requirements appear in the affidavit of affixation. It says the affidavit is not necessary or effective to convey or encumber a manufactured home.

Marilyn Foss: This legislation amends about five sections of law. The original legislation was maybe 20 pages long and there are many other sections of law that are unchanged.

Among the sections of law that remain unchanged and the basic requirements of what you have to go through to provide evidence, is that you have to prepare this affidavit of affixation and you have to file it. The affidavit of affixation is only evidence that you've affixed the manufactured home. It is not a deed; we still need a deed once it's real estate. You will need a bill of sale if you're buying a manufactured home before it's affixed. The point of that is to make it clear what the affidavit of affixation is and is not. What it is not is a document of conveyance; it's not a document of transfer, it's evidence that the manufactured home has been put on a foundation and attached to utilities. Most of the process is not affected by this legislation.

Chairman Ruby: Who provides the affidavit?

Marilyn Foss: The homeowner.

Chairman Ruby: Usually, the lender or the title company will go there to inspect the manufactured home.

Marilyn Foss: Because it is being financed as real estate there is an inspection requirement that lenders impose.

Chairman Ruby: They want to get it appraised to some extent.

Marilyn Foss: Yes.

Representative Owens: This sounds good if you buy the manufactured home and you're already having it installed. If you've owned the manufactured home for a while, then you buy the land and it becomes real property. What is the conversion of property tax because manufactured homes are paid in arrears as opposed to actual real estate property tax?

Marilyn Foss: In the 2009 legislation we had a lot of input from the Tax Department. Every tax issue that Marcy could think of was addressed in the 2009 legislation. Part of the whole process was making sure that the homes were taxed as real estate. I haven't heard any issues raised from counties or the Tax Department that it isn't working.

Chairman Ruby: What was the lack of interpretation that was causing the problem?

Marilyn Foss: The issue surrounded why we have to keep filing things so the Department of Transportation, with each conveyance, will issue a letter of confirmation bill of sale. The DOT interpretation was that we have to keep records of this and this is the system we have adopted to keep records. We all now agree that this legislation, with the changes, is clear that once there has been a conversion and they put it on their records is to note that it was real estate and to provide reasonable access to people who need to know the information of the conversion and the date it took place so there is no longer a manufacturers certificate of origin or certificate of title out there.

Chairman Ruby: Even though it was recognized by the lending institution as real property there was still that issue the DOT had?

Marilyn Foss: There was still what they needed for record keeping. We are all happy coming to the agreement on what our expectations and their obligations are with the bill.

Jack McDonald, Independent Banks of North Dakota, spoke to support HB 1219. This will clear up the mystery of when the manufactured home was transitioned into real property.

Jeff Olson, President/ CEO of the Credit Union Association of the Dakotas: We support this bill and it is a win-win.

Nick Hacker, North Dakota Land Title Association, spoke to support HB 1219 and provided written testimony. See attachment #3.

Chairman Ruby: Have you been involved with some of the conflict with the lenders and the title companies that they felt it was already converted but you felt the way the law was that you had to seek out the constant change of ...

Nick Hacker: Our industry does title insurance, abstracting, and real estate closings. From a real property standpoint, we are comfortable that it was affixed but when we go do that closing process on behalf of the lender, they put on those requirements of us to continue to transfer the confirmation bill of sale. We are always confident that the manufactured home is now real property. The question was the requirements lenders would apply to the closing side of the transaction to make sure we're continuing this confirmation bill of sale.

There was no further support for HB 1219.
There was no opposition for HB 1219.
No neutral testimony.

Chairman Ruby: I would like to thank DOT in working with the industries. I think this is a really good product here. Marilyn deserves a lot of credit. Closed hearing.

Chairman Ruby: Committee, what are your wishes?

Representative Owens: MADE A MOTION TO ADOPT THE AMENDMENT 17.0712.01001

Representative Grueneich: SECONDED

VOICE VOTE: MOTION CARRIED

Representative O'Brien: MADE A MOTION FOR A DO PASS AS AMENDED

Representative Owens: SECONDED

ROLL CALL VOTE: 11 YES 0 NO 3 ABSENT

MOTION CARRIED

Representative Nelson will carry the bill.

2/3/17 DP

February 3, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1219

Page 1, line 2, replace "subsection" with "subsections"

Page 1, line 2, after "1" insert ", 7, and 8"

Page 1, line 8, after the period insert "The department shall maintain a website an interested person may use to supply a vehicle identification number in order to confirm the status of a manufactured home as real estate under subsection 6 of section 47-10-27 and to confirm the department retired the manufacturer's certificate of origin or certificate of title."

Page 2, after line 5, insert:

"SECTION 4. AMENDMENT. Subsection 7 of section 47-10-27 of the North Dakota Century Code is amended and reenacted as follows:

- 7. Upon the satisfaction of the requirements of subsection 6, the manufactured home is deemed to be real property; any mortgage, deed of trust, lien, or security interest ~~which~~that can attach to land, buildings erected ~~thereon~~on the land, or fixtures affixed ~~thereto~~to the land attach as of the date of its recording in the same manner as if the manufactured home were built from ordinary building materials onsite. Title to the manufactured home must be transferred by deed or other form of conveyance that is effective to transfer an interest in real property, together with the land to which the structure has been affixed. The manufactured home is deemed to be real property and is governed by the laws applicable to real property and the department of transportation has no further authority or jurisdiction over the conveyance or encumbrance of the manufactured home.

SECTION 5. AMENDMENT. Subsection 8 of section 47-10-27 of the North Dakota Century Code is amended and reenacted as follows:

- 8. Except as provided in subsections 2, 3, 5, 6, and 7, an affidavit of affixation is not necessary or effective to convey or encumber a manufactured home or to change the character of the manufactured home to real property. ~~A conveyance of land upon which is located a manufactured home for which an affidavit of affixation has been recorded does not effect a conveyance or encumbrance of any interest in the manufactured home. A conveyance or encumbrance may only be made under the provisions of chapter 39-05.~~ An agreement by a party to the transaction ~~whereby~~by which the requirements of this subsection are waived is void as contrary to public policy."

Renumber accordingly

Date: 2-2-19
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1219**

House Transportation Committee

Subcommittee

Amendment LC# or Description: 17.0712.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Owens Seconded By Grueneich

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby			Rep. Gretchen Dobervich		
Vice Chair. Rick C. Becker			Rep. Marvin Nelson		
Rep. Bert Anderson					
Rep. Jim Grueneich					
Rep. Terry Jones					
Rep. Emily O'Brien					
Rep. Mark Owens					
Rep. Gary Paur					
Rep. Randy Schobinger					
Rep. Gary Sukut					
Rep. Robin Weisz					
Rep. Greg Westlind					

Voice Vote
~~All Aye~~
 Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-2-17
 Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1219**

House Transportation Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By O'Brien Seconded By Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Gretchen Dobervich	A	
Vice Chair. Rick C. Becker	A		Rep. Marvin Nelson	✓	
Rep. Bert Anderson	A				
Rep. Jim Grueneich	✓				
Rep. Terry Jones	✓				
Rep. Emily O'Brien	✓				
Rep. Mark Owens	✓				
Rep. Gary Paur	✓				
Rep. Randy Schobinger	✓				
Rep. Gary Sukut	✓				
Rep. Robin Weisz	✓				
Rep. Greg Westlind	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment NELSON

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1219: Transportation Committee (Rep. D. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1219 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "subsection" with "subsections"

Page 1, line 2, after "1" insert ", 7, and 8"

Page 1, line 8, after the period insert "The department shall maintain a website an interested person may use to supply a vehicle identification number in order to confirm the status of a manufactured home as real estate under subsection 6 of section 47-10-27 and to confirm the department retired the manufacturer's certificate of origin or certificate of title."

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SECTION 5. AMENDMENT. Subsection 8 of section 47-10-27 of the North Dakota Century Code is amended and reenacted as follows:

8. Except as provided in subsections 2, 3, 5, 6, and 7, an affidavit of affixation is not necessary or effective to convey or encumber a manufactured home or to change the character of the manufactured home to real property. ~~A conveyance of land upon which is located a manufactured home for which an affidavit of affixation has been recorded does not effect a conveyance or encumbrance of any interest in the manufactured home. A conveyance or encumbrance may only be made under the provisions of chapter 39-05. An agreement by a party to the transaction whereby~~ by which the requirements of this subsection are waived is void as contrary to public policy."

Re-number accordingly

2017 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1219

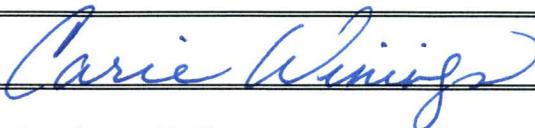
2017 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

HB 1219
3/9/2017
Job Number 28938

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

BILL for an Act to amend and reenact subsection 9 of section 39-05-22, section 47-01-03, and subsections 1, 7, and 8 of section 47-10-27 of the North Dakota Century Code, relating to the process for converting manufactured housing to real property.

Minutes:

Attachments: 1-2

Chairman Poolman: Opened the hearing on HB 1219.

Representative Ruby, District 38: Testified as sponsor and in support of the bill. This bill is being introduced at the request of the North Dakota bankers. This goes back to a law enacted in 2009 that attempted to fix this problem, but there was a little bit of a difference in interpretation of the law. This deals with manufactured homes. Technically, they maintain a title on them. A lot of times the homes are set on some kind of mount and they remain that way, but if they are set on a foundation and they are considered permanent, there was an issue with still having to maintain a record of that home with DOT. A lot of those are purchased just as a stick built home that was built on site would be. It is a lot of extra work for the title companies and to get a loan on a manufactured home is much more difficult. Once they become real property it is much easier to get a loan for it. Apparently with some of the abstract companies, the interpretation was that they were not sure that it was converted properly. To get this fixed, this will allow DOT to sign off that it has become real property. They would maintain a record of that in their system and they can do it for free. It is part of a system that they already have, so it would just need to have a field added. It will be easy, convenient, and will be a lifetime record. I think this bill will be of real benefit for people that are buying these homes with being able to get loans for them. It will be good for the banks to be assured

(4:20) Marilyn Foss, General Council, North Dakota Bankers Association: See Attachment #1 for testimony in support of the bill. We were asked in the House about the tax situation and that was addressed in 2009 with that legislation.

(15:05) Senator Marcellais: You mention the bill in 2009, do you remember the bill number or who sponsored it?

Marilyn Foss: The North Dakota Bankers Association sponsored it. It was basically national model legislation that was prepared originally by national council for Wells Fargo, and similar systems had been enacted in many states since then.

Senator Marcellais: Was it a legislator that sponsored the bill?

Marilyn Foss: The prime sponsor was Representative Ruby.

Senator Marcellais: I can find it by that.

Marilyn Foss: I have been told by real estate lenders and title agents that the 2009 legislation was really critical in providing for moderate income housing in the west during the boom and it remains critical as people continue to look for moderate cost housing.

(17:08) Barry Haugen, President, Independent Community Banks of North Dakota: Testified in favor of the bill. This is a very good bill. Anything that can ease the road blocks to transfer of properties like this and of course the subsequent financing, particularly on the secondary market, is a plus. Our membership strongly supports this bill and asks for a do pass.

(17:35) Jeff Olson, Credit Union Association of the Dakotas: Testified in favor of the bill. Credit unions do a lot of mobile home lending, and this is a bill that our members thinks is a great idea. It is a win, win. We applaud our friends, the bankers, and DOT for getting this fixed.

(18:19) Nick Hacker, Legislative Chair, North Dakota Land Title Association: See Attachment #2 for testimony in favor of the bill. This bill gives affirmation to underwriters within lenders, or the secondary market, that the trailer title has been surrendered. This is important because on the closing side of the property. Without the firm understanding that the trailer title has been surrendered, the lender is not comfortable. We need the statute to change to state that it is surrendered and that it no longer has to be tracked down. There are very few lenders left willing to lend on these types of transactions in western North Dakota.

(21:36) Nancy Willis, North Dakota Association of Realtors: Testified in favor of the bill. We think this is an excellent bill and all of our members support it because it will make the transaction easier for all of our customers. In response to Senator Marcellais question, the bill number from 2009 was HB 1301.

Chairman Poolman: There was no opposing or neutral testimony. Closed the hearing on HB 1219.

Senator Meyer: Moved a Do Pass.

Vice Chairman Davison: Seconded.

Chairman Poolman: Is there any discussion?

Senator Meyer: As a mortgage lender I have seen the issues that can arise from the title not having been surrendered by the borrower or the bank. The hunt to find it can be a tremendous issue. You can be missing closings by months at a time. This will be a great thing.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Meyer will carry the bill.

2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1219

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Meyer Seconded By Davison

Senators	Yes	No	Senators	Yes	No
Chairman Poolman	✓		Senator Marcellais	✓	
Vice Chairman Davison	✓				
Senator Bekkedahl	✓				
Senator Meyer	✓				
Senator Vedaa	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Meyer

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1219, as engrossed: Government and Veterans Affairs Committee (Sen. Poolman, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1219 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

HB 1219

HB 1219
2-2-17
#1

TESTIMONY OF MARILYN FOSS
North Dakota Bankers Association
IN FAVOR OF H.B. 1219

Chairman Ruby, members of the Transportation Committee, my name is Marilyn Foss. I am general counsel for the North Dakota Bankers Association and I am here today to enthusiastically support H.B. 1219 with the addition of the proposed amendments we have worked out with the assistance of the Department of Transportation and in consultation with real estate lenders and title agents. Those proposed amendments are attached to my testimony.

Before I begin my substantive comments I want to thank DOT DMV director, Lindy Michlitsch and its legal counsel, Leslie Weigel, for working so cheerfully and diligently with us to craft a bill and amendments to clarify the role of DOT after a manufactured house has been affixed and converted to real estate and to set the stage to make things easier for lenders to check DOT records to confirm a specific manufactured home is real estate under North Dakota law and the retirement of a manufacturer's certificate of origin or a title while at the same time reducing DOT and lender workload.

H.B. 1219 amends the 2009 laws that first established a formalized, statutory process for converting manufactured homes from personal property to real estate for all purposes under North Dakota law. This law has been highly successful for lenders and borrowers because it has enabled lenders to do real estate financing for affixed manufactured homes. These real estate loans have lower interest rates and longer repayment periods than do loans secured by personal property (which is how a manufactured home that is not affixed to real estate is classified under North Dakota law). The certainty provided by the 2009 law also enables mortgage lenders to sell loans secured by an affixed manufactured home on the secondary market. It is not an

HB 1219
2-2-17
#1 p.2

overstatement to credit the 2009 law as a big factor in helping North Dakotans meet their needs for moderate income housing during our boom years and particularly in the West.

However, after several years of experience it became apparent that clarifications could be made and efficiencies and a bit of technical clean up could be achieved. H.B. 1219, as amended, does those things.

First of all, the effect of the bill (which amends laws in both Title 39 (Motor Vehicles) and Title 47 (Property)) is to state directly that once a conversion has occurred, the DOT will "have no further authority or jurisdiction over the conveyance or encumbrance of the manufactured home." This addresses questions arising from a DOT requirement for a filing to be made very time there was a conveyance of a manufactured home, followed by DOT issuing a "letter of confirmation/bill of sale" in response to the filing. Over time, as a result of this DOT requirement for transfer documentation, the DOT "letter of confirmation/bill of sale" document came to be regarded by industry as a sort of alternate title. Instead of engaging in a seemingly endless round of debate over the authority of DOT to require the filing and then, the legal effect, if any, of the "letter of confirmation/bill of sale", we, with DOT concurrence, decided to be clear that DOT has no role in documenting post conversion conveyances and that its responsibilities after a conversion are limited to keeping permanent records of a conversion to real estate and the retirement of a manufacturer's certificate of origin or title for a converted manufactured home and providing appropriate public access to that information.

I am really pleased DOT and we have also come up with a more efficient way for DOT to provide that access to records of conversions. DOT was using its letter of confirmation/bill of sale document for that purpose. However, as we worked through the process, we learned DOT maintains a website by which manufactured home information is accessed by VIN. This website is

now used primarily by manufactured home dealers. Both lenders and title agents told us it be much easier for them to check title by looking online instead of sending in a written request to DOT and waiting for the DOT letter of confirmation/bill of sale document as a response. We also thought DOT's workload would be reduced if DOT didn't have to process this documentation.

I am happy to report that DOT has agreed. Honestly, Lindy and DOT staff are currently working to modify the existing, free online service to meet lender and title agent needs for easy confirmation that a conversion has occurred and title has been retired. We are proposing the online access requirement into statute only so that it is and remains a priority that isn't downgraded as DOT works to meet its many obligations. But, I am so pleased to report that DOT expects to be able to implement the needed changes without additional funding or cost to lenders and title agents and before August 1. I also want to note that access by VIN protects the privacy of individual owner information in accordance with other North Dakota laws.

The upshot is that H.B. 1219 as amended reduces regulatory burden and does so in a manner that helps business and North Dakota consumers. We think it is truly a win-win and urge you to give it a unanimous Do Pass.

PROPOSED AMENDMENTS TO H.B. 1219

HB 1219
2-2-17
#2

Page 1, line 2, replace "subsection" with "subsections"

Page 1, line 2, after "1", insert "7 and 8"

Page 1, line 8, after the period, insert " The department shall maintain a website by which interested persons may supply a vehicle identification number and confirm the status of a manufactured home as real estate under section 47-10-27(6) and that the department has retired the manufacturer's certificate of origin or certificate of title."

Page 2, after line 5, insert:

SECTION 4. AMENDMENT. Subsection 7 of section 47-10-27 of the North Dakota Century Code is amended and reenacted as follows:

7. Upon the satisfaction of the requirements of subsection 6, the manufactured home is deemed to be real property; any mortgage, deed of trust, lien, or security interest which can attach to land, buildings erected thereon, or fixtures affixed thereto attach as of the date of its recording in the same manner as if the manufactured home were built from ordinary building materials onsite. Title to the manufactured home must be transferred by deed or other form of conveyance that is effective to transfer an interest in real property, together with the land to which the structure has been affixed. The manufactured home is deemed to be real property and is governed by the laws applicable to real property and the department of transportation shall have no further authority or jurisdiction over the conveyance or encumbrance of the manufactured home.

SECTION 5. AMENDMENT. Subsection 8 of section 47-10-27 of the North Dakota Century Code is amended and reenacted as follows:

8. Except as provided in subsections 2, 3, 5, 6, and 7, an affidavit of affixation is not necessary or effective to convey or encumber a manufactured home or to change the character of the manufactured home to real property. ~~A conveyance of land upon which is located a manufactured home for which an affidavit of affixation has been recorded does not effect a conveyance or encumbrance of any interest in the manufactured home. A conveyance or encumbrance may only be made under the provisions of chapter 39-05.~~ An agreement by a party to the transaction whereby the requirements of this subsection are waived is void as contrary to public policy.

Renumber accordingly

Committee Hearing on HB 1219
Testimony from the ND Land Title Association

HB 1219
2-2-17
#3

Good afternoon Mr. Chairman and Members of the Committee,

The title insurance and real estate closing services industry's help drive our nation's economy through the safe and efficient transfer of real property. In the current housing market these services are increasingly important for the confidence of lenders to provide loans to credit worthy homebuyers.

HB 1219, as amended, makes corrections to more efficiently transfer real property that once had a manufactured home located on the real estate. Today, after a manufactured home has been affixed to the real property and the correct filings have been completed we are still required to continue to transfer the personal property, ie manufactured home, within the DOT even though that personal property no longer exists and is now real property. Real property is transferred by deed which is then filed in the county recorder's office. The current statute effectively causes duplication of filings with the unnecessary filing with the DOT.

Lenders require us to continue to transfer the manufactured home title by filing a Confirmation Bill of Sale with the DOT because the statute does not clearly indicate the DOT title is no longer valid and has been surrendered. Further, when the filings are completed a search of the DOT records does not reflect the title has affirmatively been surrendered. The concern is if the title is not affirmatively surrendered that third parties could claim an interest or lien in the manufactured home even though it doesn't exist because it has become real property.

Without these changes we will continue to cause significant confusion and complexity of the conveyance to borrowers. Further, the DOT transfers result in longer closing times, are administratively inefficient, unnecessary and administratively costly. Due to the process, numerous lenders have actually ceased lending on these types of property hence limiting the access to credit for worthy buyer and borrowers. This problem is especially concerning when we consider the number of homes in western North Dakota that have been manufactured and affixed as normal homes since 2008.

We would ask the committee to provide a Do Pass as amended recommendation.

Sincerely, Nick Hacker
NDLTA, Legislative Chair - (701) 6751-4988- nick@thetitleteam.com

TESTIMONY OF MARILYN FOSS
North Dakota Bankers Association
IN FAVOR OF H.B. 1219

Chairman Poolman, members of the GVA Committee, my name is Marilyn Foss. I am general counsel for the North Dakota Bankers Association and I am here today to support Engrossed H.B. 1219. This is a bill we have worked on with the DOT Director of Motor Vehicles, Lindy Michlitsch, and DOT legal counsel, Leslie Weigel, and a working group of bankers and title agents. Each of us had only one thing in mind: improving a good process in a way that makes things easier for everyone, including North Dakota citizens who find affordable housing in the form of a manufactured home that has been affixed to real estate.

Engrossed H.B. 1219 amends the 2009 laws that first established a formalized, statutory process for converting manufactured homes from personal property to real estate for all purposes under North Dakota law. This law has been highly successful for lenders and borrowers because it has enabled lenders to offer real estate mortgage loans for affixed manufactured homes and for allowed those loans to be sold in the secondary market.

However, manufactured homes that have been converted to real estate are now being turned over and purchased by new owners. The process of financing these more recent purchase transactions revealed provisions of the 2009 law that should be clarified regarding the limited role of DOT once there has been a statutory conversion of a manufactured home to real estate and adjusted to make it easier for title agents and lenders to confirm the conversion of any particular affixed manufactured home to real estate is reflected in DOT records. Engrossed H.B. 1219 accomplishes these goals.

On the first matter, the bill (which amends laws in both Title 39 (Motor Vehicles) and Title 47 (Property)) provides specifically that once a conversion has occurred, the DOT will "have

no further authority or jurisdiction over the conveyance or encumbrance of the manufactured home.” With this change we and DOT agree DMV will require a filing to establish in DOT permanent records the fact of a conversion to real property at the time a statutory conversion is completed, but not every time there is a subsequent sale or transfer of a converted manufactured home. This change makes it clear DOT has no role in documenting post conversion conveyances and that its responsibilities after a conversion are limited to keeping permanent records of the initial conversion to real estate and the retirement of a manufacturer’s certificate of origin or title for a converted manufactured home and providing appropriate public access to that information. This change makes it less expensive and easier to convey converted properties and also reduces the DMV workload since it will no longer have to manually process the extra filings.

I am really pleased DOT and we have also come up with a more efficient way for DOT to provide access to DOT records of conversions. As we worked through the process, we learned DOT already maintains a website by which some certain manufactured home information is accessed by VIN. This website is now used primarily by manufactured home dealers. Both lenders and title agents told us it would greatly improve and speed the financing process if they could verify a conversion by looking online instead of sending in a written request to DOT and waiting for the DOT written response. Obviously, online access would also reduce DMV workload by eliminating the need for the department to respond to a standard inquiry.

I am happy to report that DMV has agreed; DOT IT staff is currently working to modify the existing, free, online service to meet lender and title agent needs for easy confirmation that a conversion has occurred and the certificate of origin and title have been retired. We are proposing the online access requirement into statute only so that it is and remains a priority that isn’t set aside as DOT works to meet its many obligations. I am so pleased to report that DOT will be able to implement the needed changes without additional funding or cost to lenders and title

agents and before August 1. The online access by VIN also protects the privacy of individual owner information in accordance with other North Dakota privacy laws.

The upshot is that Engrossed H.B. 1219 should reduce costs and burdens for all involved businesses, consumers and for DMV. We think this bill demonstrates a true public/private effort to a goal of greater efficiency and is truly a win-win. We urge you to give it a unanimous Do Pass as was done by the House.

Committee Hearing on HB 1219
Testimony from the ND Land Title Association

Good afternoon Mr. Chairman and Members of the Committee,

The title insurance and real estate closing services industry's help drive our nation's economy through the safe and efficient transfer of real property. In the current housing market these services are increasingly important for the confidence of lenders to provide loans to credit worthy homebuyers.

HB 1219, as amended, makes corrections to more efficiently transfer real property that once had a manufactured home located on the real estate. Today, after a manufactured home has been affixed to the real property and the correct filings have been completed we are still required to continue to transfer the personal property, ie manufactured home, within the DOT even though that personal property no longer exists and is now real property. Real property is transferred by deed which is then filed in the county recorder's office. The current statute effectively causes duplication of filings with the unnecessary filing with the DOT.

Lenders require us to continue to transfer the manufactured home title by filing a Confirmation Bill of Sale with the DOT because the statute does not clearly indicate the DOT title is no longer valid and has been surrendered. Further, when the filings are completed a search of the DOT records does not reflect the title has affirmatively been surrendered. The concern is if the title is not affirmatively surrendered that third parties could claim an interest or lien in the manufactured home even though it doesn't exist because it has become real property.

Without these changes we will continue to cause significant confusion and complexity of the conveyance to borrowers. Further, the DOT transfers result in longer closing times, are administratively inefficient, unnecessary and costly. Due to the process, numerous lenders have actually ceased lending on this type of property, hence limiting the access to credit for worthy buyers and borrowers. This problem is especially concerning when we consider the number of homes in western North Dakota that have been manufactured and affixed since 2008.

We would ask the committee to provide a Do Pass as amended recommendation.

Sincerely, Nick Hacker
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