

## Manufactured Homes: Real or Personal Property?

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... Statutory changes by the General Assembly have introduced reforms into the process of determining whether a particular manufactured home is real or personal property. One of the changes provides for creation and filing of affidavits with the Division of Motor Vehicles and the county Register of Deeds to identify manufactured homes that have been legally classified as real property. Additionally, these changes will provide for uniform treatment of manufactured homes for ad valorem tax purposes.

The legal difference between the treatment of manufactured homes either as real property or personal property is important in real estate transactions. For example, a contract that listed no personal property to be conveyed when at the time of execution there was a manufactured home on the property would not convey title to the home if the unit was personal property. That same contract, under the same circumstances would include conveyance of the home if the unit had been permanently affixed so as to become real property. The legal difference also affects the method for obtaining and perfecting liens on units and determining who owns a unit.

The distinction between whether a manufactured home is real or personal property has no bearing on the separate issue of the type of construction of buildings assembled off the property and subsequently transported to a site. Whether real or personal property, a manufactured home is still a manufactured home and this fact should be disclosed. (If a modular home is constructed to the state building code standard, the home is incorporated into, and becomes part of, the real property upon installation. (See the Bulletin, Summer 1995, Vol. 26, #2 issue, article entitled *When the Homes Come Rolling In.*)

- Licensees will not typically review title records or participate in the process of changing personal property to real property. However, completing sales contracts in a proper manner to protect the interests of the parties is important. Thus it is important to know whether a manufactured home is real or personal property.
- Practice Tip: If the parties intend that a manufactured home be transferred as part of their sales contract, whether or not the unit is real or personal property, the licensee should include sufficient information in the personal property portion of the sales agreement to cover the specific unit present on the property. If the unit is already classified as real property, no harm is done. If the unit is still personal property, then the intent of the parties will be adequately reflected in the contract.
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