



## CHICAGO TITLE INSURANCE COMPANY

### **TOPIC: Mobile and Manufactured Homes**

#### **TITLE SEARCH & CLOSING RULES:**

- 1) Determine if mobile, manufactured or modular home is involved in the transaction.
- 2) Determine if, since January 1, 2002, an Affidavit for Removal of Manufactured Home from Vehicle Registration Files (DMV Form MVR-46G) or a Declaration of Intent to Affix Manufactured home to Real Property has been filed, and with what exceptions if any, and that same has not been Reinstated to Certificate of Title with DMV. If so, the home has been converted to real property and is governed by rules of real estate law, as any other “stick-built” home.
- 3) Check restrictive covenants carefully for prohibitions. If any, provide specific information (restrictive covenant provisions and type of home) to and consult with title insurer. Your Preliminary Opinion must reflect any such exceptions to title such as violations of restrictions.
- 4) If the home has not been converted to real property (step #2 above), contact DMV to determine if Certificate of Title is on file – either by telephone or using MVR-605A. This may require a search in the names of owners of home &/or property since home was built (model year) and serial number, manufacturer, make and model of home (VIN number, if one).
- 5) If Certificate of Title is on file, the attorney must be sure to obtain *at or before closing* all forms, executions and fees necessary to complete the processing, filing with DMV and recording with the Register of Deeds of the Affidavit (MVR-46G), even though the ultimate filing and recording will require post-closing follow up. These forms and fees would include :
  - a) Determine record owners and method for obtaining their transfer to property owner.
  - b) Determine lienholders and either payoffs or how to obtain record releases.
  - c) Prepare at closing:
    - i) Letter to DMV to cancel [[MS Word](#) | [PDF](#)]
    - ii) MVR-46G – Affidavit [[PDF](#)]
    - iii) Cover Sheet for Affidavit MVR-46G [[MS Word](#) | [PDF](#)]
    - iv) MVR-63 -- Power of Attorney [[PDF](#)]
    - v) Duplicate Power of Attorney recordable with Register of Deeds
  - d) At closing, forward to Letter and Affidavit to DMV (local office or in Raleigh) for cancellation.

TOPIC: Mobile and Manufactured Homes

Page 1 of 13

Last Revised 5/4/02

- e) **Post-closing, when receive back Affidavit, record with Cover Sheet, at Register of Deeds in county where real estate is located.**
  - f) **If title in prior owner's name, consider bonding procedure – MVR-92A**
- 6) **If no Certificate of Title is on file with DMV (either because never registered or already “canceled” under old procedures), prepare and record **Declaration of Intent** at time of closing.**
- 7) **Ad valorem tax listings must be checked carefully for separate personal and real property listings. For existing homes, the attorney should assure they have the listing for the home since it may be in the form of a separate personal property listing and/or may still be in the name of a prior owner.**

### **LEGAL DISCUSSION:**

1. Manufactured homes (often interchangeably called “mobile” homes) are considered “goods” and potentially “fixtures” under the Uniform Commercial Code, N.C.G.S. 25-9-102, and vehicles requiring issuance of a Certificate of Title by the division of Motor Vehicles, pursuant to N.C.G.S. 50-20 *et seq.* Upon purchase from a dealer, a Manufacturer’s Certificate of Origin (MCO) is issued from the manufacturer to the dealer, then assigned to the purchaser. If a Certificate of Title is to be obtained, these would be submitted to the North Carolina Division of Motor Vehicles. N.C.G.S. 50-22(b). However, if the home is to be permanently affixed to property owned by the purchaser of the home, a shortened procedure can convert the home to real property without the issuance of a Certificate of Title. N.C.G.S. 47-20.7. In either event, the MCO should be obtained at closing of the purchaser. Any payments to the dealer’s lender to release the home should be made at closing and presumably will be required in order to obtain the original MCO.
2. A “manufactured home” is defined by N.C.G.S. 143-143.9 (6) as follows:

**Manufactured home.** - A structure, transportable in one or more sections, which, in the travelling mode, is eight feet or more in width or is 40 feet or more in length, or when erected on site, is 320 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 therein.

Construction standards are governed by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.*, under the auspices of the Department of Housing and Urban Development (HUD) and the North Carolina Manufactured Housing Board under N.C.G.S. 143-143.8 *et seq.*

Pursuant to N.C.G.S. 25-9-102 (53):

"Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 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 therein. The term includes any structure that meets all of the requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

And, for ad valorem tax purposes, the definition of whether a manufactured home constitutes real property pursuant to N.C.G.S. 105-273(13) is now determined by the following definition:

'Real property,' 'real estate,' and 'land' mean not only the land itself, but also buildings, structures, improvements, and permanent fixtures on the land, and all rights and privileges belonging or in any way appertaining to the property. These terms also mean a manufactured home as defined in G.S. 143-143.9(6) if it is a residential structure; has the moving hitch, wheels, and axles removed; and is placed upon a permanent foundation on land owned by the owner of the manufactured home. A manufactured home as defined in G.S. 143-143.9(6) that does not meet all of these conditions is considered tangible personal property."

3. In contrast, a "modular home" is clearly and separately defined outside of this definition. A true "modular" home should not have a VIN number or a Manufacturers' Certificate of Origin (though periodically an MCO is issued for dealer's inventory purposes). It should be conveyed by bill of sale, and is constructed according to standards set by the North Carolina State Building Code, N.C.G.S. 143-136 *et seq.* The components do not have tongue, wheels or axle. The home is *not* a manufactured or mobile home, as defined under N.C.G.S. 143-143.9(6). Therefore, neither an ALTA 7 nor an exception for a mobile home are appropriate in a title insurance policy. This distinction is also important for purposes of applicability of restrictive covenants. See Briggs v. Rankin, 127 N.C. App. 477, 491 S.E.2d 234 (1997), *aff'd* 348 N.C. 686, 500 S.E.2d 663 (1998), in which the Court of Appeals noted as follows, in distinguishing a "manufactured" from a "modular" home:

In determining which category a home falls under, it is important to look at all the characteristics of the finished structure, in addition to the chosen method of delivery. Some of the characteristics to consider include: (1) whether the structure must comply with the N.C. Regulations for Manufactured/Mobile Homes, which are consistent with Housing and Urban Development (HUD) national regulations, or with the Building Code; (2) whether the structure is attached to a permanent foundation; (3) whether, after constructed, the structure can easily be moved or has to be moved like a site-built home; (4) whether title to the home is registered with the N.C. Department of Motor Vehicles

TOPIC: Mobile and Manufactured Homes

Page 3 of 13

Last Revised 5/4/02

or title must be conveyed by a real property deed; and, (5) how the structure is delivered to the homesite.

4. If the home is to remain personal property, the MCO should be delivered to the Division of Motor Vehicles and a Certificate of Title issued. N.C.G.S. 20-52. Once the Certificate of Title is issued, the home remains a “vehicle” under the provisions of Chapter 20 of the North Carolina General Statutes and is governed by the rules of the Division of Motor Vehicles. Liens upon the home will be noted on the face of the Certificate of Title. The Certificate of Title will be delivered to the lienholder. Property taxes are listed through DMV, just like a car or truck. They are *not* real property under state law or under the definition of “land” in a title insurance policy. The home should not be listed as real property for ad valorem tax purposes, in order to prevent double-taxation (once through DMV and again through local county and city tax collectors).

See N.C.G.S. 20-52, 20-52.1, 20-58, 20-58.8, 25-9-303, 25-9-102(a)(44), 25-9-102(a)(53), 25-9-312, 25-9-334 and 25-9-515 for further reference regarding personal property interests and liens.

5. Process of Converting to Real Property: If the home is a “manufactured home” as defined by N.C.G.S. 143-143.9(6) and N.C.G.S. 105-273(13), and if the home is to be permanently affixed to and become a permanent improvement to real property, effective as of January 1, 2002, and if a Declaration of Intent or MVR-46G Affidavit have not been previously filed and recorded without reinstatement as discussed below, then pursuant to House Bill 253 of the 2001-2002 Session of the North Carolina General Assembly, <http://www.ncga.state.nc.us/html2001/bills/AllVersions/House/H253vr.html> the following must occur:

- (a) Moving hitch, tongue, wheels, axle of home must be permanently removed, and the home must be placed on a permanent foundation on real property owned by the owner of the manufactured home.
- (b) Vehicle identification number or “VIN” number (if one), serial number, model year, manufacturer, model name and prior potential “owners” since its construction must be obtained from and verified with the owner / seller / borrower (to clearly identify the home for steps (c), (e) and (f) below). For a double-wide, this includes *two* serial and possibly VIN numbers, -- often the same number with an “A” and a “B” designation. This information may be gleaned from some of the following:

- (1) Ad valorem tax appraisal card
- (2) Deeds of trust since date of manufacture containing a description to include the manufactured home, whether on a Manufactured Home Rider or on the face of the instrument or as part of the legal description
- (3) Deeds in the chain of title since date of manufacture containing a description to include the manufactured home, whether in a rider or on the face of the instrument or as part of the legal description
- (4) Front cover of owner’s manual for the home

TOPIC: Mobile and Manufactured Homes

Page 4 of 13

Last Revised 5/4/02

- (5) On the Compliance Certificate located either under the kitchen sink on the cabinet door, behind the master bedroom closet door, on a cabinet door in the utility room or the electrical panel box
- (6) Metal tag located on the chassis under the tongue area.
- (7) Appraiser
- (8) Home inspector
- (9) Surveyor
- (10) Realtor, or MLS listing
- (11) Manufacturer or dealer

The closing attorney should assure that the VIN numbers found in various documents and locations above is consistent, i.e. that the home has not been traded in for a newer model.

- (c) The closing attorney should either obtain an original Certificate of Title from their client or contact the Division of Motor Vehicles (“DMV”) to determine if a Certificate of Title has been issued. *The request should include the VIN number(s) (if any), the serial number(s) and the names of any owners since the home was built – including both spouses and prior owners of the real estate since the home’s model year when it was “built.”*
- (d) DMV can be contacted as follows:

Division of Motor Vehicles  
Vehicle Registration Section  
Mail and Distribution Unit  
3148 Mail Service Center  
Raleigh NC 27699  
Phone: 919-715-7000  
FAX: 919-733-6941

1100 New Bern Avenue  
Raleigh NC 27697  
919-733-3025

For those attorneys dealing with mobile or manufactured homes regularly, DMV offers a [special telephone service](#), as a “telephone subscriber,” using a user code, for a fee billed monthly of \$1.00 per call. A similar service may also be available by e mail. Otherwise, the Federal Driver’s Privacy Protection Act of 1994 prohibits the DMV from disclosing personal information, which includes photographs, social security number, driver license numbers, names, addresses, telephone numbers and medical or disability information among other things. The attorney should request the user identification code by contacting either Carol Howard, Director, or Diane Johnson, Assistant Director, of the Vehicle Registration Section, at (919) 861-3639. Thereafter, the attorney could use the user code for a telephone request or submit [DMV Form MVR-605A](#) via facsimile for each request.

- (e) Forms and information are available from DMV on their web site at: <http://www.dmv.dot.state.nc.us/VehicleRegistration/forms/>

The North Carolina Division of Motor Vehicles, Vehicle Registration Section Title Manual (13<sup>th</sup> Edition Revised February 2001) (387 pages in .pdf format) is also on line at:

<http://www.dmv.dot.state.nc.us/VehicleRegistration/TitleManual/CompleteManual.pdf>

- (f) If a Certificate of Title has been issued, a Division of Motor Vehicles Form MVR-46G: Affidavit for Removal of Manufactured Home from Vehicle Registration Files -- on line at <http://www.dmv.dot.state.nc.us/VehicleRegistration/forms/mvr-46g.pdf> -- must be completed and submitted to the Division of Motor Vehicles. N.C.G.S. 47-20.6(b) requires the Affidavit to contain all of the following information:
- (1) The manufacturer and, if applicable, the model name of the manufactured home.
  - (2) The vehicle identification number and serial number of the manufactured home.
  - (3) The legal description of the real property on which the manufactured home is placed, stating that the owner of the manufactured home also owns the real property.
  - (4) A description of any security interests in the manufactured home.
  - (5) A section for the Division's notation or statement that the title has been surrendered and cancelled by the Division.

The Certificate must be signed by the “owner” of both the real property and the manufactured home. Thus, if the home is being sold by the seller who is the DMV registered owner, the seller must sign either the Certificate of Title transferring the property to the Buyer or the MVR-46G Affidavit (along with the buyer). The “buyer” must also sign the Affidavit so that it will appear within the chain of title of the real property when recorded with the Register of Deeds, since it will be recorded post-closing. So additional signature and notary pages may be required to be attached.

The DMV is requiring that the original Certificate of Title be attached, though the statute does not so provide.

In addition, any lienholders shown on the records of DMV must execute the Affidavit or must release their lien on the face of the original Certificate of Title if it is to be submitted to DMV simultaneously. Thus, if lienholders are shown on the Certificate of Title, they need to be located to obtain their release. Many can be found on the Secretary of State’s web site, <http://www.secretary.state.nc.us/Corporations/> or can be located at their address on the face of the Certificate of Title. If the lender cannot be contacted to provide a release, in order for an outstanding lien on the title to be removed from the title, a letter requesting cancellation or balance due should be forwarded to the named lender on the Certificate of Title at their last known address, by certified mail, return receipt requested. If and when returned as undeliverable, DO NOT OPEN but forward with the bonding forms (discussed below) to DMV with request for issuance of cleared title.

*The attorney should specifically request that the original Affidavit, when signed by DMV acknowledging cancellation of the title, be returned to the attorney’s office for recordation with the Register of Deeds. Otherwise, the DMV will return the form to*

TOPIC: Mobile and Manufactured Homes

Page 6 of 13

Last Revised 5/4/02

*the owner.* (See Form: [Proposed Letter to Cancel Certificate of Title with DMV \[MS Word | PDF\]](#).)

Once the Affidavit is returned by DMV, it *must* be recorded in the office of the Register of Deeds in the county in which the real property upon which the home is affixed is located. N.C.G.S. 20-109.2 and N.C.G.S. 47-20.6. In order to comply with the 3” top margin requirement of N.C.G.S. 161-14(b)(2) and to avoid the nonstandard document recording penalty, a cover page is suggested. (See Form: [Proposed Cover Sheet for MVR-46G for Register of Deeds Recording \[MS Word | PDF\]](#)) *Unless and until the Affidavit is recorded with the appropriate Register of Deeds, the home remains personal property.*

As a practice tip, many attorneys require execution at closing of the DMV Form MVR-63, Power of Attorney, in duplicate from the record title holder with recordable notary acknowledgments on one duplicate. This facilitates being able to address any post-closing issues to assure the conversion to real estate can be completed. If one is sent to the DMV, it will not be returned. So the duplicate with recordable notary will allow local recordation as well when the Affidavit is returned.

- (g) If the Certificate of Title is issued in a name other than the current owner of the real property, the attorney should try to obtain a transfer of the Certificate of Title itself signed by the titled owner to the real estate owner, then execution by the owner of both real estate and Certificate of Title of the Affidavit, Form MVR-46G, and filing with DMV and Register of Deeds.

If the property is in foreclosure and the Certificate of Title is in the name of the delinquent borrower, the attorney should attempt to obtain an executed Affidavit, Form MVR-46G, executed by the borrower (and any other lienholders on the Certificate of Title), file with DMV and record with the Register of Deeds.

- (h) Bonding Procedure if Certificate of Title is in name other than Real Property owner:

If the record title holder cannot be located or will not execute the Certificate of Title in the above two cases, no sanctioned statutory procedure currently exists. However, the DMV has developed a bonding procedure. The attorney should request discretionary approval of a cancellation of title by the DMV, by presenting evidence to the DMV that the home was intended as real property and was intended to be included within a chain of title of conveyances of the real estate (even than not following the official transfer procedures for a Certificate of Title transfer), such as:

- (1) deeds from the owner on the Certificate of Title with recitals about including the home, such as “also conveyed herewith is a 1996 Model Oakwood Manufactured Home, bearing Serial Number \_\_\_\_\_, which has been permanently affixed to and is now part of the above-described real property”, or
- (2) deeds from the owner on the Certificate of Title for a consideration shown by the transfer stamps that clearly must include the home in the valuation, or

- (3) listing of the home for ad valorem tax purposes by the owner on the Certificate of Title, or
- (4) Affidavits or deed of trust rider (whether or not recorded) signed by the owner on the Certificate of Title containing the relevant information required by G.S. 47-20.6

The DMV currently allows for posting of a bond with an independent bonding firm, in such instances or in situations where the lienholder cannot be located to release the lien, upon compliance with which the home can be converted to real property. The procedure is outlined on [DMV Bonding Information and Instructions under N.C.G.S. 20-76\(b\)](#) of the “North Carolina Division of Motor Vehicles, Vehicle Registration Section Title Manual (13<sup>th</sup> Edition Revised February 2001). Relevant forms include:

- MVR-92A – [Requirements for Obtaining Title by Filing An Indemnity Bond](#)
- MVR-92D – [Indemnity Bond](#)
- MVR-92E – [Cash Bond](#)
- MVR 1 – [Title Application](#)

DMV will identify several companies providing these specialized bonds. Typical cost has been around \$15.00 per \$1,000 of coverage per year for 3 years, paid in advance in full. Requirements typically include (1) copies of bill of sale, deed or other conveyance reflecting no liens are currently outstanding and (2) evidence of value such as DMV appraisal or copies of independent appraisal reports.

- (i) If no Certificate of Title has been issued, or any such Certificate of Title has been “canceled” prior to 1/1/02, a **Declaration of Intent to Affix the Manufactured Home to Real Property** [[MS Word](#) | [PDF](#)] must be filed with the office of the Register of Deeds of the county in which the property upon which the home is affixed is located. The form should be signed by the party that will hold record title at the time it is recorded so that it will appear in the chain of title of the real property. Though N.C.G.S. 47-20.7 does not contain a statutorily mandated form, it does set forth minimum requirements. Subsection (b) specifically provides that “[t]he declaration of intent, deed, deed of trust, or other instrument shall contain a description of the manufactured home, including the name of the manufacturer, the model name, if applicable, the serial number, and a statement of the owner’s intention that the manufactured home be treated as real property.”

The Declaration should be a separate independent document recorded as part of the closing documentation so that it will appear in the chain of title of the property and to assure that the home is immediately real property and part of the deed of trust security.

Since no Certificate of Title is being issued, *the attorney should obtain and attach the original Manufacturer’s Certificate of Origin, if possible, marked “void” or “canceled” if at all possible.* If the home was purchased at an earlier closing, this

may be the best way to prevent the MCO from being submitted later to DMV for issuance of a Certificate of Title, since DMV has no record of Declarations filed.

For a new home being sold and financed by a manufacturer or dealer, the consumer purchaser is protected under the provisions of Uniform Commercial Code, N.C.G.S. § 25-9-320. (a) as a “buyer in ordinary course of business.” In addition, assuming that the Declaration and the deed of trust are recorded prior to beginning of construction, under N.C.G.S. 9-334(h), the deed of trust will have priority over any other security interest in the home. The deed of trust should include future advance protection in compliance with N.C.G.S. 45-67, just as with any other construction loan, and satisfactory lien subordinations or waivers should be obtained from contractor who dealt with the owner (often including primarily the mobile home dealer, but may include the well-driller, foundation contractor and others if the property owner negotiated these directly).

For an existing home being moved from another location, a certificate of title will be required for the move since, at that point, the home will be “intended to be operated upon any highway of this State.” Thus, the Affidavit procedure (locating the Certificate of Title and filing Affidavit form MVR-46G) outlined earlier will be required.

If the home is from out of state, the Certificate of Title should be transferred from the home state pursuant to reciprocity agreements with that state, a new North Carolina Certificate of Title issued and immediately canceled using the Affidavit procedure outlined earlier. *See, e.g.*, N.C.G.S. 25-9-313, 25-9-303© and 25-90-311(d)(3). Also see the [North Carolina Division of Motor Vehicles, Vehicle Registration Section Title Manual \(13<sup>th</sup> Edition Revised February 2001\)](#), which outlines reciprocity agreements, contacts and title requirements for all 50 states, beginning on page 198.

For an existing home for which no Certificate of Title was ever issued, just as in checking with DMV for a Certificate of title, the attorney should check for UCC Financing Statements in the names of any of the owners of the property (or home, if that can be ascertained) for the lesser of the period (1) since the model year of the home, or (2) of the duration of potential UCC Financing Statements and continuances. If no Certificate of Title with DMV has been filed, nor has an MVR-46G Affidavit or Declaration of Intent been filed with the Register of Deeds, then the home may be “goods” or may have become a “fixture. Under the Revised Article 9, a security interest in a not-yet-converted home with priority over the deed of trust to be recorded may be created pursuant to either N.C.G.S. 25-9-311(a)(2) (if a Certificate of Title through DMV is required) or by filing of UCC Financing Statements with either the Secretary of State (for “goods”) or the Register of Deeds (if the home was affixed to real property). Until 2001, the duration of the UCC Financing Statement was 5 years, plus 5-year continuances. Beginning in 2001, UCC Financing Statements on manufactured homes can last up to 30 years. N.C.G.S. 25-9-515(b). So, beginning in 2006 and potentially until 2031, the search period will go back to 2001 for any pre-2001 homes for which an MVR-46G Affidavit or a Declaration of Intent are not filed

TOPIC: Mobile and Manufactured Homes

Page 9 of 13

Last Revised 5/4/02

with the Register of Deeds. This would include the Register of Deeds for a fixture filing and a check of the Secretary of State's office (presumably through their web site, <http://www.secretary.state.nc.us/ucc/>), for non-fixture filings.

- (j) Once the above Affidavit or Declaration of Intent, as the case may be, has been filed with the office of the Register of Deeds, the home is considered real estate for all future purposes. The home is included in any deed conveying the real property and encumbered by any pre-existing or future deed of trust encumbering the real property, as with any other home or improvement.

- 6. Ad valorem tax listings: The home must be listed, along with the real estate, as real property for ad valorem tax purposes. N.C.G.S. 105-273 (13)

For existing homes, because of discrepancies in practices of the various tax offices, the attorney should specifically request information for a mobile home as well as for the real estate. This is important because, among other reasons:

- (a) Many tax offices listed them separately.
- (b) Verify a single listing, as frequent occurrences of dual listing (and dual taxation) have been found -- one personal from DMV and one real estate with the land.
- (c) The separate check will identify tenant mobile homes. Several tax offices have attempted to charge the owner of the land with taxes for a "tenant's" mobile home.
- (d) Lastly, the attorney will need to assure that the mobile home listed is the same as the home still located on the property at the time of closing by checking the VIN numbers.

Once the Affidavit or Declaration above has been filed with the Register of Deeds, the tax offices should find these in their regular update of public records for deeds or conveyances.

In addition, the Owner should be advised to include the home as an improvement on their January tax listing form, as with any other new home or addition to the property.

- 7. Reinstatement of Certificate of Title and re-conversion to personal property, can be done pursuant to the N.C.G.S. 20-109.2(d) provides as follows:

If the owner of a manufactured home whose certificate of title has been cancelled under this section subsequently seeks to separate the manufactured home from the real property, the owner may apply for a new certificate of title. The owner must submit to the Division an affidavit containing the same information set out in subsection (b) of this section, verification that the manufactured home has been removed from the real property, and written consent of any affected owners of recorded mortgages, deeds of trust, or security interests in the real property where the manufactured home was placed. The Commissioner may require evidence sufficient to demonstrate that all affected owners of security interests have been notified and consent. Upon receipt of this information, together with a title application and required fee, the Division is authorized to issue a new title for the manufactured home.

Instructions of the DMV contained in Special Memorandum, Subject: Cancellation of Mobile Home titles, dated January 18, 2002, provide specifically as follows:

In the event there is a request to re-instate the title to the mobile home, the customer must complete a form [MVR-5](#) with a fee of \$10.00. The customer must also present an affidavit that the mobile home has been removed from the real property and an Attorney's Opinion identifying any recorded mortgages, deeds of trust or security interests in the real property. If any liens are listed on the Attorney's Opinion, a lien release from the lienholder must be furnished or those liens should be declared on the application of title.

NOTE: This procedure applies only to homes for which the Certificates of Title were canceled with DMV, not to homes for which no Certificate of Title was ever issued.

8. An ALTA 7 endorsement may be available upon receipt of verification of compliance with the above procedures of items #5 and 6 above *and* the attorney's verification that no DMV Certificate of Title is outstanding.
9. Restrictive Covenants: An additional consideration is careful review of any applicable restrictive covenants prohibiting the installation of "trailers" or "mobile homes" or "manufactured homes" or "modular homes" on the particular property. Careful attention should be paid to the actual prohibition wording in comparison to the type of home you are considering. Case law has continued to develop as the mobile home industry has become more and more active and aggressive in the design and marketing of its products. Similarly, neighbors have become more litigious about enforcing these restrictions. Often the risk analysis is more important than the restriction itself as litigation can be very expensive and burdensome for all concerned, even if the "law" appears relatively clear. This should be discussed at length with the title insurer, including review of applicable restrictions, history of the neighbors in pursuing enforcement, history of litigation on the issue, construction type of other homes in the neighborhood history of relations between the respective parties (even if unrelated to the home type) which might indicate bad relations, and any other matters which might add to or minimize the risk of litigation.

**TITLE INSURANCE REQUIREMENTS, EXCEPTIONS AND COVERAGE:**

Upon conversion of the home to real property, as described above, most title insurers will issue an ALTA Endorsement Form 7 (Manufactured Housing Unit). This endorsement simply states that a mobile or manufactured home is considered "land" (and, therefore, not personal property) for purposes of the coverage under the policy, bringing the home under the policy coverages. NOTE: This endorsement does not affect modular homes, which are treated the same as "stick built" homes for property purposes since they are governed by a different set of construction and other statutes.

When the attorney's Preliminary Opinion on Title or the documentation provided to the title insurer with this includes reference to a mobile or manufactured home, the Commitment should contain a Requirement similar to the following:

TOPIC: Mobile and Manufactured Homes

Page 11 of 13

Last Revised 5/4/02

Evidence that the home has been listed (or will be listed at the next listing and appraisal period) as real property for ad valorem tax purposes AND that either (1) if a Certificate of Title has been issued, but was not canceled prior to 1/1/02, an Affidavit approved by the NC Division of Motor Vehicles was filed with said Division and with the Register of Deeds, pursuant to N.C.G.S. 47-20.6, or (2) if no Certificate of Title has been issued, or a Certificate of Title was issued and canceled prior to 1/1/02, that a Declaration has been filed with the office of the Register of Deeds, in compliance with N.C.G.S. 47-20.7.

If a mobile or manufactured home is determined to be located on the property for which the above requirement is not met (whether or not same is shown in the commitment), the home is considered personal property and will not be covered by the title insurance policy which covers only real property. If the title insurer is informed of the home being located on the property, the final owner's and loan policies will contain an exception similar to the following:

The land shall not be deemed to include any house trailer, manufactured home, mobile home or mobile dwelling on the land.

**FORMS:**

- Proposed Letter to Cancel Certificate of Title with DMV
- Proposed Cover Sheet for MVR-46G for Register of Deeds Recording – in order to comply with 3” top margin requirement for recordation of MVR-46G with Register of Deeds without \$25.00 non-conforming document penalty after July 1, 2002
- Division of Motor Vehicles MVR-46G: Affidavit for Removal of Manufactured Home from Vehicle Registration Files -- on line at <http://www.dmv.dot.state.nc.us/VehicleRegistration/forms/mvr-46g.pdf>
- Declaration of Intent to Affix the Manufactured Home to Real Property
- MVR 5 – Corrected or Substituted Title Application (for reinstatement of a Certificate of Title) – on line at <http://www.dmv.dot.state.nc.us/VehicleRegistration/forms/mvr5.pdf>
- MVR 605A – Request for Motor Vehicle Information – on line at <http://www.dmv.dot.state.nc.us/VehicleRegistration/forms/mvr605a.pdf>
- DMV Bonding Information and Instructions under N.C.G.S. 20-76(b)
- MVR-92A – Requirements for Obtaining Title by Filing An Indemnity Bond
- MVR-92D – Indemnity Bond
- MVR-92E – Cash Bond

TOPIC: Mobile and Manufactured Homes

Page 12 of 13

Last Revised 5/4/02

- MVR-1 – Title Application – on line at  
<http://www.dmv.dot.state.nc.us/VehicleRegistration/forms/mvr1.pdf>
- MVR-63 – Power of Attorney, on line at  
<http://www.dmv.dot.state.nc.us/VehicleRegistration/forms/mvr-63.pdf>
- Attorney's Certification & Request for Title Insurance Coverage of Home
- North Carolina Division of Motor Vehicles, Vehicle Registration Section Title Manual (13<sup>th</sup> Edition Revised February 2001) (387 pages in .pdf format) at:  
<http://www.dmv.dot.state.nc.us/VehicleRegistration/TitleManual/CompleteManual.pdf>

Many useful forms are continuing to be added to the DMV web site at:

<http://www.dmv.dot.state.nc.us/VehicleRegistration/forms/>

House Bill 253 from the 2001 Session of the North Carolina General Assembly can be found in its entirety on-line at:

<http://www.ncga.state.nc.us/html2001/bills/AllVersions/House/H253vc.html>

with legislative history at:

<http://www.ncga.state.nc.us/gascripts/billnumber/billnumber.pl?Session=2001&BillID=h253>