

MISSISSIPPI LEGISLATURE
2024 Regular Session
To: Judiciary, Division A
By: Senator(s) Fillingane

Senate Bill 2764

(As Sent to Governor)

AN ACT TO CREATE NEW SECTION 63-21-28, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF REVENUE TO ISSUE A CERTIFICATE OF TITLE PURSUANT TO A FILED AFFIDAVIT OF OWNERSHIP FOR A MANUFACTURED HOME OR A MOBILE HOME THAT IS MANUFACTURED BEFORE JULY 1, 1999; TO AMEND SECTION 63-21-29, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF REVENUE TO ISSUE A DISTINCTIVE CERTIFICATE OF TITLE FOR A MANUFACTURED HOME OR A MOBILE HOME MANUFACTURED BEFORE JULY 1, 1999; TO AMEND SECTION 63-21-30, MISSISSIPPI CODE OF 1972, TO ALLOW THE OWNER OF A MANUFACTURED HOME OR MOBILE HOME TO FILE AN AFFIDAVIT OF OWNERSHIP ATTACHED TO AN AFFIDAVIT OF AFFIXATION IN ORDER TO RETIRE THE CERTIFICATE OF TITLE; TO PROVIDE A STATUTORY FORM FOR THE AFFIDAVIT OF OWNERSHIP; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Section 63-21-28, Mississippi Code of 1972:

63-21-28. The Department of Revenue shall issue a certificate of title pursuant to a filed affidavit of ownership substantially similar to the affidavit provided in Section 63-21-30(22) for a manufactured home or a mobile home that is manufactured before July 1, 1999.

SECTION 2. Section 63-21-29, Mississippi Code of 1972, is amended as follows:

63-21-29. If the * * * Department of Revenue is not satisfied that there are no undisclosed security interests created before August 9, 1968, in a previously registered vehicle, or created before July 1, 1999, in a previously registered manufactured home or mobile home, the * * * department may, in addition to the commission's options under Section 63-21-27 * * *:

(a) Issue a distinctive certificate of title of the vehicle containing the legend "This vehicle, manufactured home or mobile home

may be subject to an undisclosed lien" and any other information the * * * department prescribes; or

(b) Issue a distinctive certificate of title of the vehicle containing the legend "This certificate of title for this [manufactured home/mobile home] is issued pursuant to a filed affidavit of ownership and may be subject to an undisclosed lien" and any other information the department prescribes.

SECTION 3. Section 63-21-30, Mississippi Code of 1972, is amended as follows:

63-21-30. (1) If the legal owner of a manufactured home or mobile home and the real property to which the manufactured home or mobile home has become affixed, wishes to permanently retire the title to a manufactured home or mobile home to real property, then such owner may file or cause to be filed an affidavit of affixation duly sworn to and acknowledged before any officer or person authorized to administer an oath under the laws of this state in the official records of the chancery clerk of the county, or in the judicial district in counties having more than one (1) such district, in which the real property is located, which contains or is accompanied by:

(a) The names and addresses of the legal owner or owners of the manufactured home or mobile home and real property to which the manufactured home or mobile home has become affixed;

(b) The name of the manufacturer, the make, the model name, the model year, the dimensions, and the manufacturer's serial number or VIN of the manufactured home or mobile home, to the extent such data exists;

(c) The legal description and indexing instructions of the real property to which the manufactured home or mobile home is or shall be permanently affixed;

(d) A statement that the party executing the affidavit is the owner of the real property described therein;

(e) A statement that the manufactured home is to be taxed as an improvement to the real property;

(f) A statement that either:

(i) The manufactured home or mobile home is covered by a certificate of title that the owner shall surrender to the Department of Revenue;

(ii) The manufactured home or mobile home is covered by a manufacturer's statement or certificate of origin that the owner shall surrender to the Department of Revenue; or

(iii) The manufactured home or mobile home is not covered by a certificate of title and the owner of the manufactured home or mobile home, after diligent search and inquiry, is unable to produce the original manufacturer's certificate of origin for the manufactured home or mobile home, together with a bill of sale, paid tax receipts showing assessment in the name of the owner for a period of not less than ten (10) years, an installment contract reflecting the serial number or VIN of the manufactured home or mobile home, or other due proof of ownership acceptable to the Department of Revenue;
or

(iv) If the manufactured home or mobile home is manufactured before July 1, 1999, an affidavit of ownership substantially similar to the affidavit provided in subsection (22) of this section;

(g) A statement whether or not the manufactured home or mobile home is subject to one or more security interests or liens and if the manufactured home or mobile home is subject to one or more security interests or liens, the name and address of each party holding a security interest in or lien on the manufactured home or

mobile home, including each holder shown on any certificate of title issued by the Department of Revenue, if any, the original principal amount secured by each security interest or lien;

(h) A lien release as to each party holding a security interest in or lien on the manufactured home or mobile home;

(i) A statement that:

(i) All permits required by applicable governmental authorities have been obtained;

(ii) The homeowner intends that the mobile home or manufactured home be an immovable fixture and a permanent part of the real property; and

(iii) The wheels and axles have been removed;

(j) A statement that the manufactured home is permanently connected to a septic or sewer system and other utilities such as electricity, water and/or gas;

(k) A statement that all ad valorem taxes due and payable for the manufactured home or mobile home and land on which it is located have been paid, together with a paid receipt for the prior year confirming the same;

(l) If different than the owner, the name and address of a person authorized to file a certified copy of the affidavit of affixation with the tax collector after it has been duly recorded in the real property records;

(m) A statement authorizing the tax collector or other designated agent to submit the completed application to the Department of Revenue for retirement of the title to the manufactured home or mobile home to real property; and

(n) Due acknowledgement of the signature of each affiant as required by Section 89-3-1 et seq. or any successor statute.

(2) The chancery clerk, upon receipt of an affidavit of affixation meeting the requirements set forth in subsection (1) of this section and applicable fee to record the affidavit and provide a certified copy thereof, shall record the affidavit of affixation in the official records and shall provide a certified copy of the recorded affidavit to the owner or other party submitting the affidavit of affixation for recording. The chancery clerk shall forward a copy of the recorded affidavit of affixation to the county tax assessor in order to assist in locating and identifying the manufactured home or mobile home for property tax purposes.

(3) After completing the requirements in subsections (1) and (2) of this section, the owner of the manufactured home or mobile home, or lienholder as shown on the certificate of title pursuant to a power of attorney from the owner of the manufactured home or mobile home, if such lienholder is a designated agent, or the person authorized in the affidavit of affixation, shall file a certified copy of the recorded affidavit of affixation with the tax collector of the county where the manufactured home or mobile home is located for retirement of the home's title, accompanied by:

(a) A copy of the deed or other instrument of conveyance of legal ownership to the real property to which the manufactured home or mobile home has become affixed conveying a fee simple or other legal ownership interest in the subject real property; and

(b) One (1) of the following:

(i) The certificate of title to the manufactured home or mobile home duly endorsed or otherwise showing the release of any lienholders noted on the certificate of title;

(ii) The manufacturer's certificate of origin; * * *

(iii) If the manufactured home or mobile home is not covered by a certificate of title and the owner of the manufactured

home or mobile home, after diligent search and inquiry, is unable to produce the original manufacturer's certificate of origin for the manufactured home or mobile home * * *;or

(iv) If the manufactured home or mobile home is manufactured before July 1, 1999, an affidavit of ownership substantially similar to the affidavit provided in subsection (22) of this section.

(4) Upon receipt of the affidavit of affixation and accompanying documents, the tax collector shall submit the completed application for the retirement of the title to the manufactured home or mobile home to the Department of Revenue.

(5) Upon receipt of an application containing the items required in subsections (3) and (4) of this section, the Department of Revenue shall retire the title and shall notify the applicant, the lender, and authorized representative, if any, in writing at the address shown in the affidavit that the title to the manufactured home or mobile home has been retired. If the affidavit of affixation indicates that the manufactured home or mobile home is currently covered by a certificate of origin or is not covered by a certificate of title and after diligent search and inquiry the owner is unable to produce the original manufacturer's certificate of origin, but otherwise provides a bill of sale, paid tax receipts showing assessment in the name of the owner for a period of not less than ten (10) years, an installment contract reflecting the serial number or VIN of the manufactured home or mobile home, or other due proof of ownership in a form acceptable to the Department of Revenue, or if the affidavit of affixation has an attached affidavit of ownership as provided for in subsection (3)(b). (iv) of this section then the Department of Revenue may issue a certificate of title for the purpose of effectuating the retirement of title.

(6) If the legal owner of the manufactured home or mobile home whose title has been retired under this section and the real property to which the manufactured home or mobile home has become affixed, wishes to detach or sever the manufactured home or mobile home from the real property, then such owner may file or cause to be filed an affidavit of severance duly sworn to and acknowledged before any officer or person authorized to administer an oath under the laws of this state in the official records of the chancery clerk in the county, or in the judicial district in counties having more than one (1) such district, in which the real property is located, which contains or is accompanied by:

(a) The names and mailing addresses of the legal owners of the manufactured home or mobile home and real property to which the manufactured home or mobile home has become affixed;

(b) A description of the manufactured home or mobile home including the name of the manufacturer, the model year, make, width, length, and the serial number or VIN of the manufactured home or mobile home;

(c) The book and page number or instrument number, and date of recordation of the affidavit of affixation;

(d) A statement that the party executing the affidavit is the owner of the real property described in the affidavit of affixation;

(e) A statement that the manufactured home is no longer to be taxed as an improvement to the real property;

(f) A statement whether or not the manufactured home or mobile home and real property to which the home is affixed is subject to one or more security interests or liens and if the same is subject to one or more security interests or liens, the name and address of each party holding a security interest in or lien on the manufactured

home or mobile home and the real property to which it is affixed, the original principal amount secured by each security interest or lien and a statement that the security interest or lien as to the manufactured home or mobile home shall be released;

(g) A lien release as to the manufactured home or mobile home or, if the lienholder desires to retain a security interest or lien in the manufactured home or mobile home after title is severed from the real property, a lienholder's statement of the names and addresses of any lienholders in the order of their priority and the dates of their mortgages, deeds of trust or other liens filed of record upon the real property;

(h) A statement that all ad valorem taxes due and payable for the land on which the manufactured home or mobile home is located have been paid, together with paid receipts for the prior year confirming the same and acknowledgement that taxes for the current year, which are assessed but not yet due and payable, will be based on the status of the manufactured home or mobile home and real property to which it is attached as of January 1 of the current year;

(i) If different than the owner, the name and address of a person authorized to file a certified copy of the affidavit of severance with the tax collector after it has been duly recorded in the real property records and the person has received the newly issued certificate of title from the Department of Revenue;

(j) A statement authorizing the tax collector or other designated agent to submit the completed application to the Department of Revenue for the issuance of a new certificate of title to the manufactured home or mobile home; and

(k) Due acknowledgement of the signature of each affiant as required by Section 89-3-1 et seq. or any successor statute.

(7) If a manufactured home or mobile home whose title has been retired pursuant to this section is destroyed completely or otherwise becomes uninhabitable, and the legal owner of the manufactured home or mobile home, and the real property to which the manufactured home or mobile home was affixed, desires to document the destruction or uninhabitability thereof, then the owner of such destroyed or uninhabitable manufactured home or mobile home may file an affidavit of destruction duly sworn to and acknowledged before any officer or person authorized to administer an oath under the laws of this state in the official records of the chancery clerk in the county and applicable judicial district, if any, in which the real property is located, which contains or is accompanied by:

(a) The date and cause of destruction or uninhabitability of the manufactured home or mobile home;

(b) The names and mailing addresses of the legal owner of the manufactured home or mobile home and real property to which the manufactured home or mobile home has become affixed;

(c) A description of the manufactured home or mobile home including the name of the manufacturer, the model year, make, width, length and the serial number or VIN of the manufactured home;

(d) The book and page number or instrument number, and date of recordation of the affidavit of affixation;

(e) A statement that the party executing the affidavit is the owner of the real property described in the affidavit of affixation; and

(f) Due acknowledgement of the signature of each affiant as required by Section 89-3-1 et seq. or any successor statute.

(8) The chancery clerk, upon receipt of an affidavit of severance meeting the requirements set forth in subsection (6) of this section or an affidavit of destruction meeting the requirements set

forth in subsection (7) of this section and applicable fee to record the affidavit and provide a certified copy thereof, shall record the affidavit of severance or destruction, as applicable, in the official records and provide a certified copy of the recorded affidavit to the owner or other party submitting the affidavit for recording and shall forward a copy of the affidavit to the county tax assessor in order to assist in (a) in the case of an affidavit of severance, locating and identifying the manufactured home or mobile home for property tax purposes; or (b) in the case of an affidavit of destruction, removing the manufactured home or mobile home from the tax roll.

(9) After completing the requirements in subsections (6) and (8) of this section, the owner of the manufactured home or mobile home, and the real property to which the manufactured home or mobile home has become affixed with a recorded and retired title, or the person authorized in the affidavit of severance, shall file a certified copy of the duly recorded affidavit of severance with the tax collector of the county where the manufactured home or mobile home is located for the issuance of a new certificate of title to the manufactured home or mobile home, accompanied by:

(a) An abstract of land title showing legal ownership of the manufactured home or mobile home and real property along with any unreleased mortgages, deeds of trust or other liens filed of record upon the real property;

(b) A lien release as to the manufactured home or mobile home or a lienholder's statement of the names and addresses of any lienholders in the order of their priority; and

(c) The required fee for the certificate of title for the manufactured home or mobile home.

(10) Upon receipt of the items required in subsection (9) of this section, the tax collector of the county where the manufactured

home or mobile home is located shall, for any manufactured home or mobile home for which a certificate of title would be required under Section 63-21-9, submit the completed application to the Department of Revenue for the issuance of a new certificate of title to the legal owner of the real property identified in the affidavit of severance.

(11) Upon receipt of an application containing the items required in subsection (10) of this section, the Department of Revenue shall issue a new certificate of title in the name of the legal owner(s) of the real property to which the manufactured home or mobile home was attached and, if applicable, shall list the lienholders, if any, in the order of their priority as shown in the abstract of title. The new certificate of title shall be delivered to the applicant or authorized representative, if any, at the address shown in the affidavit.

(12) Upon completing the requirements in subsection (10) of this section, the conveyance of and the perfection of a security interest in a manufactured home or mobile home shall be governed by the provisions of Chapter 21, Title 63, Mississippi Code of 1972, or Chapter 9, Title 75, Mississippi Code of 1972, as applicable.

(13) A manufactured home or mobile home shall be deemed real property for all purposes and shall be governed by the laws applicable thereto, upon the occurrence of all of the following events:

(a) An affidavit of affixation conforming to subsection (1) of this section has been duly recorded; and

(b) An application for retirement of the title to a manufactured home or mobile home conforming to subsection (3) of this section has been filed with the Department of Revenue.

When an application for retirement is filed with the Department of Revenue within sixty (60) days of recording the related affidavit of affixation in the official records of the chancery clerk in the

county, or in the judicial district in counties having more than one (1) such district, in which the real property is located and the application is thereafter accepted by the department, the requirements of this section shall be deemed satisfied as of the date the affidavit of affixation is recorded.

(14) A manufactured home or mobile home whose title has been retired pursuant to this section shall be conveyed by deed or other real property contract and shall only be transferred or otherwise contracted together with the real property to which it is affixed, unless and until the procedures described in this section for severance or destruction and issuance of a new title are followed. The legal description in any such conveyance instrument may include a recitation that the real property includes a manufactured home or mobile home permanently affixed to the real property but such a recitation is not required.

(15) If the title has been retired under this section, for purposes of perfecting, realizing, and foreclosure of security interests, a separate security interest in the manufactured home or mobile home shall not exist, and the manufactured home or mobile home shall only be secured as part of the real property to which it is attached through a mortgage or deed of trust and such lien shall automatically attach as of the date of recording and must be foreclosed in the same manner as a mortgage on real property.

(16) Upon written request, the Department of Revenue shall provide written acknowledgment of compliance with the provisions of this section. Such written acknowledgment may be filed in the official records of the chancery clerk in the county, or in the judicial district in counties having more than one (1) such district, in which the real property is located.

Manufacturer's Serial No./VIN Length/Width New/Used

2. The home is or will be located at the following "property address":

Street City County State Zip Code

3. The legal description of the real property where the home is or will be permanently affixed ("land") is:

[insert legal description]

4. The homeowner(s) executing below is/are all the legal owner(s) of the real property to which the home has become permanently affixed.

5. The home shall be assessed and taxed as an improvement to the land.

6. Check one:

[] The home is currently covered by a certificate of title and the homeowner shall surrender the original title to a designated agent on behalf of the Department of Revenue;

[] The home is currently covered by a manufacturer's certificate of origin and the homeowner shall submit the original certificate of origin to a designated agent on behalf of the Department of Revenue; or

[] The home is not covered by a certificate of title and the owner of the manufactured home, after diligent search and inquiry, is unable to produce the original manufacturer's certificate of origin for the home, and * * * an affidavit of ownership is attached hereto.

7. The home (check one):

[] Is not subject to any security interest or lien; or

[] Is subject to the following security interests or

liens:

located and to receive written acknowledgement from the Department of Revenue of retirement of title:

Name of Authorized Representative_____

Mailing Address _____ Phone Number _____

14. The homeowner(s) hereby authorize(s) the tax collector to submit the completed application on behalf of the homeowner(s) to the Department of Revenue to permanently retire title to the manufactured home or mobile home to herein described land. This affidavit is executed by homeowner(s) pursuant to applicable state law and shall be recorded in the official land records in the county, or in the judicial district in counties having more than one (1) such district, in which the home is located.

Further, affiant(s) sayeth naught.

Signature of Homeowner #1:

Printed Name Address City State Zip Code

Signature of Homeowner #2 (If more than one (1) homeowner):

Printed Name Address City State Zip Code

Sworn to and subscribed before me this the _____ day of _____, 20__.

Notary Public

My Commission Expires: _____

(20) The affidavit of severance required pursuant to this section shall be in substantially the following form:

THIS INSTRUMENT PREPARED BY: INDEXING INSTRUCTIONS:

AFFIDAVIT OF SEVERANCE
(MANUFACTURED HOME OR MOBILE HOME)

STATE OF _____

COUNTY OF _____

Before me, the undersigned notary public in and for said county and state, appeared [type the name and address of each homeowner signing this affidavit], known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed below (each a "homeowner"), and who, being by me first duly sworn, did each by personal oath state as follows:

1. Homeowner(s) own(s) the manufactured home or mobile home ("home") described as follows:

Manufacturer's Name	Make	Model	Name	Model Year
<hr/>				
Manufacturer's Serial No./VIN		Length/Width		<u>New/Used</u>

2. The title to the home was previously retired pursuant to that certain affidavit of affixation recorded on _____ in Book _____, Page _____ or as Instrument _____.

3. The homeowner(s) executing below is/are all the legal owner(s) of the real property to which the home has become permanently affixed.

4. Upon the recording hereof, the home shall no longer be assessed and taxed as an improvement to real property.

5. The home (check one):

[] Is not subject to any security interest or lien; or

[] Is subject to the following security interests or

lien:

collector of the county where the manufactured home or mobile home is located and to receive the newly issued certificate of title from the Mississippi Department of Revenue:

Name of Authorized Representative Mailing Address Phone Number

10. The homeowner(s) hereby authorize(s) the tax collector to submit the completed application on behalf of the homeowner(s) to the Department of Revenue to sever title to the manufactured home or mobile home from herein described land and issue a new certificate of title in the name of the homeowner(s).

This affidavit is executed by homeowner(s) pursuant to applicable state law and shall be recorded in the official land records in the county in which the home is located.

Further, affiant(s) sayeth naught.

Signature of Homeowner #1:

Printed Name Address City State Zip Code

Signature of Homeowner #2 (If more than one 1 homeowner):

Printed Name Address City State Zip Code

Sworn to and subscribed before me this the _____ day of _____, 20__.

Notary Public

My Commission Expires: _____

(21) The affidavit of destruction required pursuant to this section shall be in substantially the following form:

THIS INSTRUMENT PREPARED BY: INDEXING INSTRUCTIONS:

AFFIDAVIT OF DESTRUCTION
(MANUFACTURED HOME OR MOBILE HOME)

STATE OF _____

COUNTY OF _____

Before me, the undersigned notary public in and for said county and state, appeared [type the name(s) of each homeowner signing this affidavit], known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed below (each a "homeowner"), and who, being by me first duly sworn, did each by personal oath state as follows:

1. Homeowner(s) own(s) the manufactured home or mobile home ("home") described as follows:

Manufacturer's Name	Make	Model	Name	Model Year
<hr/>				
Manufacturer's Serial No./VIN		Length/Width		New/Used

2. The title to the home was previously retired pursuant to that certain affidavit of affixation recorded on _____ in the official land records of _____ County, Mississippi, in Book _____, Page _____ or as Instrument _____.

3. The homeowner(s) executing below is/are all the legal owner(s) of the real property to which the home has become permanently affixed.

4. The home was destroyed or became uninhabitable on _____ (insert date) as a result of _____ (describe cause).

This affidavit is executed by homeowner(s) pursuant to applicable state law and shall be recorded in the official land records in the

county, or in the judicial district in counties having more than one (1) such district, in which the home is located.

Further, affiant(s) sayeth naught.

Signature of Homeowner #1

Printed Name Address City State Zip Code

Signature of Homeowner #2 (If more than one (1) homeowner)

Printed Name Address City State Zip Code

Sworn to and subscribed before me this _____ day of _____, 20__.

Notary Public
My Commission Expires: _____

(22) The affidavit of ownership required pursuant to this section shall be in substantially the following form:

THIS INSTRUMENT PREPARED BY: INDEXING INSTRUCTIONS:

AFFIDAVIT OF OWNERSHIP

(For Mobile Homes Manufactured before July 1, 1999).

STATE OF _____
COUNTY OF _____

BEFORE ME, the undersigned notary public in and for said county and stated, appeared [Name of Grantor(s)] who are known to me or have produced satisfactory evidence of their identity to be the person(s) whose name(s) is/are subscribed below, and how being first duly sworn, did each on personal oath state the following to wit:

manufactured or mobile home is personal property, indicate N/A.)

.[insert legal description].

6. The manufactured or mobile home (check one):

.[] Is not subject to any security interest or lien; or

.[] Is subject to the following security interests or liens:

Lienholder #1 Original Principal Amount Secured

Address

Lienholder #2 Original Principal Amount Secured

Address

7. Other than those liens and encumbrances itemized in Number 6, Owner(s) is/are not aware of any other security interest, lien or encumbrance affecting the manufactured or mobile home.

8. The manufactured or mobile home (check one):

.[] Is assessed as real property and a Certificate of Mobile Home is filed in the office of the chancery clerk it is recorded in Land Deed Book _____, Page _____; or

.[] Is assessed as personal property. The mobile home account number is _____.

9. This manufactured home or mobile home was manufactured or assembled prior to July 1, 1999, and has never been titled pursuant to Section 63-21-9, as amended.

Further, affiant(s) sayeth naught.

WITNESS MY SIGNATURE, on this [day] day of [Month], [Year].

.[Grantor Name(s)].

[Grantee Name(s)].

STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this [Day] day of [Month], [Year], within my jurisdiction, the within named [Grantor Name] who acknowledged that (he) (she) (they) executed the above and foregoing instrument.

So subscribed and sworn before me this the [Day] day of [Month], [Year].

Notary Public

My Commission Expires: _____

SECTION 4. This act shall take effect and be in force from and after its passage.

