

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2016-59
HOUSE BILL 870

AN ACT TO CLARIFY THE RENEWAL, RELEASE, AND CANCELLATION PROCESS FOR SECURITY INTERESTS ON A CERTIFICATE OF TITLE FOR A MANUFACTURED HOME AND TO CLARIFY THE CALCULATION OF THE COST OF THE UNDERTAKING FOR THE INSTALLATION OF A MANUFACTURED HOME.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01 reads as rewritten:

"§ 20-4.01. Definitions.

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...
(14) House Trailer. – Any trailer or semitrailer designed and equipped to provide living or sleeping facilities and drawn by a motor vehicle. This term shall not include a manufactured home as defined in subdivision (18a) of this section.

...
(18a) Manufactured Home. – Defined in G.S. 143-143.9(6).

...
(32b) Recreational Vehicle. – A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motive power or is mounted on, or towed by, another vehicle. The basic entities are camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper. This term shall not include a manufactured home as defined in G.S. 143-143.9(6).

a. Motor home. – As defined in G.S. 20-4.01(27)d2.

b. Travel trailer. – A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.

c. Fifth-wheel trailer. – A vehicular unit mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use, of a size and weight that does not require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

d. Camping trailer. – A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

e. Truck camper. – A portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use, consisting of a roof, floor, and sides and is designed to be loaded onto and unloaded from the bed of a pickup truck.

...
(49) Vehicle. – Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that



for the purposes of this Chapter bicycles shall be deemed vehicles and every rider of a bicycle upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including on sidewalks, and is limited by design to 15 miles per hour when the device is being operated by a person with a mobility impairment, or who uses the device for mobility enhancement. This term shall not include an electric personal assistive mobility device as defined in G.S. 20-4.01(7a). Unless the context requires otherwise, and except as provided under G.S. 20-109.2, 47-20.6, or 47-20.7, a manufactured home shall be deemed a vehicle.

....."
SECTION 2. G.S. 20-58 reads as rewritten:

"§ 20-58. **Perfection by indication of security interest on certificate of title.**

...
(c) An application for the notation of a security interest pursuant to subsection (a) of this section on a certificate of title for a manufactured home shall state the maturity date of the secured obligation. The Division shall include the stated maturity date for the certificate of title, including the notation of the maturity date on the certificate of title, in its public records and in any reports regarding the certificate of title provided to third parties. For the purposes of this subsection, the maturity date of the security interest is defined in G.S. 45-36.24."

SECTION 3. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-58.3A. Automatic expiration of security interest in manufactured home; renewal of security interests in manufactured homes.**

(a) For the purposes of this section, the term "secured party" means the secured party named on a certificate of title for a manufactured home and those parties that succeed to the rights of the secured party as a secured creditor by assignment or otherwise. The term "borrower" means the homeowner or the debtor on the obligation secured by the security interest noted on the certificate of title for a manufactured home.

(b) With the exception of a security interest in a manufactured home perfected pursuant to G.S. 20-58(c), unless satisfied pursuant to G.S. 20-58.4 or G.S. 20-109.2, the perfection of a security interest in a manufactured home that is perfected by a notation on the certificate of title shall automatically expire 30 years after the date of the issuance of the original certificate of title containing the notation of the security interest, unless a different maturity date is stated on the title.

(c) Unless satisfied pursuant to G.S. 20-58.4 or G.S. 20-109.2, the perfection of a security interest in a manufactured home perfected by a notation on the certificate of title pursuant to G.S. 20-58(c) shall automatically expire as follows:

(1) If the perfection of the security interest has not been renewed as provided in this section, on the earlier of (i) 90 days after the maturity date stated on the application for the security interest or (ii) 15 years plus 180 days after the date of issuance of the original certificate of title containing the notation of the security interest.

(2) If the perfection of the security interest has been renewed as provided in this section, on the earlier of (i) 10 years after the date of the renewal of the perfection of the security interest, (ii) 90 days after the original maturity date of the security interest, if the original maturity date has not been extended, or (iii) 90 days after any extended maturity date stated on the application of renewal.

(d) Prior to the date that perfection of a secured party's security interest in a manufactured home automatically expires pursuant to subsection (b) or (c) of this section, the secured party may deliver to the Division an application for renewal of the perfection of the secured party's security interest. The application for the renewal of the perfection of the secured party's security interest shall be in a form prescribed by the Division. Nothing in this section shall be construed to extend the maturity date of the secured obligation unless an agreement in writing has been executed by the borrower extending the original maturity date. The application

for renewal of the perfection of the secured party's security interest shall contain all of the following:

- (1) The secured party's signature.
- (2) The existing certificate of title, unless it is in the possession of a prior secured party.
- (3) An affirmative statement of any agreement executed by the borrower to extend the maturity date.
- (4) If the application is submitted by the assignee or successor in interest of the secured party listed on the certificate of title, documentary evidence that the applicant is the assignee or successor in interest of the secured party listed on the certificate of title.
- (5) The name and address of the party from whom information concerning the security interest may be obtained.
- (6) Any other information requested by the Division.

(e) Upon receipt of the application for renewal of the perfection of the secured party's security interest, the Division shall do one of the following:

- (1) If the existing certificate of title is included with the application for renewal, the Division shall issue a new certificate of title bearing the original or extended maturity date of the security interest.
- (2) If the existing certificate of title is in the possession of a prior secured party, the Division, if satisfied as to the genuineness and regularity of the application for renewal, may request the certificate of title from the party in possession for the purpose of notating the original or extended maturity date of the security interest. Once the notations have been made, the Division shall return the certificate of title to the possession of the secured party.
- (3) If the existing certificate of title is not obtained upon request, the Division shall cancel the existing certificate of title and issue a new certificate of title. The new certificate of title shall list all known security interests and shall bear notation that shows the original or extended maturity date of the security interest.

(f) An application for the renewal of a secured party's security interest pursuant to this section shall be effective to renew the perfection of the security interest as of the date the application is delivered to the Division. Each renewed security interest shall retain its original date of perfection and the perfection shall thereafter expire on the earlier to occur of (i) 10 years after the date of renewal of the perfection of the security interest, (ii) 90 days after the original maturity date of the security interest, if the original maturity date has not been extended, or (iii) 90 days after any extended maturity date stated on the application of renewal. Perfection of a security interest in a manufactured home may be renewed more than once pursuant to this section.

(g) The Division shall not be subject to a claim under Article 31 of Chapter 143 of the General Statutes related to the renewal of the perfection of a security interest on a certificate of title for a manufactured home pursuant to this section if the claim is based on reliance by the Division on any application for renewal submitted to the Division by a third party pursuant to this section."

SECTION 4. G.S. 20-58.4 reads as rewritten:

"§ 20-58.4. Release of security interest.

...

(e) If it is impossible for the owner to secure from the secured party the release contemplated by this section, the owner may exhibit to the Division such evidence as may be available showing satisfaction or other discharge of the debt secured, together with a sworn affidavit by the owner that the debt has been satisfied, which the satisfied.

(e1) If the vehicle is a manufactured home, the owner may proceed in accordance with subsection (e) of this section or may, in the alternative, provide the Division with a sworn affidavit by the owner that the debt has been satisfied and that either:

- (1) After diligent inquiry, the owner has been unable to determine the identity or the current location of the secured creditor or its successor in interest; or
- (2) The secured creditor has not responded within 30 days to a written request from the owner to release the secured creditor's security interest.

(e2) The Division may treat either of the methods employed by the owner pursuant to subsection (e) or subsection (e1) of this section as a proper release for purposes of this section when satisfied as to the genuineness, truth and sufficiency thereof. Prior to cancellation of a security interest under the provisions of this subsection, at least 15 days' notice of the pendency thereof shall be given to the secured party at his last known address by the Division by registered letter. The Division shall not cancel a security interest pursuant to this subsection if, within 15 days after the Division gives notice, the secured party responds to the Division indicating that the security interest remains in effect.

(f) The Division shall not be subject to a claim under Article 31 of Chapter 143 of the General Statutes related to the release of the perfection of a security interest on a certificate of title for a manufactured home pursuant to this section if the claim is based on reliance by the Division on any release, affidavit, notation of the certificate of title, or documents evidencing the release or satisfaction of a security interest submitted to the Division by a third party pursuant to this section."

SECTION 5. G.S. 20-85(a)(8) reads as rewritten:

"§ 20-85. Schedule of fees.

(a) The following fees are imposed concerning a certificate of title, a registration card, or a registration plate for a motor vehicle. These fees are payable to the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

(8) Each application for renewing a security interest on a certificate of title or removing a lien or security interest from a certificate of title..... 20.00"

SECTION 6. G.S. 20-109.2(d) reads as rewritten:

"(d) Application for Title After Cancellation. – 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, verification of the identity of the current owner of the real property upon which the manufactured home was located, 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~~ shall issue a new title for the manufactured home in the name of the current owner of the real property upon which the manufactured home was located."

SECTION 7. G.S. 44A-11.1 is amended by adding a new subsection to read:

"(a1) Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), for which there is a current certificate of title, the purchase price of the manufactured home shall be excluded in determining whether the costs of the undertaking are thirty thousand dollars (\$30,000) or more."

SECTION 8. G.S. 153A-357(e) reads as rewritten:

"(e) No permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars (\$30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), for which there is a current

certificate of title, the purchase price of the manufactured home shall be excluded in determining whether the cost of the work is thirty thousand dollars (\$30,000) or more."

SECTION 9. G.S. 160A-417(d) reads as rewritten:

"(d) No permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars (\$30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), for which there is a current certificate of title, the purchase price of the manufactured home shall be excluded in determining whether the cost of the work is thirty thousand dollars (\$30,000) or more."

SECTION 10. Section 6 of this act becomes effective August 1, 2016, and applies to titles issued on or after that date. The remainder of this act becomes effective July 1, 2017.

In the General Assembly read three times and ratified this the 21st day of June, 2016.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 9:29 a.m. this 30th day of June, 2016