

SECOND REGULAR SESSION

# HOUSE BILL NO. 1198

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES CUNNINGHAM (86) (Sponsor),  
PEARCE AND MCGHEE (Co-sponsors).

Pre-filed December 28, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3788L.01I

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### AN ACT

To repeal sections 700.045, 700.111, 700.115, 700.355, 700.360, 700.385, and 700.500, RSMo, and to enact in lieu thereof seven new sections relating to manufactured homes, with a penalty provision.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 700.045, 700.111, 700.115, 700.355, 700.360, 700.385, and  
2 700.500, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as  
3 sections 700.045, 700.111, 700.115, 700.355, 700.360, 700.385, and 700.500, to read as follows:

700.045. It shall be a misdemeanor:

2 (1) For a manufacturer or dealer to manufacture, rent, lease, sell or offer to sell any  
3 manufactured home or modular unit after January 1, 1977, unless there is in effect a registration  
4 with the commission;

5 (2) To rent, lease, sell or offer to sell any new manufactured home or new modular unit  
6 or used modular unit used for educational purposes manufactured after January 1, 1974, which  
7 does not bear a seal as required by sections 700.010 to 700.115;

8 (3) To affix a seal or cause a seal to be affixed to any manufactured home or modular  
9 unit which does not comply with the code;

10 (4) To alter a manufactured home or modular unit in a manner prohibited by the  
11 provisions of sections 700.010 to 700.115;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 (5) To fail to correct within a reasonable time not to exceed ninety days after being  
13 ordered to do so in writing by an authorized representative of the commission a code violation  
14 in a new manufactured home or new modular unit or used modular unit used for educational  
15 purposes owned, manufactured or sold if the same is manufactured after January 1, 1974; [or]

16 (6) To interfere with, obstruct, or hinder any authorized representative of the commission  
17 in the performance of his or her duties;

18 (7) **In addition to any other applicable criminal or civil penalties provided for in**  
19 **state law or common law, for any individual owner of a manufactured home or any dealer**  
20 **performing setup of a manufactured home sold by such dealer in such a manner as to**  
21 **convert the manufactured home to real property under section 700.111, to fail to comply**  
22 **with the requirements of section 700.111, including but not limited to the requirements**  
23 **regarding surrendering the certificate of title or manufacturer's certificate of origin if the**  
24 **manufactured home is new and has never previously been titled, to the director of revenue,**  
25 **and to register the manufactured home with the county recorder of deeds office and county**  
26 **tax assessors office for the county in which the manufactured home is being converted to**  
27 **real estate when the failure of the owner of the manufactured home or dealer performing**  
28 **the setup of a manufactured home sold by such dealer in such a manner as to convert the**  
29 **manufactured home to real property to comply with the requirements of section 700.111:**

30 (a) **Is the result of such owner's or dealer's intent to:**

31 a. **Defraud any existing lender or lienholder in any way, including but not limited**  
32 **to loss of the lender or lienholder's existing security interest in the manufactured home;**

33 b. **Defraud any future or prospective lender or lienholder in any way, including but**  
34 **not limited to loss of the prospective lender or prospective lienholder's future security**  
35 **interest in the manufactured home;**

36 c. **Use any certificate of title or manufacturer's certificate of origin to obtain**  
37 **duplicate financing secured by the manufactured home without disclosing the existence,**  
38 **identity, and lien claims of all other lenders and lienholders claiming any lien or security**  
39 **interest in the manufactured home;**

40 d. **Defraud any taxing authority of the state of Missouri or any political subdivision**  
41 **of this state out of any tax revenue which would have resulted if the requirements of section**  
42 **700.111 had been complied with; or**

43 (b) a. **Results in any lender's or lienholder's loss or lien or security interest as a**  
44 **result of such owner's or dealer's negligence in failing to comply with the requirements of**  
45 **section 700.111 where the resulting financial loss to any lender or lienholder exceeds five**  
46 **hundred dollars; or**

47           **b. Results in the loss of any tax revenue to any taxing authority of the state of**  
48 **Missouri or any political subdivision of this state as a result of such owner's or dealer's**  
49 **negligence in failing to comply with the requirements of section 700.111 which would have**  
50 **resulted if the requirements of section 700.111 had been complied with.**

700.111. 1. The owner of a manufactured home may convert the manufactured home  
2 to real property by:

3           (1) Attaching the manufactured home to a permanent foundation situated on real estate  
4 owned by the manufactured home owner; and

5           (2) (a) **Surrendering the certificate of title for the manufactured home or the**  
6 **manufacturer's certificate of origin if the manufactured home has not been previously**  
7 **titled to the director of the department of revenue for cancellation and deletion of the**  
8 **manufactured home from the personal property tax rolls; or**

9           (b) **If no certificate of title exists for the manufactured home, filing the certificate**  
10 **of affixation to real estate in a format to be prescribed by the director of the department**  
11 **of revenue which shall serve the same purpose as surrendering the original certificate of**  
12 **title;**

13           (3) **Registering the manufactured home on the real property tax rolls of the county**  
14 **assessor for the county in which the real estate to which the manufactured home is affixed**  
15 **on a permanent foundation;**

16           (4) **Providing notification by certified mail, return receipt requested, to all personal**  
17 **property lienholders and all known lien claimants in the manufactured home;**

18           (5) (a) **Filing a notice of conversion of manufactured home to real property, which**  
19 **notice shall include the identity of the owners of such manufactured home, the serial**  
20 **number of such manufactured home, the make and model of such manufactured home, and**  
21 **the certificate of title identification number or manufacturer's certificate of origin**  
22 **identification number of the certificate of title or manufacturer's certificate of origin being**  
23 **surrendered to the director of revenue, with the county recorder of deeds for the county**  
24 **in which the manufactured home is being affixed to real estate in such a manner to convert**  
25 **the manufactured home to real property as provided herein; or**

26           (b) **If no such certificate of title exists, filing a notice of affixation identifying the**  
27 **manufactured home by serial number; and**

28           (6) **The removal or modification of the transporting apparatus including but not limited**  
29 **to wheels, axles and hitches rendering it impractical to reconvert the real property thus created**  
30 **to a manufactured home.**

31           2. The conversion of a manufactured home to real property by the method provided in  
32 subsection 1 of this section shall prohibit any political subdivision of this state from declaring  
33 or treating that manufactured home as other than real property.

700.115. 1. Except as otherwise provided in subsections 2 and 3 of this section, a  
2 violation of the provisions of sections 700.010 to 700.115 shall constitute a violation of the  
3 provisions of section 407.020, RSMo. In addition to the authority vested in the attorney general  
4 to enforce the provisions of that section, he may petition the court and the court may enter an  
5 order revoking the registration certificate of the defendant or defendants issued pursuant to the  
6 provisions of section 700.090.

7           2. Notwithstanding any provisions of subsection 1 of this section, **state law, or common**  
8 **law** to the contrary, whoever violates any provision of this chapter shall be liable to the state of  
9 Missouri for a civil penalty in an amount which shall not exceed one thousand dollars for each  
10 such violation. Each violation of this chapter shall constitute a separate violation with respect  
11 to each manufactured home or with respect to each failure or refusal to allow or perform an act  
12 required by this chapter; except that, the maximum civil penalty may not exceed one million  
13 dollars for any related series of violations occurring within one year from the date of the first  
14 violation.

15           3. Any individual or director, officer, or agent of a corporation who knowingly and  
16 willfully violates any provision of sections 700.010 to 700.115, in a manner which threatens the  
17 health or safety of any purchaser, shall, upon conviction therefor, be fined not more than one  
18 thousand dollars or imprisoned for not more than one year, or both.

19           **4. Any individual or director, officer, or agent of a corporation who knowingly and**  
20 **willfully violates any provision of sections 700.010 to 700.111 in any manner designed to**  
21 **intentionally perpetrate a fraud upon any purchaser, lender, lienholder, or taxing**  
22 **authority, in addition to all other civil and criminal remedies provided at law, is guilty of**  
23 **a class A misdemeanor and shall be ordered to pay restitution to all aggrieved parties in**  
24 **such amounts as the court finds just and equitable.**

700.355. 1. A certificate of title to the manufactured home when issued by the director  
2 of revenue shall be mailed or confirmation of such title shall be electronically transmitted or  
3 mailed to the owner shown on the face of the title of such manufactured home. Provided the  
4 lienholder submits complete and legible documents, the director of revenue shall mail  
5 confirmation or electronically confirm receipt of each notice of lien to the lienholder as soon as  
6 possible, but no later than fifteen business days after the filing of the notice of lien. **If a**  
7 **lienholder complies with all the requirements for notifying the director of revenue of its**  
8 **lien or security interest in a manufactured home, the director of revenue shall mail notice**  
9 **or electronically notify such lienholder of the surrender of any certificate of title under**

10 **section 700.111 as soon as possible, but no later than fifteen business days after receiving**  
11 **a certificate of title for cancellation under section 700.111.**

12         2. A lienholder may elect that the director of revenue retain possession of an electronic  
13 certificate of title, and the director shall issue regulations to cover the procedure by which such  
14 election is made. Each such certificate of ownership or title shall require a separate election,  
15 unless the director provides otherwise by regulation. A subordinate lienholder shall be bound  
16 by the election of the superior lienholder with respect to the certificate involved.

17         3. As used in this section, "electronic certificate of ownership" means any electronic  
18 record of ownership or title, including a lien or liens that may be recorded.

700.360. If an owner creates a lien or encumbrance on a manufactured home:

2         (1) The owner shall immediately execute the application, either in the space provided  
3 therefor on the certificate of title or on a separate form the director of revenue prescribes, to  
4 name the lienholder on the certificate of title, showing the name and address of the lienholder  
5 and the date of his security agreement, and shall cause the certificate of title, the application and  
6 the required fee to be mailed or delivered to the director of revenue. Failure of the owner to do  
7 so, including naming the lienholder in such application, is a class A misdemeanor;

8         (2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to  
9 301.119, RSMo, shall deliver to the director of revenue a notice of lien as prescribed by the  
10 director of revenue accompanied by all other necessary documentation to perfect a lien as  
11 provided in this section;

12         (3) To perfect a lien for a subordinate lienholder when a transfer of ownership occurs,  
13 the subordinate lienholder shall either mail or deliver, or cause to be mailed or delivered, a  
14 completed notice of lien to the department of revenue, accompanied by authorization from the  
15 first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application  
16 for title at the time the application is made to the department of revenue. To perfect a lien for  
17 a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in  
18 possession of the certificate shall either mail or deliver, or cause to be mailed or delivered, the  
19 owner's application for title, certificate, notice of lien, authorization from the first lienholder and  
20 title fee to the department of revenue. The delivery of the certificate and executing a notice of  
21 authorization to add a subordinate lien does not affect the rights of the first lienholder under the  
22 security agreement;

23         (4) Upon receipt of the documents and fee required in subdivision (3) of this section, the  
24 director of revenue shall issue a new certificate of ownership containing the name and address  
25 of the new lienholder, and shall mail the certificate as prescribed in section 700.355, or if a  
26 lienholder who has elected for the director of revenue to retain possession of an electronic  
27 certificate of ownership, the lienholder shall either mail or deliver to the director a notice of

28 authorization for the director to add a subordinate lienholder to the existing certificate. Upon  
29 receipt of such authorization, a notice of lien and required documents and title fee, if applicable,  
30 from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate  
31 of ownership being electronically retained by the director and provide confirmation of the  
32 addition to both lienholders;

33       **(5) If a manufactured home subject to any lien of a lienholder which has complied**  
34 **with the requirements of this section is converted to real estate by the owner of the**  
35 **manufactured home, under section 700.111 the director of revenue shall mail notice or**  
36 **electronically notify such lienholder of the surrender of any certificate of title under section**  
37 **700.111 as soon as possible, but no later than fifteen business days after receiving a**  
38 **certificate of title for cancellation under section 700.111. If such lienholder files a notice**  
39 **of lien with the recorder of deeds for the county in which the manufactured home is being**  
40 **affixed in such a manner as to convert the manufactured home to real estate, such**  
41 **lienholder shall, within fifteen business days of receiving notice from the director of**  
42 **revenue, retain its lien in the manufactured home as real estate continuously without**  
43 **interruption and shall have priority over subsequently filed liens in the manufactured**  
44 **home as real estate. The director of revenue shall include in all such mailed notices or**  
45 **electronic notification to any lienholder information sufficiently identifying the county of**  
46 **this state in which the manufactured home has been converted to real estate under section**  
47 **700.111 so that such lienholder may sufficiently identify the proper county recorder of**  
48 **deeds office in which the lienholder shall file its notice of lien. The lien of such lienholder**  
49 **properly filing a notice of lien shall be subordinate to a prior filed lienholder in the real**  
50 **estate whose lien was perfected prior to the date of affixation of the manufactured home**  
51 **in such a manner as to convert the manufactured home to real estate to the extent of the**  
52 **value of the real estate with the manufactured home affixed thereto which is in excess of**  
53 **the value of the manufactured home as of the date the manufactured home was converted**  
54 **to real estate through affixation thereto, but shall have priority over any subsequently filed**  
55 **lienholder in the real estate to which the manufactured home was affixed.**

700.385. 1. When the holder of any indebtedness secured by a security agreement or  
2 other contract for security covering a manufactured home **which has not been converted to real**  
3 **property under section 700.111** repossesses the manufactured home either by legal process or  
4 in accordance with the terms of a contract authorizing the repossession of the manufactured  
5 home without legal process, the holder may obtain a certificate of title from the director of  
6 revenue upon presentation of:

7 (1) An application, which shall be upon a blank form furnished by the director of  
8 revenue and shall contain the full description of the manufactured home and the manufacturer's  
9 or other identifying number;

10 (2) An affidavit of the holder that the debtor defaulted in payment of the debt, and that  
11 the holder repossessed the manufactured home either by legal process or in accordance with the  
12 terms of the contract, and the specific address where the manufactured home is held; and

13 (3) The original, or a conformed or photostatic copy of the original, of the security  
14 agreement or other contract for security and the instrument or instruments evidencing the  
15 indebtedness secured by the security agreement or other contract for security.

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17 The director may, by regulation, prescribe for the inclusion in either or both the application or  
18 affidavit required by this subsection any other information that he, from time to time, deems  
19 necessary or advisable, and may prescribe that the affidavit required by this subsection be part  
20 of the application.

21 **2. When the holder of any indebtedness secured by a security agreement or other**  
22 **contract for security covering a manufactured home which was previously converted to**  
23 **real property under section 700.111 repossesses the manufactured home either by legal**  
24 **process or in accordance with the terms of a contract authorizing the repossession of the**  
25 **manufactured home without legal process, the home shall be conclusively deemed to be real**  
26 **estate and title to the real estate upon which the home has been affixed under section**  
27 **700.111 shall conclusively convey title to the manufactured home. Where the**  
28 **manufactured home has not been properly converted under section 700.111, the holder**  
29 **may obtain a certificate of title from the director of revenue upon presentation of:**

30 (1) An application, upon a blank form furnished by the director, containing a full  
31 description of the manufactured home and the manufacturer's or other identifying  
32 number;

33 (2) An affidavit of the holder that the debtor defaulted in payment of the debt and  
34 the holder repossessed the manufactured home either by legal process or in accordance  
35 with the terms of the contract, and the specific address where the manufactured home is  
36 held; and

37 (3) The original, or a conformed or photostatic copy of the original, of the deed of  
38 trust agreement or other contract for security and the instrument or instruments  
39 evidencing the indebtedness secured by the security agreement or other contract for  
40 security. The director may, by rule, prescribe for the inclusion in either or both the  
41 application or affidavit required by this subsection any other information the director from

42 **time to time deems necessary or advisable, and may prescribe that the affidavit required**  
43 **by this subsection be part of the application.**

44       **3.** Upon the holder's presentation of the papers required by subsection 1 of this section  
45 and the payment of a fee of ten dollars, the director of revenue, if he is satisfied with the  
46 genuineness of the papers, shall issue and deliver to the holder a certificate of title which shall  
47 be in its usual form except it shall be clearly captioned "Reposessed Title"; except that, unless  
48 the application is accompanied by the written consent, acknowledged before an officer  
49 authorized to take acknowledgments, of the owners and other lienholders, if any, of the  
50 manufactured home as shown by the last prior certificate of title or ownership, if any, issued on  
51 the manufactured home for the issuance of a reposessed title to the applicant, no such  
52 reposessed title may be issued by the director of revenue unless the director shall first give ten  
53 days' written notice by first class United States mail postage prepaid to each of the owners and  
54 other lienholders, if any, of the manufactured home at each of their last mailing addresses as  
55 shown by the last prior certificate of title or ownership, if any, issued on the manufactured home  
56 that an application for a reposessed title has been made and the date the reposessed title will  
57 be issued, which notice shall be accompanied by a copy, photostatic or otherwise, of the  
58 application and affidavit. The application for reposessed title may be withdrawn by the  
59 applicant at any time before the granting thereof. Each reposessed title so issued shall, for all  
60 purposes, be treated as an original certificate of title and shall supersede the outstanding  
61 certificate of title or ownership, if any, and duplicates thereof, if any, on the manufactured home  
62 all of which shall become null and void.

63       **[3.] 4.** In any case where there is no certificate of title or ownership, or duplicate thereof,  
64 outstanding in the name of the debtor on the reposessed manufactured home, **including but not**  
65 **limited to cases in which the lienholder has reposessed a manufactured home previously**  
66 **converted to real property under section 700.111 through foreclosure or otherwise with or**  
67 **without legal process**, the director of revenue shall issue a reposessed title to the holder upon  
68 the payment of all unpaid fees, taxes, charges and penalties owed by the debtor, in addition to  
69 the fee specified in subsection [2] **3** of this section.

700.500. 1. The director of revenue shall notify the assessor of the county in which the  
2 manufactured home is located when the following occur:

3       (1) Sales tax is paid on the manufactured home and a certificate of title therefor is issued;  
4 [or]

5       (2) Title to any manufactured home is transferred; **or**

6       **(3) Title to any manufactured home is surrendered to the director of revenue under**  
7 **section 700.111 in connection with the conversion of the manufactured home to real**  
8 **property.**



9           2. As used in this section, the term "manufactured home" shall have the same meaning  
10   given it in section 700.010.

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