

MANUFACTURED HOUSING IN VIRGINIA

DEFINITION

"Manufactured housing" in Virginia is defined by the Department of Motor Vehicles (DMV) as follows:

- Transportable in one or more sections.
- Eight (8) body feet or more in width and 40 body feet or more in length in the traveling mode, or when erected on site, is 320 or more square feet.
- Built on a permanent chassis.
- Designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities (includes plumbing, heating, air-conditioning, and electrical system contained in the structure).

See DMV website at <http://www.dmv.virginia.gov/webdoc/citizen/vehicles/mobile.asp>

UNDERWRITING GUIDELINES

1. Virginia Code [§46.2-653.1](#), effective July 1, 2014 dictates the only way in which manufactured housing may be considered real estate. (Statute attached as Appendix A)
 - a. An Affidavit of Affixation <http://dmv.state.va.us/webdoc/pdf/vsa35.pdf> **must be recorded** in the land records **prior to** the improvements being deemed real estate.

PROBLEM: When purchasing a manufactured home, it is practically impossible to record the Affidavit of Affixation between the deed and deed of trust since a personal property lien at DMV may still exist on the structure as the funds are not yet available to pay off the personal property debt. To "cure" this potential problem, review the deed of trust being insured to determine it includes language encumbering "future improvements." The alternative is to state in the title commitment that the ALTA 7.1 (2021 Policy forms ORT 4776 - 4777) will be issued post-closing once the Affidavit of Affixation is recorded.

- b. The Affidavit of Affixation requires:
 - (1) "You own the manufactured home being converted to real property;"
 - (2) "The manufactured home does not contain any liens;"
 - (3) "You own the property to which the manufactured home is being attached."
 - c. For this Code section to apply the manufactured housing unit must be titled in Virginia. This does not apply if the title is in another state.
 - d. DMV must issue a letter stating that there is no lien on the manufactured housing unit. See Appendix B for the procedure.
2. For manufactured housing in place prior to July 1, 2014: no change in prior requirements, except that you now must make sure the improvements remain located at the real property address. Va. Code §46.2-653.1, effective July 1, 2014 makes provision for reclassifying a manufactured home as personal property. Prior to that date, once affixed the improvements remained real estate.

Prior requirements:

- a. Structure is to be permanently affixed to the land.
 - axels, wheels, and tow bar removed
 - permanent foundation (as opposed to just cosmetic skirting)
 - this determination is typically made by an appraiser or surveyor
 - b. Structure is connected to well and septic, sewer and/or water.
 - c. Title is surrendered to the Virginia Department of Motor Vehicles (DMV).
 - d. Improvements on the property are taxed as part of the real estate.
MAKE SURE THEY ARE NOT ALSO TAXED AS PERSONAL PROPERTY.
3. We also recommend agents do a UCC financing statement search on the State Corporation Commission to confirm there are no financing statements related to the manufactured housing that may indicate the manufactured housing is personal property and that would need to be addressed.
<https://cis.scc.virginia.gov/>
4. ALTA 7.1 Endorsement
- a. Do not issue the ALTA 7.1-06 (2006 policy jackets) or ALTA 7.1 (2021 policy jackets) endorsements unless specifically asked to do so by the lender. The ALTA 7.2 is for the owner's policy.
NOTE: Underwriter approval needed prior to issuing the ALTA 7.2
 - b. This endorsement modifies the definition of "land" in the policy to specifically include a manufactured home.
NOTE: by the definition of "land" in the ALTA loan policy jacket, and by Virginia law, once the manufactured home is permanently attached to the land it becomes part of the real estate covered in the policy. The ALTA 7-06 is just extra comfort for the lenders, as the rules are different in other states.
 - c. With short form ALTA loan policies, the ALTA 7.1 is one item on the list of standard endorsements attached when applicable in the "no boxes to check" format. Alternatively, simply check the ALTA 7.1 box in the "check the box" format.
 - d. With long form ALTA loan policies, the ALTA 7.1 may be attached at lender's request, if applicable.
 - e. This endorsement ONLY applies to loan policies. Owners do not receive an ALTA 7.1 endorsement but with the 2021 policy jackets may receive an ALTA 7.2. with prior Underwriter approval.
5. **It is possible a transaction may not be able to be insured if all requirements cannot be met.**



MODEL COMMITMENT LANGUAGE

Manufactured housing placed in service prior to July 1, 2014:

Schedule B-1, requirements:

As to the manufactured housing unit provide the following:

- a. Copy of cancellation of title from DMV (See Appendix C for identification help)
- b. Evidence unit is permanently attached to the real estate, including evidence that:
 - 1) the axel, wheels and tow bar have been removed;
 - 2) the unit is attached to public sewer and water, and/or to well and septic services;
 - 3) the unit is on a permanent foundation.

NOTE: Appraiser's or Surveyor's certification as to these facts will be sufficient.

- c. Evidence that the improvements are taxed as real estate.

NOTE: Real estate tax assessor showing the manufactured home as an improvement taxed as real estate is sufficient.

- d. UCC search at the Virginia State Corporation Commission

Schedule B-2

NOTE: An ALTA 7.1 Endorsement will be attached to the lender's policy.

Manufactured housing placed in service after June 30, 2014:

Schedule B-1, requirements:

As to the manufactured housing unit provide the following:

- a. Recorded Affidavit of Affixation as required by Virginia Code §46.2-653.1. A manufactured housing unit is not considered real estate and is not covered by a title insurance policy until the Affidavit of Affixation is recorded.
- b. Independent verification, which may be a copy of the appraisal, that the improvements are attached to the land.
- c. UCC search at the Virginia State Corporation Commission

Schedule B-2

NOTE: An ALTA 7.1 or ALTA 7.2 Endorsement will **NOT** be attached to the policy unless and until an Affidavit of Affixation is recorded in the land records.

NOTE: Improvements are not covered by any title policy until an Affidavit of Affixation is recorded by the Owner, even if an ALTA 7 series endorsement is attached.

Appendix A

§46.2-653.1. Conversion of manufactured home to real property.

- A. After a manufactured home has been titled in the Commonwealth and at such time as the wheels and other equipment previously used for mobility have been removed and the unit has been attached to real property owned by the manufactured home, the owner may convert the home to real property in accordance with the provisions of subsection B. The provisions of this section constitute the only manner by which a manufactured homeowner may convert a manufactured home to real property.
- B. A manufactured homeowner who wishes to convert the home to real property shall submit a sworn affidavit to the Department that the wheels and other equipment previously used for mobility have been removed from the manufactured home and the unit has been attached to real property owned by the manufactured homeowner.



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The affidavit must be in a form approved by the Commissioner. Upon compliance by the owner with the procedure for surrender of title, the Department shall rescind and cancel the Virginia title. The Department shall not cancel the title if a security interest has been recorded on the title and not released by the secured party. After canceling the title, the Department shall provide written confirmation to the owner that the title has been surrendered and has been canceled by the Department.

Upon receipt of confirmation that the title has been surrendered and has been canceled by the Department, the owner shall file a sworn affidavit of affixation with the circuit court of the locality where the real property is located.

The affidavit shall include all the following information:

1. The manufacturer and, if applicable, the model's 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, including the property address, stating that the owner of the manufactured home also owns the real property.
4. Certification that there are no security interests in the manufactured home that have not been released by the secured party.
5. The homeowner's statement that the title has been surrendered and has been canceled by the Department and that the home is intended to be a permanent fixture and improvement to the land, to the same extent as any site-built home and assessed and taxed with the land as real property.

In addition, a copy of the confirmation provided by the Department that the title has been surrendered and canceled by the Department shall be attached to and filed with the affidavit.

Upon filing the affidavit of affixation, the manufactured home shall then be deemed to be real estate and shall thereafter be conveyed and encumbered only as real estate is conveyed and encumbered, except when the home is thereafter physically severed from the real property and a new title issued in accordance with subsection C.

A security interest in a manufactured home is perfected against the rights of judicial lien creditors, execution creditors, and purchasers for value on and after the date such security interest attaches. The Commissioner shall have prepared a list of all titles canceled pursuant to this section and furnish it, in conjunction with the reports submitted pursuant to [§46.2-210](#), to the commissioner of the revenue of each county and city without cost.

C. If the owner of a manufactured home whose certificate of title has been canceled under this section subsequently seeks to sever the manufactured home from the real property, the owner may apply for a new certificate of title in accordance with the provisions of this section.

1. The owner shall file with the circuit court where the real property is located an affidavit that includes or provides for all the following information:
 - a. The manufacturer and, if applicable, the model's name of the manufactured home.
 - b. The vehicle identification number and serial number of the manufactured home.



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- c. The legal description of the real property on which the manufactured home is or was placed, stating that the owner of the manufactured home also owns the real property.
 - d. Certification that there are no security interests in the manufactured home that have not been released by the secured party.
 - e. The homeowner's statement that the home has been or will be physically severed from the real property.
2. The owner must submit the following to the Department:
- a. A copy of the affidavit filed in accordance with subdivision C 1.
 - b. Verification that the manufactured home has been severed from the real property. Confirmation of severance by the commissioner of the revenue where the real property is located shall constitute acceptable evidence that the unit has been severed from the real property.

Upon receipt of the information required in subdivision C 2, together with a title application and required fee, the Department is authorized to issue a new title for the manufactured home. The initial title issued under the provisions of this subsection shall contain no security interests, provided however, that nothing contained herein shall be construed to prevent a subsequent security interest from being recorded on the title.

Appendix B

Procedure for Recording an Affidavit of Affixation

1. Perform title search. If an Affidavit of Affixation is recorded, you do not need to do anything further. This is real estate unless, a document is recorded separating the improvements from the land.
2. Determine when the unit was placed on the land to determine if the 2014 statute applies. If yes, follow the instructions below. If no, follow them if at all, possible. If not possible, use the pre-2014 guidelines.
3. If no affidavit of affixation has been recorded, contact DMV Titling Office to determine if they have any record of the title. [Form VSA 35](#)

Virginia DMV Titling Department
2300 West Broad Street
Richmond, VA 23269
804-367-2929

"Affidavit for Manufactured Home Conversion to Real Property" DMV Form VSA 35 must be filed in this DMV office, not the local DMV.

You can request records from DMV if you have the VIN Number for a fee.
<https://www.dmv.virginia.gov/dmvnet/ppi/intro.asp>



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4. If DMV has no record they will sign the form and return it to you for you to attach to an Affidavit of Affixation, a/k/a Affidavit Regarding Manufactured Home – [Form CC – 1560](#)
5. If DMV has an open account, i.e., is showing title still exists in their system (which means the manufactured housing has been taxed as personal property) then you need a copy of your title document (like a car title) to surrender to DMV. If title document cannot be located use guidelines in Appendix C to identify the personal property so a duplicate title document can be obtained. Virginia Code § [46.2-632](#) sets out procedure for a replacement title to be issued. DMV has instructions at [Virginia Department of Motor Vehicles](#).
6. Once you have the title go back to step 3 above, obtain the DMV letter and record it with the Affidavit of Affixation.

Appendix C

How to identify a Manufactured Home¹

Identification of Manufactured Home: Physical markers to check.

1. Data Plate: this gives us make, model, year, VIN, and HUD label number
 - a. This is noticeable by the picture of the United States Map
 - b. Usually found glued inside cabinets in kitchen or bathroom or inside the wall of a closet. Can be near the electrical box inside the home.
2. HUD Label Number: this number certifies home was constructed and inspected by HUD.
 - a. Approximately two by four inches painted red aluminum metal plat with HUD number etched into it. This is permanently attached to the outside of each unit.
 - b. There will be a different HUD number for each transportable section. A doublewide will have two different numbers followed by "A" and "B."
3. What if the Data Plate and/or HUD label is missing?
 - a. Visit <https://www.ibts.org/what-we-do/verification-letter-certificate/>
 - b. The Institute for Building Technology and Safety (IBTS) maintains data regarding the required certification label numbers and data plates for manufactured homes.
 - c. IBTS may be able to provide a copy of the data plate/compliance certificate if your home has certification numbers. If a copy is not available, they can provide a substitute Performance Verification Certificate generated based on the original destination of the home.
4. Find VIN Number: These are cold stamped into the metal on the front metal cross member or tow bar.

1. Thanks to Michele R. Freemyers of Leggett, Simon, Freemyers & Lyon, PLC Fredericksburg, VA for this information.