

## No. 1977-35

## AN ACT

SB 871

Regulating the titling of, and the perfection of security interests in, mobile homes sold in the Commonwealth.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the "Mobile Home Titling Act."

Section 2. Findings and declarations of policy.

(a) To facilitate the proper financing of mobile homes in the Commonwealth of Pennsylvania and the perfecting of security interests in connection therewith, there is a need for a certificate of title or ownership.

(b) In the Commonwealth, certain housing units known as mobile homes traditionally have been considered vehicles and subject to various provisions contained in Pennsylvania's prior vehicle codes. One such provision was that requiring a certificate of title or ownership.

(c) A result of this requirement was that lenders could perfect a security interest in the mobile home by, among other things, noting an encumbrance on the certificate of title or ownership; records thereof were kept so that potential lenders, dealers and purchasers could determine whether or not there was an existing encumbrance on the mobile home.

(d) Pennsylvania's new Vehicle Code, Title 75 of the Pennsylvania Consolidated Statutes, provides that no certificate of title shall be issued for a mobile home. A very important result of this will be that there will be no means for perfecting a security interest in the mobile home by noting in

the encumbrance on the certificate of title. Furthermore, no records will be kept of a certificate of title, no records of encumbrances thereon and, consequently, no means by which lenders or dealers or purchasers are able to determine whether or not an encumbrance exists.

(e) Because of the pending absence of a certificate of title or ownership for mobile homes, financial lending institutions have indicated that they may not provide purchase money security for mobile homes, or otherwise not consider the mobile home as collateral for a loan. This materially and adversely will affect an important segment of the housing industry which is vital to Pennsylvania's economy.

(f) It is, therefore, in the best interest of manufacturers, dealers and purchasers of mobile homes, and of lenders of moneys to purchasers of mobile homes, that the Commonwealth establish or otherwise continue to maintain a system of recording information relative to a certificate of title or ownership for mobile homes so that security interests may be perfected by notation thereon.

### Section 3. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Certificate of title or ownership." The instrument issued pursuant to this act that evidences the legal ownership of a mobile home, with any other information the department requires to identify the mobile home, including the amount, description and holder of any security interest in the mobile home.

"Dealer." A person who is defined as a mobile home dealer in the act of September 9, 1965 (P.L.499, No.254), known as the "Motor Vehicle Manufacturer's, Dealer's and Salesmen's License Act."

"Department." The Department of Transportation.

"Manufacturer." Any person engaged in the business of manufacturing mobile homes for sale in the Commonwealth.

"Mobile home." A transportable structure which is built on a permanent chassis and designed to be used as a dwelling for permanent occupancy, office or place of assembly, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Person." A person, partnership, company, corporation, or association.

"Secretary." The Secretary of the Department of Transportation.

"Security interest." An interest in a mobile home reserved or created by agreement which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security.

### Section 4. Certificate of title or ownership required; perfection of security interest.

Every owner of a mobile home which is in this Commonwealth and for

which no certificate of title or ownership has been issued by the department or any public or private agency shall make application to the department for a certificate of title or ownership. No mobile home may be sold or otherwise have the ownership thereof transferred without the proper transfer of the certificate of title or ownership.<sup>1</sup>

Section 5. Application for and issuance of certificate of title or ownership.

(a) The application for issuance of a certificate of title or ownership for a mobile home shall be made upon a form prescribed and furnished by the department, and shall be accompanied by the fee prescribed by the department. The application shall contain a full description of the mobile home, the actual or bona fide name and address of the owner, together with a statement of the applicant's title or ownership, of any liens or encumbrances upon the mobile home, and whether possession is held subject to a chattel mortgage or under a lease, contract, or conditional sale, or other like agreement.

(b) The issuance of certificate of title or ownership shall contain such description and other evidence of identification of the mobile home for which it is issued as the secretary may deem necessary, including a statement of any liens or encumbrances which the applicant may show to be thereon, together with the names and addresses of the holder or holders of any such liens or encumbrances. It shall be lawful for the secretary to issue, in the name of the owner of a new or used mobile home, a certificate of title or ownership, if such owner presents to the secretary an application for such certificate duly made and acknowledged by the manufacturer or dealer, and assigned to such owner, and accompanied by the fees prescribed by the department.

Section 6. Fees.

The department shall establish a schedule of fees reasonably related to the cost incurred by the department in the administration and enforcement of this act, such fees to be adopted and promulgated as rules or regulations pursuant to section 8, but not to exceed \$15.

Section 7. Administration of act.

The department is hereby charged with the administration of this act. It shall have the power to adopt regulations referred to in section 8, including regulations of procedures for carrying into effect any provision of this act, and to prescribe means, methods, and practices to make effective such provisions. The department is hereby authorized to enter into interdepartmental agreements for the purposes of administration of this act.

Section 8. Adoption and promulgation of rules and regulations.

The department shall adopt rules and regulations as are necessary to carry out the provisions of this act.

<sup>1</sup> "or ownership" omitted in original.

**Section 9. Penalties.**

Any person violating any of the provisions of this act shall be guilty of a summary offense.

**Section 10. Cancellation of certificate of title or ownership.**

The rules and regulations adopted and promulgated pursuant to section 8 shall contain a provision that the department may cancel a certificate of title or ownership for a mobile home which is affixed to real property upon the filing of forms prescribed and furnished by the department. When so cancelled, interest in the ownership of the mobile home, together with all liens and encumbrances thereon, shall be transferred to and shall encumber the real property to which the mobile home has become affixed.

**Section 11. Transition period.**

Notwithstanding the provisions of Chapter 11 (relating to certificate of title and security interests) of Title 75 of the Pennsylvania Consolidated Statutes, which removes the requirement for obtaining a certificate of title or ownership and the perfection of security interest in mobile homes, provisions in prior laws requiring a certificate of title or ownership for a mobile home, and provisions relating to the perfection of a security interest in connection therewith, shall remain in force and effect.

**Section 12. Effective date.**

This act shall take effect July 1, 1977.

APPROVED—The 25th day of July, A. D. 1977.

MILTON J. SHAPP