Manufactured Housing in Virginia

Description

Manufactured homes in Virginia are regulated by the Virginia Department of Housing and Community Development and must meet strict building codes and safety standards to ensure they are safe and durable. Residents of manufactured homes cite affordability as a key factor in choosing manufactured housing.[1] Overall, manufactured homes offer an accessible and attractive option for those who desire a comfortable and affordable place to live.

This article will discuss manufactured housing and the underwriting requirements that go along with a transaction involving manufactured homes. We will begin by defining what is considered a manufactured home and then discuss key elements and how to identify whether a manufactured home is involved in the transaction. We will then discuss sample underwriting guidelines[2], as well as the ALTA7 endorsement.

SOME STATISTICS

- Manufactured homes are Americaâ??s largest source of unsubsidized, affordable, single family housing
- 22 Million people live in manufactured homes in the U.S.[3]
- 131,000 manufactured homes in Virginia as of 2021[4]
- Virginia has the eighth highest number of manufactured homes among all the states[5]
- More prevalent in rural areas of Virginia, with about 30% of rural housing units being manufactured homes, compared to 5% of urban housing units[6]
- The majority of manufactured homes in Virginia are owner-occupied, with only 20% being rental units[7]
- Regulated by HUD since 1976

DEFINITION

In 1986, the Virginia Code changed all references from â??mobile homeâ?• to â??manufactured homeâ?• and provided this specific definition:

â??Manufactured housingâ?• in Virginia is defined in the in Va. Code Â§ 36-85.16[8] and therefore by the Department of Motor Vehicles [9](DMV) as follows:

- Transportable in one or more sections.
- Eight 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.
- [NOTE: Anything smaller than this is not considered real estate and cannot be insured for title insurance purposes.]
- Built on a permanent chassis â?? provides structural support for the home.
- Designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities (including plumbing, heating, air conditioning, and electrical systems contained in the structure).

- Constructed to federal standards.

KEY ELEMENTS OF A MANUFACTURED HOME

Manufactured homes must be constructed according to standards set by the U.S. Department of Housing and Urban Development (HUD), rather than local building codes. These homes are built and inspected in a factory on a non-removable, permanently attached chassis. They are then transported to their final site on their own wheels, either by being towed or transported via trailer. While local building inspectors verify the installation work, such as electric hookups, they do not permit the structure itself. Multi-part manufactured units, such as doublewides, can be joined together at their destination. Single-wide mobile homes typically do not qualify for Fannie Mae financing and do not meet the Virginia statutory definition of a Manufactured Home. In contrast, doublewides meet this definition but must be converted from personal property to real property. Regardless of any physical improvements, such as the addition of decking, porches, or family room extensions, a doublewide always remains classified as a doublewide.

HOW TO IDENTIFY A MANUFACTURED HOME[10]

To identify a manufactured home, there are several physical markers to check. First, look for the **Data Plate**, which provides essential information such as the make, model, year, VIN, and HUD label number. The Data Plate typically includes an image of the United States map and is easy to identify. It should be affixed to the tail-light end of each transportable section and is usually glued inside kitchen or bathroom cabinets, inside a closet wall, or near the electrical box.

Next, locate the **HUD Label Number**, which certifies that the home was constructed and inspected according to HUD standards. The label is a red aluminum plate, approximately two by four inches, with the HUD number etched into it. This plate is permanently attached to the exterior of each transportable section. For multi-section homes like doublewides, each section will have a different HUD number, typically followed by an â??Aâ?• and a â??B.â?•

If the **Data Plate** or **HUD Label** is missing, the **Institute for Building Technology and Safety (IBTS)** can help. IBTS maintains records of certification label numbers and Data Plates for manufactured homes. If your home has certification numbers, IBTS may be able to provide a copy of the Data Plate or a compliance certificate. If a copy is not available, they can issue a substitute Performance Verification Certificate based on the original destination of the home.

Finally, the **VIN Number** can be found cold-stamped into the metal on the front metal cross member or tow bar of the home.

UNDERWRITING GUIDELINES

Under Virginia Code Â§46.2-653.1, effective July 1, 2014, manufactured housing can only be considered real estate if specific requirements are met. An **Affidavit of Affixation** must be recorded in the land records before the improvements can be deemed real property. The Affidavit of Affixation must confirm three conditions: the individual owns the manufactured home being converted to real property, the manufactured home is free of any liens, and the individual owns the land where the manufactured home is being attached.

Additionally, for this Code section to apply, the manufactured housing unit must be titled in Virginia; it does not apply if the unit is titled in another state. Furthermore, the Department of Motor Vehicles (DMV) must issue a letter verifying that there are no liens on the manufactured housing unit.

For manufactured housing in place prior to July 1, 2014, the requirements remain largely unchanged, with one key consideration: you must ensure the improvements stay located at the real property address. Virginia Code Â§46.2-653.1, effective July 1, 2014, allows for the reclassification of a manufactured home as personal property. Before this date, once a manufactured home was affixed, it remained classified as real estate. The prior requirements for classifying a manufactured home as real estate include several key conditions. The structure must be permanently affixed to the land by removing the axles, wheels, and tow bar, and it must rest on a permanent foundation, not just cosmetic skirting. An appraiser or surveyor typically makes this determination. The structure must also be connected to utilities such as well, septic, sewer, or water. Additionally, the title must be surrendered to the Virginia Department of Motor Vehicles (DMV). Finally, the improvements on the property should be taxed as part of the real estate, and it is essential to ensure they are not also taxed as personal property.

It is recommended to do a UCC financing statement search on the State Corporation Commission[11] 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.

ALTA 7.1 Endorsement

The ALTA 7.1 is applicable only for a Loan Policy. It insures that the manufactured housing unit located on the property falls within the definition of Land insured under the policy. It also provides coverage against loss or damage if a manufactured housing unit is not located on the land and the owner of the land is not the owner of the manufactured housing unit. Coverage is also provided to an Insured as to any lien which has attached to the manufactured housing unit as personal property, including:

- a federal, state, or other governmental tax lien;
- a UCC security interest;
- a motor vehicle lien; or
- other personal property lien.

In addition, the ALTA 7.1 endorsement specifically provides a lender with coverage if *â??the lien of the Insured Mortgage is not enforceable against the Title in a single foreclosure procedure.â?•* This additional lender coverage contained in the ALTA 7.1 is important. The definition of Land in section 1.i. of the Conditions of the 2006 Loan Policy includes the Title described in Schedule A, and *affixed improvements that by law constitute real property.* Note: In the 2021 Loan policy, the definition of Land is now in section 1.n and the reference to the term â??affixedâ?• is deleted. The ALTA 7.1 provides coverage to a lender who commences a foreclosure proceeding against the Title and the manufactured housing unit in a single land foreclosure proceeding only to learn the manufactured housing unit must be foreclosed in a separate proceeding as it is personal property rather than real estate.

State and federal privacy legislation created a problem for owners with a unit that was placed in service prior to July 1, 2014. DMV would not give any information without the written request of the original owner. Effective July 1, 2024 Va. Code Â§ 46.2-653.1 was amended to have a portion of Section B state (emphasis added to show the significant change for us in title insurance)

B. A manufactured home owner 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 home owner. **If such manufactured home owner is not listed on the title as the owner of such manufactured home, such owner shall also submit to the Department (i) any deed, court order or decree, or other legal document or record establishing that the manufactured home was transferred by the owner listed on the title in the records of the Department to the current manufactured home owner or, if not a direct transfer, records to establish a chain of successive ownership of the manufactured home;** (ii) documentation establishing that an existing lien on the vehicle record has been released by the secured party or, if no release is available, that the loan issued by the secured party has been satisfied; and (iii) if available, the original title, duplicate title, or certificate of origin for such manufactured home.

With this change the current owner can now establish a chain of title to show he is the owner of the real estate and entitled to know if a lien exists at DMV. If no lien exists at DMV the owner should be able to file an affidavit of affixation, regardless of when the unit was attached to the real estate.

Contact your underwriter for the specific language needed to satisfy their underwriting requirements.

Conclusion

In conclusion, understanding the unique legal and underwriting requirements associated with manufactured housing in Virginia is essential for ensuring smooth and compliant real estate transactions. As outlined, manufactured homes must meet HUD standards, and their classification as real or personal property depends on factors like affixation, title status, and proper documentation. The recording of an Affidavit of Affixation, adherence to Virginia Code Â§46.2-653.1, and conducting thorough searches for liens and UCC filings are critical steps in this process. Moreover, the appropriate issuance of ALTA 7 endorsements protects lenders and ensures clarity in title insurance policies. By carefully following these guidelines and meeting the specific requirements for homes placed in service before and after July 1, 2014, stakeholders can confidently navigate the complexities of manufactured housing transactions and protect their interests in both real and personal property contexts.

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[1] www.manufacturedhousing.org/wp-content/uploads/2022/04/2022-MHI-Quick-Facts-updated-05-2022-2.pdf

[2] Requirements and exceptions vary by underwriter. These are sample requirements. Please check with your underwriter for what their specific requirements are.

[3] https://www.census.gov/programs-surveys/mhs.html

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] Virginia Code Â§ 36-85.16 â??Manufactured homeâ?• means a structure constructed to federal standards, transportable in one or more sections, which, in the traveling mode, is 8 feet or more in width and is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

[9] http://www.dmv.virginia.gov/webdoc/citizen/vehicles/mobile.asp

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

[11] https://cis.scc.virginia.gov/

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