

FIRST REGULAR SESSION

SENATE BILL NO. 405

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 19, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1702S.011

AN ACT

To repeal sections 700.100, 700.350, 700.370, 700.385, 700.525, 700.527, 700.529, 700.530, 700.531, 700.533, 700.535, 700.537, and 700.539, RSMo, and to enact in lieu thereof nine new sections relating to manufactured housing.

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

Section A. Sections 700.100, 700.350, 700.370, 700.385, 700.525, 700.527, 700.529, 700.530, 700.531, 700.533, 700.535, 700.537, and 700.539, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 700.100, 700.330, 700.350, 700.370, 700.385, 700.526, 700.527, 700.528, and 700.529, to read as follows:

700.100. 1. The commission may refuse to register or refuse to renew the registration of any person who fails to comply with the provisions of sections 700.010 to 700.115. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be delivered to the applicant within thirty days from date it is received by the commission. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be accompanied by a notice informing the recipient that the decision of the commission may be appealed as provided in chapter 386, RSMo.

2. The commission may consider a complaint filed with it charging a registered manufacturer or dealer with a violation of the provisions of this section, which charges, if proven, shall constitute grounds for revocation or suspension of his **or her** registration, or the placing of the registered manufacturer or dealer on probation.

3. The following specifications shall constitute grounds for the suspension,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 revocation or placing on probation of a manufacturer's or dealer's registration:

17 (1) If required, failure to comply with the provisions of section 301.280,
18 RSMo;

19 (2) Failing to be in compliance with the provisions of section 700.090;

20 (3) If a corporation, failing to file all franchise or sales tax forms required
21 by Missouri law;

22 (4) Engaging in any conduct which constitutes a violation of the provisions
23 of section 407.020, RSMo;

24 (5) Failing to comply with the provisions of Sections 2301-2312 of Title 15
25 of the United States Code (Magnuson-Moss Warranty Act);

26 (6) As a dealer, failing to arrange for the proper initial setup of any new
27 manufactured home or modular unit sold from or in the state of Missouri, except
28 as allowed under subsection 5 of section 700.656; the dealer shall receive a
29 written waiver of that service from the purchaser or his or her authorized agent;

30 (7) **As a dealer, failing to obtain for each used manufactured**
31 **home or used modular unit sold a written notice, signed, and dated by**
32 **the purchaser or the purchaser's agent that states: "The Missouri**
33 **Public Service Commission does not regulate setup of used**
34 **manufactured homes and used modular units sold by the dealer.";**

35 (8) Requiring any person to purchase any type of insurance from that
36 manufacturer or dealer as a condition to his **or her** being sold any manufactured
37 home or modular unit;

38 [(8)] (9) Requiring any person to arrange financing or utilize the services
39 of any particular financing service as a condition to his **or her** being sold any
40 manufactured home or modular unit; provided, however, the registered
41 manufacturer or dealer may reserve the right to establish reasonable conditions
42 for the approval of any financing source;

43 [(9)] (10) Engaging in conduct in violation of section 700.045;

44 [(10)] (11) Failing to comply with the provisions of section 301.210,
45 RSMo;

46 [(11)] (12) Failing to pay all necessary fees and assessments authorized
47 pursuant to sections 700.010 to 700.115.

48 4. The commission may order that any suspension, revocation, or
49 probation ordered under subsection 3 of this section shall apply to all
50 manufacturer's or dealer's registrations that are held by the same manufacturer
51 or dealer or that are owned or controlled by the same person or persons if a

52 continued and consistent pattern of the violations have been identified by the
53 commission to be present with each licensee under the same control or ownership.

700.330. 1. A sole owner of a manufactured home, and multiple
2 owners of a manufactured home who hold their interest as joint tenants
3 with right of survivorship or as tenants by the entirety, on application
4 and payment of the fee required for an original certificate of
5 ownership, may request the director of revenue to issue a certificate of
6 ownership for the manufactured home in beneficiary form which
7 includes a directive to the director of revenue to transfer the
8 certificate of ownership on death of the sole owner or on death of all
9 multiple owners to one beneficiary or to two or more beneficiaries as
10 joint tenants with right of survivorship or as tenants by the entirety
11 named on the face of the certificate.

12 2. A certificate of ownership in beneficiary form shall not be
13 issued to persons who hold their interest in a manufactured home as
14 tenants in common.

15 3. A certificate of ownership issued in beneficiary form shall
16 include after the name of the owner, or after the names of multiple
17 owners, the words "transfer on death to" or the abbreviation "TOD"
18 followed by the name of the beneficiary or beneficiaries.

19 4. (1) During the lifetime of a sole owner and during the lifetime
20 of all multiple owners, the signature or consent of the beneficiary or
21 beneficiaries shall not be required for any transaction relating to the
22 manufactured home for which a certificate of ownership in beneficiary
23 form has been issued.

24 (2) A certificate of ownership in beneficiary form may be
25 revoked or the beneficiary or beneficiaries changed at any time before
26 the death of a sole owner or surviving multiple owner only by the
27 following methods:

28 (a) By a sale of the manufactured home with proper assignment
29 and delivery of the certificate of ownership to another person; or

30 (b) By filing an application to reissue the certificate of
31 ownership with no designation of a beneficiary or with the designation
32 of a different beneficiary or beneficiaries with the director of revenue
33 in proper form and accompanied by the payment of the fee for an
34 original certificate of ownership.

35 (3) The beneficiary's or beneficiaries' interest in the

36 **manufactured home at death of the owner or surviving owner shall be**
37 **subject to any contract of sale, assignment of ownership or security**
38 **interest to which the owner or owners of the manufactured home were**
39 **subject during their lifetime.**

40 **(4) The designation of a beneficiary or beneficiaries in a**
41 **certificate of ownership issued in beneficiary form may not be changed**
42 **or revoked by a will, any other instrument, or a change in**
43 **circumstances, or otherwise be changed or revoked except as provided**
44 **by subdivision (2) of this subsection.**

45 **5. (1) On proof of death of one of the owners of two or more**
46 **multiple owners, or of a sole owner, surrender of the outstanding**
47 **certificate of ownership, and on application and payment of the fee for**
48 **an original certificate of ownership, the director of revenue shall issue**
49 **a new certificate of ownership for the manufactured home to the**
50 **surviving owner or owners or, if none, to the surviving beneficiary or**
51 **beneficiaries, subject to any outstanding security interest; and the**
52 **current valid certificate of number shall be so transferred.**

53 **(2) The director of revenue may rely on a death certificate or**
54 **record or report that constitutes prima facie proof or evidence of death**
55 **under subdivisions (1) and (2) of section 472.290, RSMo.**

56 **(3) The transfer of a manufactured home at death under this**
57 **section is effective by reason of sections 301.675 to 301.682, RSMo, and**
58 **sections 306.455 to 306.465, RSMo, and is not to be considered as**
59 **testamentary, or to be subject to the requirements of section 473.087 or**
60 **section 474.320, RSMo.**

700.350. 1. As used in sections 700.350 to 700.390, the term
2 "manufactured home" shall have the same meanings given it in section 700.010
3 or section 400.9-102(a)(53), RSMo.

4 2. Unless excepted by section 700.375, a lien or encumbrance on a
5 manufactured home shall not be valid against subsequent transferees or
6 lienholders of the manufactured home who took without knowledge of the lien or
7 encumbrance unless the lien or encumbrance is perfected as provided in sections
8 700.350 to 700.380.

9 3. A lien or encumbrance on a manufactured home is perfected by the
10 delivery to the director of revenue of a notice of lien in a format as prescribed by
11 the director of revenue. Such lien or encumbrance shall be perfected as of the
12 time of its creation if the delivery of the notice of lien required in this subsection

13 to the director of revenue is completed within thirty days thereafter, otherwise
14 such lien or encumbrance shall be perfected as of the time of the delivery. A
15 notice of lien shall contain the name and address of the owner of the
16 manufactured home and the secured party, a description of the manufactured
17 home **and the secured party, a description of the manufactured home,**
18 including any identification number and such other information as the
19 department of revenue shall prescribe. A notice of lien substantially complying
20 with the requirements of this section is effective even though it contains minor
21 errors which are not seriously misleading. Liens may secure future
22 advances. The future advances may be evidenced by one or more notes or other
23 documents evidencing indebtedness and shall not be required to be executed or
24 delivered prior to the date of the future advance lien securing them. The fact
25 that a lien may secure future advances shall be clearly stated on the security
26 agreement and noted as "subject to future advances" in the notice of lien and
27 noted on the certificate of ownership if the motor vehicle or trailer is subject to
28 only one lien. To secure future advances when an existing lien on a
29 manufactured home does not secure future advances, the lienholder shall file a
30 notice of lien reflecting the lien to secure future advances. A lien to secure future
31 advances is perfected in the same time and manner as any other lien, except as
32 follows: proof of the lien for future advances is maintained by the department of
33 revenue; however, there shall be additional proof of such lien when the notice of
34 lien reflects such lien for future advances, is receipted by the department of
35 revenue, and returned to the lienholder.

36 4. Whether a manufactured home is subject to a lien or encumbrance shall
37 be determined by the laws of the jurisdiction where the manufactured home was
38 when the lien or encumbrance attached, subject to the following:

39 (1) If the parties understood at the time the lien or encumbrances
40 attached that the manufactured home would be kept in this state and it is
41 brought into this state within thirty days thereafter for purposes other than
42 transportation through this state, the validity and effect of the lien or
43 encumbrance in this state shall be determined by the laws of this state;

44 (2) If the lien or encumbrance was perfected under the laws of the
45 jurisdiction where the manufactured home was when the lien or encumbrance
46 attached, the following rules apply:

47 (a) If the name of the lienholder is shown on an existing certificate of title
48 or ownership issued by that jurisdiction, his lien or encumbrance continues

49 perfected in this state;

50 (b) If the name of the lienholder is not shown on an existing certificate of
51 title or ownership issued by the jurisdiction, the lien or encumbrance continues
52 perfected in this state for three months after the first certificate of title of the
53 manufactured home is issued in this state, and also thereafter if, within the
54 three-month period, it is perfected in this state. The lien or encumbrance may
55 also be perfected in this state after the expiration of the three-month period, in
56 which case perfection dates from the time of perfection in this state;

57 (3) If the lien or encumbrance was not perfected under the laws of the
58 jurisdiction where the manufactured home was when the lien or encumbrance
59 attached, it may be perfected in this state, in which case perfection dates from the
60 time of perfection in this state;

61 (4) A lien or encumbrance may be perfected under paragraph (b) of
62 subdivision (2) or subdivision (3) of this subsection in the same manner as
63 provided in subsection 3 of this section or by the lienholder delivering to the
64 director of revenue a notice of lien or encumbrance in the form the director
65 prescribes and the required fee.

66 5. By rules and regulations, the director of revenue shall establish a
67 security procedure for the purpose of verifying that an electronic notice of lien or
68 notice of satisfaction of lien on a manufactured home given as permitted in this
69 chapter is that of the lienholder, verifying that an electronic notice of
70 confirmation of ownership and perfection of a lien given as required in this
71 chapter is that of the director of revenue, and detecting error in the transmission
72 or the content of such notice. A security procedure may require the use of
73 algorithms or other codes, identifying words or numbers, encryption, callback
74 procedures or similar security devices. Comparison of a signature on a
75 communication with an authorized specimen signature shall not by itself be a
76 security procedure.

77 6. All transactions involving liens or encumbrances on manufactured
78 homes perfected pursuant to sections 700.350 to 700.390 after June 30, 2001, and
79 before August 28, 2002, and the rights, duties, and interests flowing from them
80 are and shall remain valid thereafter and may be terminated, completed,
81 consummated, or enforced as required or permitted by section 400.9-303, RSMo,
82 or this section. Section 400.9-303, RSMo, and this section are remedial in nature
83 and shall be given that construction.

84 7. The repeal and reenactment of subsections 3 and 4 of this section shall

85 become effective July 1, 2003.

700.370. 1. Upon the satisfaction of a lien or encumbrance on a
2 manufactured home, the lienholder shall, within ten days after demand, release
3 the lien or encumbrance on the certificate or a separate document, and mail or
4 deliver the certificate or separate document to the owner or any person who
5 delivers to the lienholder an authorization from the owner to receive the
6 certificate or separate document. Each perfected subordinate lienholder, if any,
7 shall release such lien or encumbrance as provided in this section for the first
8 lienholder. The release on the certificate or separate document shall be
9 notarized. The owner may cause the certificate of title, the release, and the
10 required fee to be mailed or delivered to the director of revenue, who shall release
11 the lienholder's rights on the certificate and issue a new certificate of title.

12 **2. If the electronic certificate of ownership is in the possession**
13 **of the director of revenue, the lienholder shall notify the director**
14 **within ten business days of any release of a lien and provide the**
15 **director with the most current address of the owner. The director shall**
16 **note such release on the electronic certificate and if no other lien exists**
17 **the director shall mail or deliver the certificate free of any lien to the**
18 **owner.**

700.385. 1. When the holder of any indebtedness secured by a security
2 agreement or other contract for security covering a manufactured home, who has
3 a notice of lien on file with the director of revenue, repossesses the manufactured
4 home either by legal process or in accordance with the terms of a contract
5 authorizing the repossession of the manufactured home without legal process, the
6 holder may obtain a certificate of ownership from the director of revenue upon
7 presentation of:

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

11 (2) A notice of lien receipt or the original certificate of ownership
12 reflecting the holder's lien; and

13 (3) An affidavit of the holder, certified under penalties of perjury for
14 making a false statement to a public official, that the debtor defaulted in payment
15 of the debt, and that the holder repossessed the manufactured home either by
16 legal process or in accordance with the terms of the contract, **and the name and**
17 **address of the owner of the real estate, other than the debtor, from**

18 **whom the home was repossessed, and that the holder has paid to the**
19 **real property owner all rent that has accrued in the real property**
20 **owner's favor that the holder is obligated to pay under the provisions**
21 **of section 700.529**, and the specific address where the manufactured home is
22 held. Such affidavit shall also state that the lienholder has the written consent
23 from all owners or lienholders of record to repossess the manufactured home or
24 has provided all the owners or lienholders with written notice of the repossession.

25 2. On a manufactured home, the lienholder shall first give:

26 (1) Ten days' written notice by first class United States mail, postage
27 prepaid, to each of the owners and other lienholders, if any, of the manufactured
28 home at each of their last mailing addresses as shown by the last prior certificate
29 of ownership, if any issued, or the most recent address on the lienholder's records,
30 that an application for a repossessed title will be made; or

31 (2) The lienholder may, ten days prior to applying for a repossession title,
32 include the information in the above notice in the appropriate uniform
33 commercial code notice under sections 400.9-613 or 400.9-614, RSMo. Such
34 alternative notice to all owners and lienholders shall be valid and enforceable
35 under both the uniform commercial code and this section, provided it otherwise
36 complies with the provisions of the uniform commercial code.

37 3. Upon the holder's presentation of the papers required by subsection 1
38 of this section and the payment of a fee of ten dollars, the director of revenue, if
39 he **or she** is satisfied with the genuineness of the papers, shall issue and deliver
40 to the holder a certificate of ownership which shall be in its usual form except it
41 shall be clearly captioned "Repossessed Title". Each repossessed title so issued
42 shall, for all purposes, be treated as an original certificate of ownership and shall
43 supersede the outstanding certificate of ownership, if any, and duplicates thereof,
44 if any, on the manufactured home, all of which shall become null and void.

45 4. In any case where there is no certificate of ownership, or duplicate
46 thereof, outstanding in the name of the debtor on the repossessed manufactured
47 home, the director of revenue shall issue a repossessed title to the holder and
48 shall proceed to collect all unpaid fees, taxes, charges and penalties owed by the
49 debtor, in addition to the fee specified in subsection 3 of this section.

50 5. The director of revenue may prescribe rules and regulations for the
51 effective administration of this section. Any rule or portion of a rule, as that term
52 is defined in section 536.010, RSMo, that is created under the authority delegated
53 in this section shall become effective only if it complies with and is subject to all

54 of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
55 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the
56 powers vested with the general assembly pursuant to chapter 536, RSMo, to
57 review, to delay the effective date, or to disapprove and annul a rule are
58 subsequently held unconstitutional, then the grant of rulemaking authority and
59 any rule proposed or adopted after August 28, 2006, shall be invalid and void.

**700.526. A manufactured home as defined in section 700.010
2 which is placed on the real estate of another under a valid written
3 rental agreement signed by the homeowner shall be deemed abandoned
4 if:**

5 **(1) The real property owner has a reasonable belief that the
6 homeowner has vacated the premises and intends not to return; and**

7 **(2) That rent is due and the homeowner has not paid such rent
8 for thirty days; and**

9 **(3) The homeowner has failed to respond to the real property
10 owner's notice of lien and abandonment set out in subsection 3 of
11 section 700.527 by either failing to pay the rent or file a petition in the
12 associate circuit court to contest the issue of abandonment and the lien.**

700.527. 1. If a person abandons a manufactured home on any real
2 property owned by another who is renting such real property to the owner of the
3 manufactured home, and such abandonment is without the consent of the owner
4 of the real property, **and the abandoned manufactured home is not subject
5 to any lien perfected according to sections 700.350 to 700.380**, the owner
6 of the real property [may seek possession of and title to the manufactured home
7 in accordance with the provisions of sections 700.525 to 700.541 subject to the
8 interest of any party with a security interest in the manufactured home] **shall
9 have a lien for unpaid rent against the manufactured home. The lien
10 for unpaid rent shall be enforced as provided in this section and may
11 be contested as provided in section 700.528.**

12 2. [The landlord seeking possession of the manufactured home shall
13 submit a report to the director of revenue. Such report shall include the
14 following:

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

18 (2) An affidavit of the landlord seeking possession of the manufactured

19 home, stating that the manufactured home is abandoned as defined by section
20 700.525 and applicable rule of the department, the duration of such
21 abandonment, that the manufactured home is located upon real property owned
22 by the landlord, and that the manufactured home is the subject of a valid rental
23 agreement signed by the renter, along with the original, or a photostatic or
24 conformed copy of the original contract for rental of real property; and

25 (3) Any other information that the director of revenue may require by
26 rule.] **The lien for unpaid rental shall be enforced as provided in this**
27 **section and may be contested as provided in section 700.528.**

28 **3. The real property owner claiming a lien on an abandoned**
29 **manufactured home shall give written notice to the owner of the**
30 **manufactured home, by certified mail, return receipt requested. The**
31 **notice shall contain the following:**

32 (1) **The name, address, and telephone number of the real**
33 **property owner;**

34 (2) **The name of the owner of the manufactured home and the**
35 **make, year, and serial number of the manufactured home;**

36 (3) **That the manufactured home is abandoned as provided in**
37 **section 700.526 and applicable rule of the director of revenue;**

38 (4) **The duration of such abandonment;**

39 (5) **That the manufactured home is located on real estate owned**
40 **by the real property owner;**

41 (6) **That the home is located on such real estate by reason of a**
42 **valid rental agreement signed by the homeowner;**

43 (7) **That the homeowner is in default of the rental agreement;**

44 (8) **The amount of rent accrued to the date of the notice and the**
45 **monthly rate at which future rent will accrue until the abandoned**
46 **home is redeemed;**

47 (9) **That the homeowner has not paid or made arrangements for**
48 **the payment of the accrued rent;**

49 (10) **That the real property owner claims a lien for all such rent;**

50 (11) **That the owner of the manufactured home may redeem the**
51 **abandoned manufactured home at any time during business hours by**
52 **paying all rent accrued under the terms of the rental agreement;**

53 (12) **That the manufactured homeowner has a right to contest the**
54 **real property owner's lien by filing, within ten days of receipt of the**
55 **notice required by this section, a petition in the associate circuit**

56 division of circuit court of the county in which the manufactured home
57 is located;

58 (13) That if the manufactured home remains unredeemed thirty
59 days from the date of mailing of the notice and within ten days of
60 mailing of the notice a petition is not filed to contest the lien, the real
61 property owner may apply to the director of revenue for a lien
62 title. Upon receipt of a lien title the real property owner shall have the
63 right to sell the manufactured home to recover unpaid rent, actual and
64 necessary expenses incurred in obtaining a lien title, and conducting
65 and advertising the sale.

66 4. The real property owner's lien and the sum of which the
67 homeowner shall be obligated to pay to satisfy the lien shall be the
68 unpaid rent accrued under the terms of the rental agreement to the
69 date the homeowner satisfied the lien or if not so satisfied to the date
70 the home is sold under this section.

71 5. The owner of the manufactured home shall not have the right
72 to remove the home from the real property owner's property until such
73 time as all rent provided for the rental agreement is paid.

74 6. If the homeowner has not paid or made arrangements for the
75 payment of the accrued rent with the real property owner within thirty
76 days from the date of mailing of the notice and no petition as provided
77 in section 700.528 has been filed in the associate circuit division of the
78 circuit court in the county in which the abandoned manufactured home
79 is located to contest the lien or if filed has been dismissed or judgment
80 has been entered on the petition establishing the real property owner's
81 lien, the real property owner may apply to the director of revenue for
82 a certificate of title in order to enforce the lien.

83 7. The application for a lien title shall be in the form furnished
84 by the director of revenue and shall contain and be accompanied by:

85 (1) The make, year, and serial number of the manufactured home;

86 (2) An affidavit of the owner of real property seeking possession
87 of the manufactured home that states:

88 (a) The manufactured home is abandoned as provided in section
89 700.526 and by applicable rule of the director of revenue;

90 (b) The duration of such abandonment;

91 (c) The manufactured home is located upon real property owned
92 by the real property owner;

- 93 (d) The manufactured home is located on the real estate by
94 reason of a valid rental agreement signed by the homeowner;
- 95 (e) The homeowner is in default of the rental agreement;
- 96 (f) The amount of past-due rent and the monthly rate at which
97 future rent will accrue under the rental agreement;
- 98 (g) The homeowner has not paid or made arrangements for the
99 payment of the rent;
- 100 (h) The owner of real property claims a lien for all such rent;
- 101 (i) The real property owner mailed the notice required by
102 subsection 3 of this section to the owner of the manufactured home by
103 certified mail, return receipt requested;
- 104 (j) The manufactured homeowner has not filed a petition in the
105 associate circuit division of circuit court contesting the real property
106 owner's lien, or if a petition was filed, that either the homeowner's
107 petition was dismissed or that a judgment in the real property owner's
108 favor establishing the lien was entered;
- 109 (3) A copy of the thirty-day notice given by certified mail to the
110 owner of the manufactured home;
- 111 (4) A copy of the certified mail receipt indicating that the owner
112 was sent the notice as required in subsection 3 of this section;
- 113 (5) A copy of the envelope or mailing container showing the
114 address and postal marking that indicate the notice was not
115 forwardable or address unknown;
- 116 (6) An original, photostatic or conformed copy of the original
117 contract for the rental of the real property;
- 118 (7) A copy of any judgment of dismissal of the homeowner's
119 petition to contest the lien or a judgment awarding the real property
120 owner a lien against the manufactured home; and
- 121 (8) Any other information that the director of revenue may
122 require by rule.
- 123 8. If the director is satisfied with the genuineness of the
124 application and supporting documents submitted under this section,
125 the director shall issue, in the manner a repossessed title is issued, a
126 certificate of ownership or certificate of title to the real property
127 owner which shall be captioned "lien title".
- 128 9. Upon receipt of a lien title, the holder shall within thirty days
129 begin proceedings to sell the manufactured home as prescribed in this

130 section. The real property owner shall be entitled to any actual and
131 necessary expenses incurred in obtaining the lien title, including, but
132 not limited to reasonable attorney's fees and cost of advertising.

133 10. The sale of the manufactured home shall be held only after
134 giving the owner not less than twenty days' notice, by one of the
135 following means:

136 (1) By personal delivery to the owner of a copy of the notice set
137 out below;

138 (2) By mailing a copy of the notice set out below, by registered
139 mail addressed to the owner of the manufactured home in which case
140 a return receipt shall be evidence of due notice;

141 (3) By publishing the notice not less than twice in a newspaper
142 of general circulation in the county in which the manufactured home
143 is to be sold, the last publication to be not less than twenty days prior
144 to the date of sale; or

145 (4) If no newspaper is published within the county in which said
146 manufactured home is to be sold, then by posting the notice, not less
147 than twenty days prior to the date of sale, on five handbills placed in
148 five different places in the county in which the manufactured home is
149 to be sold and with one of said handbills posted where the
150 manufactured home is located.

151 11. The form of the notice shall be substantially as follows:

152 "NOTICE

153 Notice is hereby given that on (insert date), sale will be held at (insert
154 place), to sell the following manufactured home to enforce a lien
155 existing under the laws of the state of Missouri for real estate rental,
156 unless the manufactured home is redeemed prior to the date of sale:

157 Name of Owner: Description of Manufacturer's Amount of Lien:

158 Manufactured Serial Number:

159 Home:

160 Name of Lienor:".

161 12. The owner of the manufactured home may redeem the home
162 prior to the sale by payment of all rents due and owing to the real
163 property owner under the rental agreement to the date of sale or
164 payment, whichever is sooner, and payment of actual and necessary
165 expenses incurred in obtaining the lien, including but not limited to
166 reasonable attorney's fees, and necessary expenses of advertising the

167 sale.

168 **13. If the manufactured home is not redeemed prior to the date**
169 **of sale provided in the notice set forth above, the real property owner**
170 **may sell the manufactured home on the day and at the place specified**
171 **in the notice. The proceeds of sale shall be distributed in the following**
172 **order:**

173 **(1) To the satisfaction of real property owner's past-due rent and**
174 **reimbursement of its actual and necessary expenses incurred in**
175 **obtaining the lien and lien title, including attorney's fees and the**
176 **necessary expenses of advertising the sale provided for in this section;**

177 **(2) The excess, if any, shall be paid to the manufactured**
178 **homeowner.**

179 **If the manufactured homeowner cannot be located within thirty days**
180 **of the date of sale, the excess if any shall be deposited with the county**
181 **treasurer of the county in which the home was sold and in the case of**
182 **a sale within a city not within a county with its treasurer, together**
183 **with a sworn statement containing the name of the owner, description**
184 **of the manufactured home by manufacturer's serial number, amount of**
185 **lien, sale price, name of purchaser, costs and manner of advertising.**

186 **14. Such treasurer shall credit such excess to the general**
187 **revenue fund of the county or a city not within a county, subject to the**
188 **right of the owner to reclaim the same at any time within three years**
189 **of the date of such deposit with the treasurer, after presentation of**
190 **proper evidence of ownership and obtaining an order of the county**
191 **commission, or comptroller of a city not within a county, directed to**
192 **said treasurer for the return of such excess deposit.**

193 **15. Any lienor failing to or refusing to deliver to said treasurer**
194 **the excess proceeds of sale together with a sworn statement is required**
195 **in this section within thirty days after such sale, shall be liable for**
196 **double the excess of proceeds of said sale, to be recovered in any court**
197 **of competent jurisdiction by civil action.**

198 **16. The real property owner's compliance with the requirements**
199 **of this section shall be a perpetual bar to any action against such**
200 **owner of real property by any person for the recovery of the**
201 **manufactured home or its value or of any damages growing out of the**
202 **taking of possession and sale of such manufactured home.**

203 **17. The real property owner may be a purchaser at the public**

204 sale conducted under this section.

700.528. 1. The owner of the abandoned manufactured home,
2 within ten days of the mailing of the real property owner's notification
3 provided for in subsection 3 of section 700.527, may file a petition in
4 the associate circuit division of circuit court in the county in which the
5 abandoned manufactured home is located to contest the real property
6 owner's lien. The petition shall name the real property owner as a
7 defendant. The director of revenue shall not be a party to such
8 petition, but a copy of the petition shall be served on the director who
9 shall not issue lien title to such abandoned manufactured home until
10 the court by judgment upholds the lien or until the homeowner's
11 petition is dismissed.

12 2. Upon the filing of the petition in the associate circuit division
13 of circuit court, the owner may have the manufactured home released
14 from the lien upon posting with the court, for the benefit of the real
15 property owner, a cash or surety bond or other adequate security equal
16 to the amount of the rental charges due and those which will accrue
17 during the term of the proceedings to ensure payment of such rent in
18 the event the manufactured homeowner does not prevail. Upon posting
19 of the bond, the court shall issue an order notifying the real property
20 owner of the posting of the bond and directing the real property owner
21 to release the manufactured home to its owner. The court will then
22 proceed to determine the parties' rights to the proceeds of the bond.

23 3. If the court determines the homeowner owes unpaid rent
24 under the rent agreement, the court shall give judgment to real
25 property owner in the sum of the unpaid rent, declare a lien in real
26 property owner's favor against the manufactured home or if bond has
27 been posted, order that so much of the bond proceeds as are necessary
28 to satisfy the judgment to be immediately paid to the real property
29 owner. The real property owner shall enforce the lien for the unpaid
30 rent by submitting an application for lien title in the form and
31 containing the information required by section 700.527. The real
32 property owner shall attach to the application for lien title a copy of
33 the judgment rendered by the associate circuit court. The homeowner
34 may satisfy the lien by paying the amount set out in the judgment
35 together with statutory judgment interest.

700.529. [Upon proof of all the foregoing in section 700.527 by proper

2 affidavit and upon compliance with the provisions of sections 700.525 to 700.541,
3 the director of revenue shall, if requested, issue a new certificate of title to the
4 landlord.] **1. If a person abandons a manufactured home on any real
5 property owned by another who is renting such real property to the
6 owner of the manufactured home, and such abandonment is without the
7 consent of the owner of the real property, and there exists a lien
8 perfected according to sections 700.350 to 700.380 on the manufactured
9 home which is in default, the owner of the real property shall have a
10 lien for unpaid rental against the manufactured home upon compliance
11 with the provisions of this section by giving notice to the manufactured
12 homeowner and any party with a perfected lien in the abandoned home
13 by certified mail, postage prepaid and return receipt requested. The
14 notice shall contain the following:**

15 **(1) The name, address, and telephone number of the real
16 property owner;**

17 **(2) The name and last known address of the owner of the
18 manufactured home;**

19 **(3) The make, year, and serial number of the manufactured home;**

20 **(4) That the manufactured home is abandoned as provided in
21 section 700.526 and by applicable rule of the director;**

22 **(5) That the manufactured home is located on real estate owned
23 by the real property owner;**

24 **(6) That the home is located on the real estate by reason of a
25 valid rental agreement signed by the homeowner;**

26 **(7) That the homeowner is in default of the rental agreement;**

27 **(8) The amount of past-due rent and the monthly rate at which
28 future rent will accrue under the rental agreement;**

29 **(9) That the homeowner has not paid or made arrangements for
30 the payment of the rent;**

31 **(10) That the real property owner claims a lien for such rental;**

32 **(11) That the owner of the manufactured home may redeem the
33 home at any time during business hours by paying all unpaid rent
34 accrued under the terms of the rental agreement through the date of
35 removal of the home from the real property owner's premises and the
36 perfected lienholder may redeem the abandoned manufactured home
37 at any time during business hours by paying all rent specified in the
38 rental agreement which accrues during the period beginning thirty**

39 days after this notice has been mailed to the perfected lienholder and
40 continuing to the date the home is removed from real property owner's
41 premises;

42 (12) That the manufactured homeowner and the perfected
43 lienholder shall each have the right to contest the real property
44 owner's lien by filing, within ten days of the date of mailing the notice
45 required by this section, a petition in the associate circuit division of
46 the circuit court of the county in which the manufactured home is
47 located;

48 (13) That if the rent due remains unpaid thirty days from the
49 date mailing of the notice and within ten days of mailing of the notice
50 the petition referred to in subdivision (12) of this subsection is not filed
51 to contest the lien, the real property owner shall have a lien against the
52 manufactured home which shall be superior to the perfected
53 lienholder's lien and the amount of the lien shall continue to accrue
54 monthly until the home is removed from real property owner's
55 premises.

56 2. The real property owner's lien and the sum which the
57 homeowner shall be obligated to pay to satisfy the lien shall be the
58 unpaid rent accrued under the terms of the rental agreement through
59 the date the home is removed from real property owner's premises and
60 the real property owner's lien and the sum which the perfected
61 lienholder shall be obligated to pay to satisfy the lien shall be the
62 unpaid rental specified in the rental agreement which accrues during
63 the period beginning thirty days after the notice specified in this
64 section has been mailed to the lienholder and continuing to the date
65 the home is removed from real property owner's premises. If an
66 injunction or stay order issued by any court of competent jurisdiction
67 prohibits the lienholder from removing the home, the lienholder's
68 obligation to pay the rent shall abate until the date the injunction or
69 stay order is lifted.

70 3. The owner of the manufactured home shall not have the right
71 to remove the home from the real property owner's property until such
72 time as all rent provided for in the rental agreement is paid and the
73 perfected lienholder shall not have the right to remove the home until
74 such time as the lienholder has paid all rent it is obligated to pay to the
75 real property owner under the provisions of this section.

76 4. Until a perfected lienholder has paid all rent it is obligated to
77 pay to the real property owner accrued in the real property owner's
78 favor under the provisions of this section, the director shall not issue
79 a certificate of title or repossession title to the manufactured home to
80 the perfected lienholder.

81 5. The owner of the abandoned manufactured home or the
82 perfected lienholder, within ten days of mailing of the notice specified
83 in subsection 1 of this section, may file a petition in the associate
84 circuit division of the circuit court of the county in which the
85 abandoned manufactured home is located to contest the real property
86 owner's lien. If the court determines the homeowner or the perfected
87 lienholder owe unpaid rent, the court shall declare a lien in real
88 property owner's favor and shall separately state the amount of the
89 homeowner or the perfected lienholder's obligation to the date of the
90 judgment. The homeowner and the perfected lienholder may satisfy the
91 lien by paying the amount set out in the judgment of the court.

 [700.525. As used in sections 700.525 to 700.541, the
2 following terms mean:

3 (1) "Abandoned", a physical absence from the property, and
4 either:

5 (a) Failure by a renter of real property to pay any required
6 rent for fifteen consecutive days, along with the discontinuation of
7 utility service to the rented property for such period; or

8 (b) Indication of or notice of abandonment of real property
9 rented from a landlord;

10 (2) "Manufactured home", a factory-built structure as
11 defined in subdivision (6) or (8) of section 700.010.]

 [700.530. The provisions of sections 700.525 to 700.539
2 shall not affect the right of a secured party to take possession of,
3 and title to, a manufactured home pursuant to section 400.9-503,
4 RSMo, section 700.386 or otherwise as allowed by contract or law.]

 [700.531. The director of revenue shall notify the owner of
2 record of the manufactured home and any holder of a security
3 interest in the manufactured home of its status of abandonment,
4 the name and business address of the landlord seeking possession
5 of the manufactured home, and the right of the landlord to seek

6 title to the manufactured home pursuant to sections 700.525 to
7 700.541 if such manufactured home remains abandoned or if the
8 owner of record of the manufactured home and any holder of a
9 security interest in the manufactured home does not respond to the
10 notice. The notice shall be given within fifteen working days of the
11 receipt of the application of the landlord pursuant to subsection 2
12 of section 700.527.]

[700.533. The owner of such manufactured home or the
2 holder of a valid security interest therein which is in default may
3 claim title to it from the landlord seeking possession of the
4 manufactured home upon proof of ownership or valid security
5 interest which is in default and payment of all reasonable rents
6 due and owing to the landlord.]

[700.535. If the manufactured home is titled in Missouri,
2 the valid owner of the manufactured home or the holder of a valid
3 security interest therein may voluntarily relinquish any claim to
4 the manufactured home by affirmatively declaring such
5 relinquishment or by failing to respond to the notice required by
6 section 700.531 within thirty days of the mailing or delivery of such
7 notice by the director of revenue.]

[700.537. The lienholder of an abandoned manufactured
2 home may repossess an abandoned manufactured home by
3 notifying by registered mail, postage prepaid, the owner if known,
4 and any lienholders of record, at their last known addresses, that
5 application for a certificate of title will be made unless the owner
6 or lienholder of record makes satisfactory arrangements with the
7 owner of real property upon which such abandoned manufactured
8 home is situated within thirty days of the mailing of the
9 notice. This notice shall be supplied by the use of a form designed
10 and provided by the director of revenue.]

[700.539. 1. Within thirty days after the notification form
2 required by section 700.537 has been mailed, and the owner or
3 lienholder has made satisfactory arrangements with the owner of
4 real property, the lienholder who sent notification pursuant to
5 sections 700.525 to 700.541 may apply to the director of revenue for
6 a certificate of title. The application shall be accompanied by:

7 (1) An affidavit of the lienholder that he is in compliance
8 with all requirements of sections 700.525 to 700.541;

9 (2) A copy of the receipt indicating that the owner or
10 lienholder of record has received the notice required by sections
11 700.525 to 700.541;

12 (3) A fee as required by the director of revenue by rule.

13 2. Upon proof of the foregoing by proper affidavit and upon
14 compliance with all requirements of sections 700.525 to 700.541,
15 the director of revenue shall, if requested, issue a new certificate
16 of title to the lienholder in possession within fifteen working days
17 after request.]

✓

Bill

Copy