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## North Carolina: Evolving Title Curative Legislation

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If you mention the number .410 to a hunter, memories of their first shotgun and firearms safety courses come to mind. It's only fitting that House Bill 410 is North Carolina's shotgun approach to solving manufactured home title issues, a field that's been largely untouched since 2002. However, opinions differ as to whether the legislature hit its target or if they need to reload and re-aim.

The manufactured housing statutes enacted in 2002 provided a measure to permanently affix a home to land pursuant to N.C. Gen. Stat. § 47-20.6 and N.C. Gen. Stat. § 47-20.7. They allow the owner of both the home and land to file a document with the register of deeds that permanently affixed the home to the land on recordation.

However, if you flushed out a certificate of title during your title hunt, you faced two unpalatable options for resolution, the first of which involved stalking the cooperation of the listed parties. Filing a civil suit also got the job done but, like a fox hunt, it expended a great amount of time and energy. Filing repossession affidavits under the UCC remained a viable option in certain cases, but its season was short and it gave rise to poachers who filed such repossession forms far beyond their intended scope.

Enter House Bill 410, which alters the provisions of N.C. Gen. Stat. § 20-109.2. Section (a)(1) is a new part of this law, which allows an owner of real property to file an affidavit with the North Carolina Division of Motor Vehicles to cancel a manufactured home title. Under this section, it is assumed that the title is surrendered when it cannot be located, so the affiant does not have to be the listed owner on the certificate of title, but must submit a copy of the tax card confirming the home is taxed as real property in lieu of the title.

At first blush, this appears to be a magic bullet, but the gun jams under section (b)(3), which if read literally still requires the affiant to assert he owns both the land and the manufactured home. Others reach an opinion that the wording of section (b)(3) is a typographical error, and that the statute is a dog that will hunt as drafted.

One thing is clear — any lienholder must release its interest prior to cancellation, meaning that the old cancellation methods apply if you encounter a stubborn or dissolute lienholder. Calling your title insurance carrier before canceling a certificate of title under this provision is wise, and should keep you from shooting yourself in the foot.

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