Minnesota Mobile Homes / Manufactured Homes

Security Interests

Real Property

If an owner of a Minnesota Manufactured Home (hereinafter, a “Home”), which has been affixed to real estate wants to sell the home to a purchaser and provide seller financing for the transaction - the primary documents required would be either:

- a contract-for-deed,
  or
- a promissory note, together with a mortgage,

depending on the agreement of the parties.

Personal Property

However, if an owner of a Minnesota Manufactured Home which has not been affixed to real estate wants to sell the home to a purchaser and provide seller financing for the transaction - the primary documents required would include:

- a promissory note or contract of sale,
  and
- a security agreement - which would create a security interest in the Home in favor of the seller.

Security Agreements

The term security agreement is defined by Minnesota Statutes, Section 168A.01, Subd. 19 - effective July 1, 2013 - as follows:

"Security agreement" means a security agreement as defined in section 336.9-102(a)(74).

The term security agreement is also defined by Minnesota Statutes, Section 336.9-102(a)(74), as follows:

"Security agreement" means an agreement that creates or provides for a security interest.

Applicable statutes of fraud may require that any such security agreement be in writing.
In any event, space is provided on the title certificate for **identification of the date of any security agreement**, which may be necessary when the security interest created by the security agreement is released.

**Security Interests**

The term **security interest** is defined by Minnesota Statutes, Section 168A.01, Subd. 20 - effective July 1, 2013 - as follows:

"Security interest" means a security interest as defined in section 336.1-201(b)(35).

A security interest is "perfected" when it is valid against third parties generally, subject only to specific statutory exception.

Minnesota Statutes, Chapter 336 is the Uniform Commercial Code, as adopted in Minnesota.

The term **security interest** is also defined by Minnesota Statutes, Section 336.1-201(b)(35), which provides in part as follows:

"Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation.

"Security interest" includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to article 9.

Except as otherwise provided in section 336.2-505, the right of a seller or lessor of goods under article 2 or 2A to retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also acquire a "security interest" by complying with article 9.

The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under section 336.2-401 is limited in effect to a reservation of a "security interest."

Whether a transaction in the form of a lease creates a "security interest" is determined pursuant to section 336.1-203.

As can be seen, the definitions of **security agreements**, and **security interests**, are technical and interrelated, and the preparation of a security agreement is best left to legal counsel.

**Creation of a Security Interest**

If an owner creates a security interest in a Minnesota Manufactured Home in favor of a third party lender independent of any sale of the Home, the owner shall immediately execute an
application for a new certificate of title, which will identify the secured party’s name and address.

**Security Interest in Favor of a 3rd Party Lender**

If the secured party is someone other than the owner of the Home, then:
- the current certificate of title,
- the application for a new certificate of title,
- and
- any required fees or taxes,

must be delivered to the secured party, who shall immediately cause such documents and fees to be delivered to the Department of Public Safety - Driver and Vehicles Services Division.

Upon receipt of such documents, required fees, and taxes, the Department of Public Safety - Driver and Vehicles Services Division will:
- **issue a new certificate of title**, identifying the name and address of both the owner, and the secured party,
- mail or deliver the new certificate of title to the owner,
- and
- notify the secured party that the security interest has been filed.

**Security Interest in Favor of the Seller**

If the secured party is also the current owner of the Home who is selling it to a buyer and providing seller financing for the transaction, then:
- the current certificate of title,
- the application for new certificate of title,
- and
- any required fees or taxes,

must be delivered to the Department of Public Safety - Driver and Vehicles Services Division.

Upon receipt of such documents, required fees, and taxes, the Department of Public Safety - Driver and Vehicles Services Division will:
- **issue a new certificate of title**, identifying the name and address of the secured party (seller),
- mail or deliver the new certificate of title to the new owner (purchaser),
- and
notify the former owner - now a secured party - that the security interest has been filed.

Assignment of a Security Interest

If a secured party desires to transfer its security interest in a Home to a third party, it may do so without affecting either:

- the interest of the owner in the Home,
- or
- the validity of the security interest in the Home,

However:

- any person without notice of the assignment may still deal with the secured party of record as the holder of the security interest,
  and
- the secured party of record will remain liable for any obligations as a secured party until the assignee of the security interest is identified as a secured party on the certificate.

Issuance of a New Certificate of Title

To “perfect” the assignment of a security interest, the assignee of the security interest may, but is not required to, have a new certificate of title issued by the Department of Public Safety - Driver and Vehicles Services Division, identifying the assignee as a secured party in the Home, by delivering:

- the certificate of title,
  and
- an assignment of a security interest by the secured party named in the certificate to the Assignee,

together with the required assignment fee, to the Department of Public Safety - Driver and Vehicles Services Division.

This means that as between:

- the original secured party and the Assignee of the security interest,
- the assignment may be effective, even if the Assignee is not identified on the title certificate.

However, until the security interest of the Assignee is identified on the title certificate, the Assignee of the security interest may be at risk of losing the protection of the collateral upon the sale of the Home.
Satisfaction of a Security Interest

Upon satisfaction of a security interest in a Minnesota Manufactured Home for which the certificate of title is in the possession of the owner, the secured party shall within 15 days, execute a release of a security interest in the manner required by the Department of Public Safety - Driver and Vehicles Services Division, and mail or deliver the release to:

- the owner,
  or
- any person who delivers to the secured party an authorization from the owner to receive the release.

The owner may then:

- file the release with the Department of Public Safety - Driver and Vehicles Services Division,
  and
- receive a new certificate of title identifying ownership in the Home free of the security interest.

The secured party may notify the registrar of the satisfaction of lien in a manner prescribed by the Department of Public Safety - Driver and Vehicles Services Division.

Conclusion

Please contact Minnesota Attorney Gary C. Dahle for assistance with:

- the preparation of any Minnesota Manufactured Home resale purchase agreement or lease,
- issues relating to seller financing of a Home resale,
  or
- other title or security interest concerns.

If you have an e-mail account, and a good Internet connection, Attorney Gary C. Dahle can assist you in any Minnesota County.

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Gary C. Dahle
Attorney at Law
2704 County Road 10
Mounds View, MN 55112
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