



Manufacturing Solutions

There are no quick fixes, but there are mobile home title curative efforts in Alabama.

By Jeff Underwood

THE MANUFACTURED HOME is called many names: mobile home, trailer, wobbly box, tornado magnet. In the REO industry, many of us would preface those words with a description of the “four letter” variety. One of the biggest title hurdles that a settlement agent faces is dealing with the mobile home certificate of title dilemma. Where did it go? Alabama is ranked as the fourth-largest state in the nation in terms of

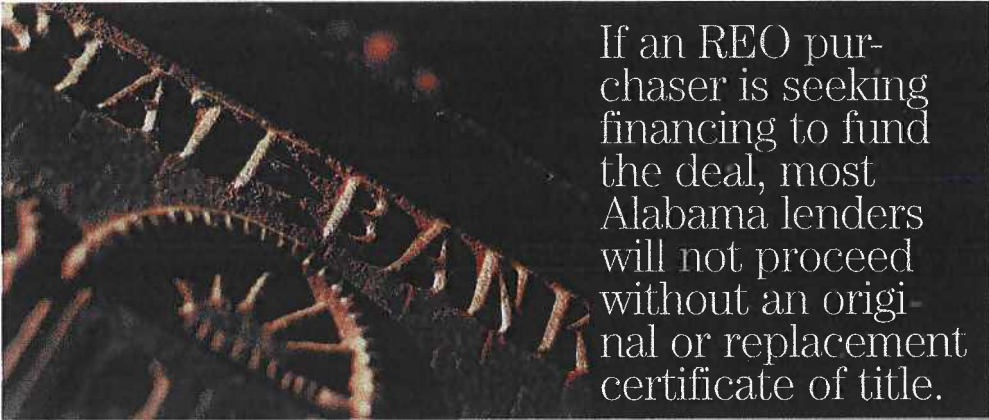
mobile homes as a percentage of all housing (*Birmingham News*, August 18, 2002). In 1990, there were 224,307 mobile homes in Alabama, according to that year's census figures. According to the 2000 census, there were 319,212 mobile homes in the state, or 16.3 percent of all housing units in Alabama were manufactured homes.

Generally speaking, national lenders do not have the original certificate of title to the mobile home when it comes time to close escrow. Sometime between

was manufactured in 1990 or thereafter, a certificate of title similar to that issued for an automobile would be issued from the Alabama Department of Motor Vehicles. The certificate of title would reflect the year, make, model and VIN (serial) number of that particular mobile home. If the mobile home was a double-wide, there would be two certificates of title, one for each side. The certificate of title would further show the current owner and the lienholder of record. The lienholder would hold the

whether the REO purchase is a cash deal or if there is financing involved. If the REO purchaser will accept a quit claim bill of sale in lieu of the certificate of title, the closing can proceed according to the original terms of the real estate contract. The quit claim bill of sale is usually executed by the seller without warranty as to whether any other party may have an outstanding interest in the mobile home. The quit claim bill of sale simply conveys the seller's interest in the mobile home only.

If, however, the REO purchaser is seeking financing to fund the deal, most Alabama lenders will not proceed without an original or replacement certificate of title. In that case, the settlement agent would generally run the VIN (serial) number with the Alabama Department of Motor Vehicles (DMV) to determine who the last known owner of record and last known lienholder. Hopefully,



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the time that the foreclosed mortgage was originated and the point of the REO referral, the certificate of title was lost or misplaced. Many times the client is forced to sell the REO property for land value as a result. This is not a problem unique to Alabama; the problem is systemic with all lenders dealing in REO properties throughout the United States.

UCC VS. TITLE STATE

Prior to 1990, Alabama was commonly referred to as a "UCC state," meaning that for lenders to properly perfect their security interest in a manufactured house, they would record a UCC fixture financing statement in the county probate records where the mobile home was situated. The UCC remained in effect for 20 years, or until it was properly terminated by recording a UCC-3 termination statement. In 1990, the Alabama legislature passed a law that changed Alabama to a "title state."

For any manufactured house that

certificate of title in trust until that debt was properly satisfied.

Unfortunately, the certificate quite often is lost at the time of the sale of the loan on the secondary market, or the original lender is never provided with the certificate of title due to the paperwork not being properly completed by the mobile home dealer and/or settlement agent. An analysis of the loan origination file when the property comes under contract reflects there is little, if any, post-closing effort made to secure this documentation.

NO CERTIFICATE OF TITLE: WHAT NEXT?

Upon being notified by the client that there is a mobile home situated on the property, the settlement agent must analyze the totality of the circumstances. If the client confirms that he does not have the certificate of title, which is the case in a vast majority of these situations, the REO settlement agent determines

both match the foreclosed debtor and the originating lender of the mortgage being foreclosed. If so, an application to the DMV for a replacement title can be made on behalf of the lender. This certificate of title will clearly show that it is a replacement title and is subject to any original certificate of title that is located at a later date. Upon receipt of the replacement title, most lenders will proceed with closing. It should be noted that the time frame for securing a replacement title is prohibitive. In most cases, it takes approximately two to three months to secure a replacement title.

If the DMV records correctly reflect that the last known owner of record matches the foreclosed debtor, but the last known lienholder does not match the originating lender or any of the assigned lenders in the chain of title, then the REO settlement agent must secure a "no interest" letter from that lender showing that their debt has been satisfied. Many times this lender can

provide further information about the current whereabouts of the missing certificate of title. Upon receipt of the "no interest" letter, an application for replacement title can also be made to the DMV. In the case where neither the last known owner matches the foreclosed debtor, nor the last known lienholder matches the originating lender, the client must show through other documentation that he has an interest in the mobile home. Otherwise, an application for replacement title cannot be made in good faith. In some cases, a lender may be able to file a replevin lawsuit to obtain title, but this litigation can take six to nine months or longer if contested, and could be rather costly.


TITLE INSURANCE

As part of the mobile home title curative analysis, settlement agents should request a copy of the prior loan title policy that was issued in connection with the origination of the foreclosed mortgage. A review of this policy will reflect wheth-

er an ALTA-7 manufactured housing endorsement was issued in connection with the loan policy. If so, the settlement agent can approach that title insurer about reinsuring the REO transaction, and issuing an ALTA-7 for the benefit of both the purchaser and lender. Most title insurers will issue an ALTA-7 for the benefit of a lender as a matter of course. Some title insurers have much more stringent requirements before issuing an ALTA-7 to a REO purchaser.

The purpose of obtaining the ALTA-7 manufactured housing endorsement for the title policy is that the manufactured house can then be treated as part of the land. Under Alabama law, a mobile home is treated as personal property because it is movable and not properly affixed to the real estate, and because the Certificate of Title is evidence of title to personal property under Alabama law. For the purposes of title insurance, the ALTA-7 endorsement treats the mobile home as affixed and part of the real estate so that it can be

treated as real property. Issues pertaining to the manufactured house would be covered subject to the limitations of the coverage of the title policy and both the owner and lender would have certain assurances to clear title for both land and mobile home.

As mentioned earlier, the percentage of mobile homes as to total housing seems to be growing exponentially from decade to decade. As a result, mobile home title issues will only increase over time. There are no quick fixes, but through a thorough analysis and a little elbow grease, most REO properties with mobile homes can be properly disposed of given an abundance of patience by all parties. 

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