

H.757 Updates Made in Draft No. 3.1 – H.757 (CTW/JLG – 9:19 PM) & Implications

2601 - Permanently Sited Definition

Update Made:

- Changed wording From:
 - “Factors that tend to show a MH is permanently sited:”
- To:
 - “Factors that tend to show a MH is permanently sited include one or more of the following:”

Implications:

Provides Clarity

- Makes clear that not all factors must be met; any one or more may indicate the home is permanently sited.
- Ensures lenders correctly identify when a manufactured home qualifies as real estate.

Why the Clarification Matters

- **TILA-RESPA Disclosures (The Loan Estimate and Closing Disclosure)**
 - The TILA-RESPA Rule does not apply to *chattel-dwelling loans or personal property loans* (e.g., a manufactured home not attached to real property).
 - While there are exceptions to when the TILA-RESPA Rule applies, lenders typically use the Loan Estimate and Closing Disclosure for most (if not all) mortgage transactions.
 - We aimed to provide TILA-RESPA disclosures on all loan programs, including for manufactured homes in a park or cooperative, because:
 - We believe the Loan Estimate and Closing Disclosure are most appropriate for the mortgage terms we offer
 - Our Mortgage Loan Origination Software no longer reliably supports the outdated Good Faith Estimate, Truth-in-Lending Disclosure, or HUD-1 Settlement Statement (the disclosures used before the TILA-RESPA Rule went into effect on October 1, 2015)
 - Staff are not trained on the older disclosure forms
 - We believe a consistent disclosure process for all mortgage programs we offer is most efficient
- **Mortgage Deed as a Security Instrument**

- We aimed to use a Mortgage Deed as a Security Instrument instead of a Consumer Loan Security Agreement at closing because:
 - Our Mortgage Loan Origination Software doesn't support completion of this document

2604 – Real Estate Deeds For Mobile Homes

Updates Made:

- Removed requirement for the use of a Warranty Deed for conveyance, to finance the property as real estate
- Allowed lenders to accept a Bill of Sale (instead of a Warranty Deed) and still be able to finance the property as real estate
- If there comes a time where loans for manufactured homes in parks/cooperatives can be sold to the secondary market, the lender could require a Warranty Deed for those transactions
- Made use of the “Form for Mobile Home Warranty Deed” optional, when conveying the property via Warranty Deed
- Removed the requirement to obtain landowner consent for conveyance of the manufactured home

Implications:

- Sellers often provide a Bill of Sale with the purchase and sale agreement, but per Vermont statute, we must require a Warranty Deed because we handle these transactions as real estate.
- In some cases, the loan closed incorrectly using a Bill of Sale (instead of a Warranty Deed), requiring the seller's attorney to correct the conveyance post-closing, coordinated with the buyer's attorney, seller, and seller's attorney.
- There is a lack of awareness to use the “Real Estate Deeds For Mobile Homes” version (vs. the standard Warranty Deed used for all real estate transactions)
- Obtaining landowner consent can delay mortgage closings
- The buyer/homeowner has “consent” from the landowner when a lease is signed
- The lender typically obtains landowner consent on their park approval form obtained prior to closing

2605 – Mobile Home Bill of Sale Conversion Process

Update Made:

- Removal of the requirement to convert a Bill of Sale to a Warranty Deed

Implications:

- There is a general lack of awareness of this requirement amongst attorneys, town clerks and other stakeholders
- We aren't sure the reason for the requirement. For instance, a recorded Mortgage Deed isn't required to be "purged". The Deed is discharged once the lien is paid off.
- If the owner acquired the manufactured home by virtue of a bill of sale, they should still be able to get a mortgage loan without the extra expense of having to deed the home to themselves- removing this requirement removes this added expense and step
- Once a Bill of Sale is converted to a Warranty Deed, it cannot be converted back to a Bill of Sale

Conforming Revisions

- Replace references to "mobile home" with "manufactured home"
- Definitions:
 - **Mobile Home:** A prefabricated, factory-built home, on a permanent chassis, built before June 15th, 1976
 - **Manufactured Home:** A prefabricated, factory-built home, on a permanent chassis, built after June 15th, 1976. And therefore, constructed according to HUD Code.
- Most lenders do not finance "mobile homes".