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MEMORANDUM

TO: ELEVENTH ANNUAL REAL ESTATE SYMPOSIUM ATTENDEES
FROM: E. DALE WILSON, ESQ.
RE: MOBILE HOME OWNERSHIP; 2003 PUBLIC ACT 44
DATE: May 4, 2004

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The attached bill, enacted as 2003 Public Act 44 1987, amends, Public Act 96, (MCL §§125.2301 - 125.2349) and deals with title to and security interests in mobile homes in the State of Michigan.

Section 30i is added to this Act to simplify the process of securing an interest in a mobile home and the real property on which it is located.

A mobile home is deemed to be "affixed" to real property if it meets the following criteria:

- (a) The wheels, towing hitches and running gear are removed; and
- (b) It is attached to a foundation or another support system.

This Section of the Act states that if a mobile home is affixed to real property of which the owner of the mobile home also owns the real estate, the owner may combine the interest by delivering to the applicable state of Michigan department, an affidavit of affixture and a form provided by the applicable department that contains certain information set forth within the act, including the name and address of the owner, the

description of the mobile home, a statement that the mobile home is affixed to the real property, the legal description of the real property and the name of each holder to a security interest in the mobile home, along with the written consent of each holder to the termination of the security interest in the cancellation of the certificate of title, if applicable.

When the department receives that affidavit and the current certificate of title as required in the Act, the department will cancel the current certificate of title and the mobile home and property will be deemed to have merged and the mobile home will be considered affixed to the real estate. At that time, the owner of the mobile home must deliver a duplicate original of the affidavit to the register of deeds for the county in which the real property is located for recording. Once the affidavit is submitted both to the State of Michigan and to the county register of deeds, the certificate of title is terminated and any lien holder must perfect and enforce a new security interest or lien in the manner provided by law for perfecting and enforcing a lien on real property and the owner may convey the mobile home only as a part of the real property to which it is affixed.

If an owner of both the mobile home and the real property, after merger as set forth above, intends to detach the mobile home from the real property the owner shall do the following;

- (a) Before detaching the mobile home, record an affidavit of detachment in the office of the register of deeds in the county in which the affidavit is recorded; and
- (b) Apply for a certificate of title for the mobile home on a form prescribed by the applicable department.

The Legislature stated that "It is the intent of this Legislature that a security interest or lien on a mobile home affixed to real property may be perfected in the manner provided under law for perfecting a lien on real property, and not exclusively by a notation of the security interest or lien on the certificate of title." The underlying benefit of this Act will be to allow the borrowing against, and to make lending for mobile homes, much simpler and cost effective and the recording of security interests thereon will be simplified and be dealt with in the same manner as any other form of real property and improvements affixed thereto.

If you have any questions or comments regarding this, please contact me at (248) 359-6326 or at edw@maddinhauser.com.