

1 H.564

2 Introduced by Representatives Botzow of Pownal, Bouchard of Colchester,
3 Moran of Wardsboro, O'Sullivan of Burlington, Smith of New
4 Haven and Stevens of Waterbury

5 Referred to Committee on

6 Date:

7 Subject: Commerce and trade; mobile homes; abandonment; sale and transfer

8 Statement of purpose: This bill proposes to create a process to expedite the
9 removal of abandoned mobile homes.

10 An act relating to removing abandoned mobile homes

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 9 V.S.A. § 2608 is added to read:

13 § 2608. MUNICIPAL ACTION FOR SALE OF ABANDONED MOBILE

14 HOME

15 (a) In the alternative to the process for foreclosure of a tax lien on a mobile
16 home pursuant to 32 V.S.A. chapter 133, a municipality shall have the
17 authority to commence an action to sell at public auction an abandoned mobile
18 home located within the municipality pursuant to this section.

19 (b) A municipality shall file a verified complaint in the civil division of the
20 superior court for the county in which the municipality is located, which shall

1 be entitled “In re: Abandoned Mobile Home of [name of owner],” and shall
2 include the following information:

3 (1) The physical location and address of the mobile home.

4 (2) The name and last known mailing address of the owner of the mobile
5 home.

6 (3) A description of the mobile home, including make, model, and serial
7 number, if available.

8 (4) The names and addresses of creditors, holders of housing subsidy
9 covenants, or others having an interest in the mobile home based on liens or
10 notices of record in the municipality offices or the office of the secretary of
11 state.

12 (5) The facts supporting the claim that the mobile home has been
13 abandoned.

14 (6) The name of a person disinterested in the mobile home or of a
15 municipality employee who will be responsible for the sale of the mobile home
16 at a public auction.

17 (7) A statement of the amount of taxes, fees, and other charges due or
18 which will become due to the municipality.

19 (c) When a verified complaint is filed under this section, the clerk of the
20 civil division of the superior court shall set a hearing to be held at least 30 days
21 but no later than 45 days after the filing of the complaint.

1 (d) Within 10 days after filing the verified complaint, the municipality shall
2 post a copy of the verified complaint and order for hearing on the mobile home
3 and send a copy of the verified complaint and order for hearing by certified
4 mail, return receipt requested, to the mobile home owner's last known mailing
5 address and to all lien holders of record.

6 (e) The municipality shall publish the verified complaint and order for
7 hearing in a newspaper of general circulation in the municipality where the
8 mobile home is located. The notice shall be published twice, at least ten days
9 apart, with the second notice to be published no later than five calendar days
10 before the date of hearing.

11 (f) If prior to or at the hearing any lien holder certifies to the court that the
12 lien holder has paid to the municipality all taxes, charges, and fees due the
13 municipality and will commence or has commenced proceedings to enforce the
14 lien and will continue to pay municipal taxes, charges, and fees during the
15 proceedings under this section, the court shall, upon confirmation of the
16 representations of the lien holder, stay the action under this section pending
17 completion of the lien holder's action.

18 (g) At the hearing, the municipality shall prove ownership of the mobile
19 home; abandonment of the mobile home; the amount of taxes, fees, and other
20 charges due the municipality; and the amount of attorney fees claimed. The
21 municipality shall also prove compliance with the notice requirements of

1 subsections (d) and (e) of this section. Whether a mobile home is abandoned
2 shall be a question of fact determined by the court.

3 (h) If the court finds that the municipality has complied with subsection (g)
4 of this section, the court shall enter an order approving the sale of the mobile
5 home at a public auction to be held within 30 days of the date of the order.
6 The municipality shall send the order by first class mail to the mobile home
7 owner and all lien holders of record. The order shall require all the following:

8 (1) That the sale shall be conducted by the person identified in the
9 verified complaint or some other person approved by the court.

10 (2) That notice of the sale shall be published in a newspaper of general
11 circulation in the municipality where the mobile home is located and sent by
12 first class mail to the mobile home owner and all lien holders of record. The
13 notice of sale shall be published three times, at least five days apart with the
14 last publication being no later than five calendar days before the date of sale.

15 (3) That the terms of sale provide for conveyance of the mobile home by
16 real estate deed or by uniform mobile home bill of sale, as appropriate under
17 this chapter, executed on behalf of the mobile home owner pursuant to the
18 order of the court by the person authorized by the court, in “as is” condition,
19 and free and clear of all liens and other encumbrances of record.

20 (4) A minimum bid established by the court sufficient to cover the total
21 costs listed in subdivisions (7)(A)–(C) of this subsection. The mobile home

1 shall be sold to the highest bidder over the minimum bid set by the court;
2 provided, however, that if no bid meets or exceeds the minimum bid set by the
3 court, the court shall order transfer of the mobile home to the municipality
4 upon payment of costs due to the person who conducted the sale.

5 (5) The successful bidder, if other than the municipality:

6 (A) shall make full payment at the auction if the bid does not exceed
7 \$2,000.00; or

8 (B) if the bid exceeds \$2,000.00, shall provide a nonrefundable
9 deposit at the time of the auction of at least \$2,000.00 or 25 percent of the bid,
10 whichever is greater, and shall make full payment within three working days
11 after the auction.

12 (6) A successful bidder, if other than the municipality, shall remove the
13 mobile home from the municipality within five working days after the auction
14 unless the municipality permits the mobile home to remain on the site or
15 permits removal of the mobile home at a later date.

16 (7) The person who conducted the public sale shall report to the court
17 the results of the sale, the proposed distribution of the proceeds of the sale, and
18 the bank in which any excess proceeds are deposited and shall send a copy of
19 the report to the mobile home owner, the municipality, and all lien holders of
20 record by certified mail, return receipt requested, within three working days
21 after the sale. Anyone claiming impropriety in the conduct of the sale may file

1 an objection with the court within 12 days after the sale. The filing of an
2 objection shall not invalidate the sale or delay transfer of ownership of the
3 abandoned mobile home. If an objection is filed and if the court finds
4 impropriety in the conduct of the sale, the court may order distribution of the
5 proceeds of the sale as is fair, taking into account the impropriety. If no
6 objection is filed with the court, on the 15th day after the sale, the proceeds
7 shall be distributed as follows:

8 (A) To the person conducting the sale for costs of the sale.

9 (B) To the municipality for court costs, publication and mailing costs,
10 and attorney fees incurred in connection with the action in an amount approved
11 by the court.

12 (C) To the municipality for taxes, penalties, and interest owed in an
13 amount approved by the court.

14 (D) The balance to a bank account in the name of the mobile home
15 municipality as trustee, for the benefit of the mobile home owner and lien
16 holders of record, to be distributed pursuant to further order of the court.

17 (i) Notwithstanding provisions of this section and 10 V.S.A. § 6249 (sale of
18 abandoned mobile home by park owner) to the contrary, if an action is
19 commenced by a municipality pursuant to this section and by a mobile home
20 park owner pursuant to 10 V.S.A. § 6249 for the sale of the same abandoned

1 mobile home within 30 days of one another, the court shall consolidate the
2 cases and shall distribute the proceeds of a sale as follows:

3 (1) To the person conducting the sale for costs of the sale.

4 (2) To the municipality and the park owner equitably in the discretion of
5 the court:

6 (A) for court costs, publication and mailing costs, and attorney fees
7 incurred in connection with the action in an amount approved by the court;

8 (B) for taxes, penalties, and interest owed the municipality in an
9 amount approved by the court; and

10 (C) for rent and other charges owed to the park owner in an amount
11 approved by the court.

12 (3) The balance to a bank account in the name of the mobile home
13 municipality as trustee for the benefit of the mobile home owner and lien
14 holders of record, to be distributed pursuant to further order of the court.

15 Sec. 2. 9 V.S.A. § 2609 is added to read:

16 § 2609. MUNICIPAL ACTION FOR TRANSFER OF UNINHABITABLE

17 MOBILE HOME

18 (a) In the alternative to the process for foreclosure of a tax lien on a mobile
19 home pursuant to 32 V.S.A. chapter 133 and to the process for public sale of
20 an abandoned mobile home pursuant to section 2608 of this title, a
21 municipality shall have the authority to request an order approving transfer of a

1 mobile home which is unfit for human habitation to the municipality without a
2 public sale by filing a verified complaint containing the information required in
3 § 2608(b)(1)–(4) of this title and the facts supporting the claim that the mobile
4 home is unfit for human habitation.

5 (b) When a verified complaint is filed under this section, the clerk of the
6 civil division of the superior court shall set a hearing to be held at least 30 days
7 but no later than 45 days after the filing of the complaint.

8 (c) If a municipality requests an order approving transfer to the
9 municipality of a mobile home that is unfit for human habitation, the court
10 shall approve that order if it finds that the municipality has complied with the
11 notice requirements of § 2608(d)–(e) of this title and has proved that the
12 mobile home is unfit for human habitation.

13 (d) Whether a mobile home is unfit for human habitation shall be a
14 question of fact determined by the court. In determining whether a mobile
15 home is unfit for human habitation, the court shall consider whether the mobile
16 home:

17 (1) contains functioning appliances and plumbing fixtures;

18 (2) contains safe and functioning electrical fixtures and wiring;

19 (3) contains a safe and functioning heating system;

20 (4) contains a weather-tight exterior closure;

21 (5) is structurally sound;

1 (6) is reasonably free of trash, debris, filth, and pests.

2 (e) If prior to or at the hearing any lien holder certifies to the court that the
3 lien holder has paid to the municipality all taxes, charges, and fees due the
4 municipality and will commence or has commenced proceedings to enforce the
5 lien and will continue to pay municipal taxes, charges, and fees during the
6 proceedings under this section, the court shall, upon confirmation of the
7 representations of the lien holder, stay the action under this section pending
8 completion of the lien holder's action.

9 (f) Notwithstanding provisions of this section and 10 V.S.A. § 6249 (sale
10 of abandoned mobile home by park owner) to the contrary, if an action is
11 commenced by a municipality pursuant to this section and by a mobile home
12 park owner pursuant to 10 V.S.A. § 6249 for the same mobile home within 30
13 days of one another, the court shall stay the action commenced by the
14 municipality pursuant pending final disposition of the action commenced by
15 the park owner.

16 (g) A court order issued pursuant to this section shall be effective upon
17 issuance and provide for conveyance of the mobile home to the municipality
18 by real estate deed or by uniform mobile home bill of sale, as appropriate
19 under this chapter, executed on behalf of the mobile home owner in "as is"
20 condition, free and clear of all liens and other encumbrances of record.

- 1 Sec. 3. EFFECTIVE DATE
- 2 This act shall take effect on passage.