

**IN THE MISSISSIPPI SUPREME COURT**

**DEUTSCHE BANK NATIONAL  
TRUST COMPANY, AS TRUSTEE OF  
AMERIQUEST MORTGAGE SECURITIES,  
INC. ASSET BACKED PASS THROUGH  
CERTIFICATES, SERIES 2004-R11 UNDER  
THE POOLING AND SERVICING  
AGREEMENT DATED AS OF DECEMBER  
1, 2004, WITHOUT RECOURSE**

**PLAINTIFF/APPELLANT**

**VS.**

**CAUSE NO.: 2010-CA-01794**

**WILBURN L. BRECHTEL, JR., BARBARA  
BRECHTEL, THE MISSISSIPPI STATE TAX  
COMMISSION, AND ANY AND ALL PERSONS  
HAVING AN INTEREST IN THE PROPERTY  
BEARING THE MUNICIPAL ADDRESS OF 13509  
W. ECHO DR., GULFPORT, MS**

**DEFENDANTS/APPELLEE**


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**APPEAL FROM THE CHANCERY COURT  
OF THE FIRST JUDICIAL DISTRICT OF  
HARRISON COUNTY, MISSISSIPPI  
JUDGE JIM PERSONS PRESIDING**

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**APPELLANT DEUTSCHE BANK NATIONAL TRUST COMPANY,  
AS TRUSTEE OF AMERIQUEST MORTGAGE SECURITIES, INC.  
ASSET BACKED PASS THROUGH CERTIFICATES,  
SERIES 2004-R11 UNDER THE POOLING AND SERVICING  
AGREEMENT DATED AS OF DECEMBER 1, 2004, WITHOUT RECOURSE'S  
APPELLANT'S BRIEF**

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Hon. Sean A. Southern, MSB   
Morris & Associates  
2309 Oliver Road  
Monroe, LA 71201  
Ph. 318-340-7605

**ORAL ARGUMENT NOT REQUESTED**

**IN THE MISSISSIPPI SUPREME COURT**

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**DEFENDANTS/APPELLEE**

**CERTIFICATE OF INTERESTED PARTIES**

THE UNDERSIGNED COUNSEL of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of the Supreme Court and/or the judges of the Court of Appeals may evaluate possible disqualification or recusal.

1. Deutsche Bank National Trust Company, as Trustee of Ameriquest Mortgage Securities, Inc. Asset Backed Pass Through Certificates, Series 2004-R11 Under the Pooling and Servicing Agreement dated as of December 1, 2004 Without Recourse, Appellant
2. Wilburn L. Brechtel, Jr., Appellee
3. Barbara Brechtel, Appellee
4. The Mississippi State Tax Commission, Appellee
5. Any and all Persons with an Interest in the Property Bearing the Municipal address of 13509 W. Echo Drive, Gulfport, MS
6. Hon. Jim Persons, Harrison County Chancellor ruling in the complaint filed in the Harrison County Chancery Court.

This the 28<sup>th</sup>, day of February 2011.



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Hon. Sean A. Southern. MSB 103043  
Morris & Associates  
2309 Oliver Road  
Monroe, LA 71201  
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## STATEMENT OF THE CASE

### A. Nature of the Case and Course of Proceedings and Undisputed Facts

On September 22, 1994, Wilburn L. Brechtel, Jr. and Barbara Brechtel obtained the following described property from Hazel Louise Wilson f/k/a Hazel L. Robinson and James J. Robinson via Warranty Deed:

Commence at the NW corner of the NE 1/4 of the NE 1/4, of Section 35, Township 6 South, Range 12 West, First Judicial District of Harrison County, Mississippi and thence run South 01 degrees 00 minutes East a distance of 1,379.5 feet to the Point of Beginning; thence from said Point of Beginning run South 01 degrees 00 minutes East a distance of 197 feet; thence run South 89 degrees 15 minutes East a distance of 670.5 feet; thence run North 01 degrees 00 minutes West a distance of 197 feet; thence run South 89 degrees 15 minutes East a distance of 670.5 feet to the Point of Beginning. Said property being also described as Parcel #60 as shown on survey of O'Neal and Breland, Engineers, and attached to Warranty Deed recorded in Book 823 at page 384 of the Land Records in the office of the Chancery Clerk of Harrison County, Mississippi, and containing 3.0 acres, more or less.

And, an easement for ingress and egress over and across roadways shown on survey of O'Neal and Breland, and Also, an undivided 1/240th interest in and to that certain lake constructed by Sunbelt Properties, Inc. a Mississippi Corp. as shown on survey recorded in Land Deed Book 808, page 115.

Subsequently the Brechtel's acquired a Manufactured Home more properly described as a 1999 Horton Echo Serial # H-85370GLR and placed it on the property and said Manufactured Home was properly certified as Real Estate on December 2, 1999 by the Harrison County Tax Assessor.

On November 9, 2004, Wilburn L. Brechtel, Jr. and Barbara Brechtel executed a Deed of Trust encumbering the above described real property, the beneficiary of said Deed of Trust being Ameriquist Mortgage Company. Said Deed of Trust was subsequently assigned to Plaintiff/Appellant, Deutsche Bank National Trust Company, as Trustee of Ameriquist Mortgage Securities, Inc. Asset Backed Pass Through Certificates, Series 2004-R11 under the Pooling and Servicing Agreement dated as of December 1, 2004, Without Recourse (Hereinafter "Deutsche"), on June 25, 2007.

Wilburn L. Brechtel, Jr. and Barbara Brechtel did default on the terms and conditions of said loan and on July 17, 2008 Deutsche foreclosed on the above described real property with Deutsche being the best and highest bidder at said sale.

The action which is the subject of this appeal was filed on June 7, 2010 in the Chancery Court of the First Judicial District of Harrison County. Wilburn L. Brechtel, Jr. and Barbara Brechtel were served via publication on June 25, 2010. The Defendant Any and All Persons with an interest in the property bearing the municipal address of 13509 W. Echo Drive, Gulfport, MS were served via publication on June 11, 2010.

On August 3, 2010 Docket Entries of Default were filed for Wilburn L. Brechtel, Jr., Barbara Brechtel and Any and All Persons with an interest in the property bearing the municipal address of 13509 W. Echo Drive, Gulfport, MS. The Mississippi State Tax Commission filed an Entry of Appearance in the matter.

Default Judgment was denied on September 13, 2010 based upon the Court's Interpretation of Miss. Code Ann. §27-53-15 stating that it interpreted the statute to mean that it was not mandatory for a party to obtain a security interest in a Manufactured home along with a security interest in the land but that in order to obtain that security interest the party would have to follow the statute by describing both the land and the Manufactured home in the security instrument; the Chancellor determined that since the manufactured home was not specifically included in the legal description of the subject deed of trust, it was not encompassed in the foreclosure sale and Deutsche could not obtain a certificate of title listing Deutsche as owner of said manufactured home.

**STATEMENT OF ISSUES PRESENTED**

**BY APPELLANT**

- I. THAT THE COURT ERRED IN INTERPRETING MISS. CODE ANN. § 27-53-15  
IN DENYING PLAINTIFF/APPELLANT DEFAULT JUDGMENT**



## **SUMMARY OF ARGUMENT**

The Brechtels purchased the property located at 13509 W. Echo Drive, Gulfport, MS in 1994. In 1999 they placed a Manufactured home on the property and had that Manufactured home certified as real estate by affixing it to the property and having the Harrison County Tax Assessor certify the Manufactured home as real estate and filing said certification in the land records of the Chancery Clerk of the First Judicial District of Harrison County. They then executed a subsequent Deed of Trust after the Manufactured home had been affixed to the real property and was taxed as an improvement by the Harrison County Tax Assessor. MISS. CODE ANN. §27-53-15 states in pertinent part that, “a security interest may be obtained therein through the use of a mortgage or deed of trust describing both the manufactured home or Manufactured home and the land on which the manufactured home or Manufactured home is located.” It is the position of Appellant that the Manufactured home in question became an improvement to and therefore a part of the real property once affixed to the real property and certified as real estate and further that the language contained in MISS. CODE ANN. §27-53-15 is permissive and not mandatory in nature.

## ARGUMENT

### **I. THAT THE COURT ERRED IN INTERPRETING MISS. CODE ANN. § 27-53-15 IN DENYING PLAINTIFF/APPELLANT DEFAULT JUDGMENT**

MISS. CODE ANN. §27-53-15 states in pertinent part:

“If the manufactured home or mobile home is to be classified as real property, then the wheels and axles must be removed and it must be anchored and blocked in accordance with the rules and procedures promulgated by the Commissioner of Insurance of the State of Mississippi. After the wheels and axles have been removed and the manufactured home or mobile home has been anchored and blocked in accordance with such rules and procedures, the manufactured home or mobile home shall be considered to have been affixed to a permanent foundation. The county tax assessor shall then enter the manufactured home or mobile home on the land rolls and tax it as real property on the land on which it is located from the date of registration.”

MISS. CODE ANN. §27-53-15 further states:

“If a manufactured home or mobile home is classified as real property and no certificate of title was required to be issued or issued for such property pursuant to Chapter 21, Title 63, Mississippi Code of 1972, a security interest may be obtained therein through the use of a mortgage or deed of trust describing both the manufactured home or mobile home and the land on which the manufactured home or mobile home is located.”

The statute provides for the certification of the manufactured home as real property and further provides a method by which the mortgage can, if he so wishes, obtain a further security interest in the manufactured home which has been certified as real estate. Further MISS. CODE ANN. §27-33-19, which defines home and homestead states:

“The word “home” or “homestead” whenever used in this article shall mean the dwelling, the essential outbuildings and improvements, and the eligible land assessed on the land roll actually occupied as the primary home of a family group, eligible title to which is owned by the head of the family, a bona fide resident of this state. . .”

This statute does not differentiate between a site built house or a manufactured home. It simply states that a home or homestead is any dwelling, improvements and real property which is assessed on the land roll. Once a manufactured home is assessed as real estate and placed on the land roll, the mobile home would be considered a home or homestead the same as a site built

house. Yet there is no requirement that a site built house be described in the legal description of a mortgage or deed of trust in order for the mortgagee to gain a security interest in that home.

In *Smith v. Flour Corporation and Hall v. Flour Corporation*, 514 So.2d 1227, 1230-1231 (Miss. 1987), this Court was asked to determine whether the trial court had erred in finding that a Heat Exchanger installed in a refinery was an improvement to the real property for purposes of MISS. CODE ANN. §15-1-41. Even though the record indicated that the Heat Exchanger was easily removed and was at the time of the accident complained of, not in an active state that there was no genuine issue of material fact at issue to indicate that the Heat Exchanger was not an improvement to the real property.

Surely if a Heat Exchanger installed in a refinery which is, even after installation, considered an improvement to that real property, then a properly affixed manufactured home with its wheels and axles removed and certified as real estate must be an improvement to the real property to which it is affixed. To come to any other conclusion would be illogical. And if the manufactured home is an improvement to the real property then it is a part of that real property and as such there would be no further need to describe it as it would be contained within the geographic boundaries of said property.

In *Leflore County Bank & Trust Co. v. Leflore County*, 202 Miss. 552, 558 (Miss. 1947), this Court stated, "Inasmuch, however, as the word 'may' is primarily and ordinarily a permissive term and not peremptory or mandatory, the Court must not be in any real doubt that the Legislature did intend it in the mandatory sense, else the Court would have no legitimate authority to take it out of its primary or ordinary sense."

Further in *McNeil v. Hester*, 753 So. 2d 1057, 1072 (Miss. 2000) the Court stated, "...this Court, in construing the meaning of statutes, has stated that the word 'may' is generally

considered permissive or discretionary as opposed to mandatory, unless a contrary legislative intent is evident.”

There is no indication in MISS. CODE ANN. § 27-53-15, that hints at an intent to have the word ‘may’ carry anything other than its generally accepted permissive meaning. As such it should be interpreted to mean that a lender, at its discretion, may include a description of the mobile home in the legal description on the security instrument, provided that the mobile home is certified as real property, as a means of obtaining a security interest in the mobile home.

### **CONCLUSION**


The manufactured home in question was placed on the real property in December of 1999 and certified as real estate by the Harrison County Tax Assessor as provided for by MISS. CODE ANN. § 27-53-15. It would seem illogical to require a mortgagee to list a manufactured home that has been certified as real estate on the legal description of the mortgage or deed of trust in the very same statute that authorizes the affixation of that same manufactured home to the real property and its subsequent certification as real estate in order to gain a security interest in that mobile home. Further the manufactured home in question was placed on the real property and certified as real estate almost five years prior to the deed of trust foreclosed on was executed by the borrowers. If a Heat Exchanger installed a refinery, which could be removed, is to be considered an improvement to the real property, then surely this must also be the case here as the manufactured home was affixed to the real property and taxed as an improvement to such for five years prior to the deed of trust being executed. Further the statute defining home and homestead does not differentiate between a site built house and a manufactured home which has been affixed to the real property. It simply defines home or homestead as any dwelling, improvements and real property which is assessed on the land roll. Furthermore the language relied on by the Chancery Court in denying Appellant a Default Judgment is permissive in nature

and therefore should be applied as such. Appellant would request that this Court find that the trial court erred in denying the Appellant the requested relief.

Respectfully Submitted:

Deutsche Bank National Trust Company, as Trustee  
of Ameriquest Mortgage Securities, Inc. Asset  
Backed Pass Through Certificates, Series 2004-R11  
Under the Pooling and Servicing Agreement dated  
as of December 1, 2004 Without Recourse

By: \_\_\_\_\_



Sean A. Southern, MSF [REDACTED]

Hon. Sean A. Southern  
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2309 Oliver Road  
Monroe, Louisiana 71201  
Ph. 318-340-7605

**CERTIFICATE OF SERVICE**

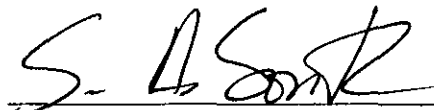
I, Sean A. Southern, do hereby certify that I have this day mailed by U.S. Mail, first class postage prepaid, a true and correct copy of the foregoing to the following:

Wilburn L. Brechtel, Jr. and  
Barbara Brechtel  
13509 W. Echo Drive  
Gulfport, MS 39503

Stephanie Rogers  
Mississippi State Tax Commission  
P.O. Box 22828  
Jackson, MS 39225

Hon. Jim Persons  
P.O. Box 457  
Gulfport, MS 39502

This the 28<sup>th</sup> day of February, 2010

A handwritten signature in black ink, appearing to read 'S. A. Southern', written over a horizontal line.

Sean A. Southern, Attorney for the Appellant





West's Annotated Mississippi Code Currentness

Title 27. Taxation and Finance

Chapter 33. Ad Valorem Taxes--Homestead Exemptions

Article 1. General Provisions

→ § 27-33-19. Definition of "home" and "homestead"

The word "home" or "homestead" whenever used in this article shall mean the dwelling, the essential outbuildings and improvements, and the eligible land assessed on the land roll actually occupied as the primary home of a family group, eligible title to which is owned by the head of the family, a bona fide resident of this state, and when the dwelling is separately assessed on the land roll for the year in which the application is made, subject to the limitations and conditions contained in this article. And the meaning of the word is hereby extended to specifically include:

(a) One or more separate, bona fide dwellings and the land on which they are located, each occupied under eligible ownership rights by the widow or the widower, or the children of a deceased parent, each separate home being property or a portion of property owned by a deceased person whose estate has not been distributed or divided or vested in a person or persons for life. But in each case the property for which exemption is sought may not be more than the applicant's inherited portion, and must be accurately described on the application and the conditions explained in writing. But the heirs may elect to accept one (1) homestead for the estate. The home occupied by the surviving spouse as provided by the laws of this state shall be preferred over the homes claimed by the children, and the exemption to any other heir shall not exceed the remaining amount obtained by deducting the assessed value of the surviving spouse's portion from the assessed value of the whole, divided by the number of heirs other than the surviving spouse. Each heir claiming exemption shall meet the requirements as to occupancy, residence and head of a family, and no part of the undivided inherited lands shall be combined with other lands and included in a homestead exemption under this article except in the case of the surviving spouse.

(b) One or more separated dwellings and eligible land, not apartments, occupied each by a family group as a bona fide home, eligible title to which entire property is held jointly by purchase or otherwise by the heads of the families, and each joint owner shall be allowed exemption on the proportion of the total assessed value of all the property, equal to his fractional interest (except as otherwise provided in paragraph (r) of this section), provided no part of the jointly owned property shall be exempted to a joint owner who has been allowed an exemption on another home in the state.

(c) A dwelling and eligible lands owned jointly or severally by a husband and wife, if they are actually and legally living together. But if husband and wife are living apart, not divorced, as provided by paragraphs (c) and (d) of Section 27-33-13, jointly owned land shall not be included except that the dwelling occupied as a home at the time of separation shall be eligible if owned jointly or severally.



(d) The dwelling and eligible land on which it is located, owned and actually occupied as a home by a minister of the gospel or by a licensed school teacher actively engaged whose duties as such require them to be away from the home for the major part of each year, including January 1, provided it was eligible before such absence, and no income is derived therefrom, and no part of the dwelling claimed as a home is rented, leased or occupied by another family group, and when the home is eligible except for the temporary absence of the owner.

(e) The dwelling and the eligible land on which it is located, consisting of not more than four (4) apartments; provided (1) if one (1) apartment is actually occupied as a home by the owner the exemption shall be limited to one-fourth (  $\frac{1}{4}$  ) the exemption granted pursuant to this article, or (2) if the dwelling and land is owned by four (4) persons and the four (4) owners each occupy one (1) apartment as a home, the exemption shall be granted equally to each owner; provided revenue is not derived from any part of the property except as permitted by paragraphs (g) and (h) of this section. If the dwelling and the eligible land on which it is located consists of not more than three (3) apartments, and one (1) apartment is actually occupied as a home by the owner, the exemption shall be limited to one-third (  $\frac{1}{3}$  ) the exemption granted pursuant to this article, or if the dwelling and land is owned by three (3) persons and the three (3) owners each occupy one (1) apartment as a home, the exemption shall be granted equally to each owner; provided revenue is not derived from any part of the property except as permitted by paragraphs (g) and (h) of this section. If the dwelling and the eligible land on which it is located consists of not more than two (2) apartments and one (1) apartment is actually occupied as a home by the owner, the exemption shall be limited to one-half (  $\frac{1}{2}$  ) the exemption granted pursuant to this article, or if the dwelling and land is owned by two (2) persons and the two (2) owners each occupy one (1) apartment as a home, the exemption shall be granted equally to each owner; provided revenue is not derived from any part of the property except as permitted by paragraphs (g) and (h) of this section.

(f) The dwelling and eligible land on which it is located, actually occupied as the bona fide home of a family group owned by the head of the family whereof five (5) and not more than six (6) rooms are rented to tenants or boarders, and where there are rented rooms and an apartment, the apartment shall be counted as three (3) rooms; provided the exemption shall be limited to one-half (  $\frac{1}{2}$  ) the exemption granted pursuant to this article.

(g) The dwelling and eligible land being the bona fide home of a family group owned by the head of the family used partly as a boarding house, or for the entertainment of paying guests, if the number of boarders or paying guests does not exceed eight (8).

(h) The dwelling and eligible land being the bona fide home of a family group owned by the head of the family wherein activity of a business nature is carried on, but where the assessed value of the property associated with the business activity is less than one-fifth (  $\frac{1}{5}$  ) of the total assessed value of the bona fide home; provided, however, that when the owner's full-time business is located in the bona fide home of the head of the family, such owner shall be limited to one-half (  $\frac{1}{2}$  ) of the exemption granted pursuant to this article.

(i) The dwelling and the eligible land on which it is located and other eligible land even though ownership of and title to the dwelling and the land on which it is located has been conveyed to a housing authority for the

purpose of obtaining the benefits of the Housing Authorities Law as authorized by Sections 43-33-1 through 43-33-53 or related laws.

(j) A dwelling and the eligible land on which it is located owned by a person who is physically or mentally unable to care for himself and confined in an institution for treatment shall be eligible notwithstanding the absence of the owner unless the home is excluded under other provisions of this article. The exemption is available for a period of ten (10) years from the day of confinement.

(k) The dwelling and the eligible land on which it is located owned by two (2) or more persons of a group, as defined in paragraph (f) of Section 27-33-13, when two (2) or more of the group have eligible title, or if the group holds a life estate, a joint estate or an estate in common; provided the title of the several owners shall be of the same class.

(l) A dwelling and the eligible land on which it is located under a lease of sixty (60) years by the Pearl River Valley Water Supply District at the reservoir known as the "Ross Barnett Reservoir" actually occupied as the home or homestead of a family or person as defined heretofore in this article. However, no such family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(m) Units of a condominium constructed in accordance with Section 89-9-1 et seq., Mississippi Code of 1972, known as the "Mississippi Condominium Law," and actually occupied as the home or homestead of a family or person as defined heretofore in this article. However, no such family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(n) A dwelling and the eligible land on which it is located held under a lease of ten (10) years or more or for life, from a fraternal or benevolent organization and actually occupied as the home or homestead of a family or person as defined heretofore in this article. No such family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(o) A dwelling being the bona fide home of a family group owned by the head of the family and located on land owned by a corporation incorporated more than fifty (50) years ago and in which the homeowner is a shareholder, and which corporation owns no land outside Monroe and Itawamba Counties. No family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(p) A dwelling and the eligible land on which it is located under a lease of five (5) years or more by the Mississippi-Yazoo Delta Levee Board actually occupied as the home or homestead of a family or person as defined pursuant to this article. However, no such family group or any other person qualified and defined pursuant to this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

tent of this article. The definition shall include all leases in existence that were entered into prior to July 1, 1992.

(q) A dwelling and the eligible land on which the spouse of a testator is granted the use of such dwelling for life or until the occurrence of certain contingencies and the children of such testator are granted a remainder interest in the dwelling and eligible land. Such dwelling and eligible land will only qualify as a home or homestead if (i) the spouse of the testator would otherwise qualify as head of a family if the interest were a tenancy for life (life estate) and (ii) the dwelling and eligible land is actually occupied as the home of the spouse of the testator. The children of the testator shall be allowed to establish an additional homestead for purposes of this article.

(r) A dwelling and the eligible land actually occupied as the bona fide home of a family group. If a person has been granted use and possession of a home in a divorce decree, that individual is eligible for full exemption, regardless of whether the property is jointly owned.

(s) A dwelling being the bona fide home of a family group located on land owned by a corporation incorporated more than forty (40) years ago and in which the head of the family group is a shareholder, and which corporation owns no land outside Lee County, Mississippi. No family group or any other person qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(t) The floor or floors of a building used solely for the residence of a family group when the building is owned by the head of the family and another floor or floors of the building are used for business activity.

(u) A dwelling being the bona fide home of a family group located on land owned by an incorporated club and in which the head of the family group is a shareholder, and which incorporated club owns no land outside Union County, Mississippi; provided, the incorporated club pays all ad valorem taxes levied on the land upon which the dwelling is located. No family group or any other person qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(v) A dwelling and the eligible land on which it is located under a sublease for a period of twenty (20) years or more on land leased pursuant to Section 1 of Chapter 558, Laws of 2010, actually occupied as the home or homestead of a family or person as defined pursuant to this article. However, no such family group or any other person qualified and defined pursuant to this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(w) The portion of a building that is listed on the National Register of Historic Places that is used solely for the residence of a family group when the building is owned by the head of the family and rooms in the building are rented to transient guests; however, not more than ten (10) rooms in the building may be rented to transient guests.

CREDIT(S)

Laws 1940, Ch. 127, § 9; Laws 1942, Ch. 189, § 1; Laws 1946, Ch. 261, § 9; Laws 1970, Ch. 303, § 1; Laws 1971, Ch. 481, § 2; Laws 1982, Ch. 406, § 2; Laws 1984, Ch. 453, § 10; Laws 1991, Ch. 602, § 1; Laws 1992, Ch. 477, § 2; Laws 1994, Ch. 561, § 4; Laws 1996, Ch. 431, § 1, eff. January 1, 1997; Laws 2000, Ch. 615, § 1, eff. January 1, 2001; Laws 2001, Ch. 483, § 2, eff. January 1, 2001; Laws 2004, Ch. 504, § 1, eff. January 1, 2005. Amended by Laws 2006, Ch. 557, § 1, eff. July 1, 2006; Laws 2007, Ch. 533, § 4, eff. from and after passage (approved April 18, 2007); Laws 2007, Ch. 564, § 5, eff. from and after passage (approved April 21, 2007); Laws 2010, Ch. 558, § 5, eff. July 1, 2010.

Current through the 2010 Regular and 1st and 2nd Extraordinary Sessions

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END OF DOCUMENT

**C**

West's Annotated Mississippi Code Currentness

Title 27. Taxation and Finance

▣ Chapter 53. Ad Valorem Taxes--Mobile Homes (Refs &amp; Annos)

→ § 27-53-15. Valuation as realty or personalty

The manufactured homeowner or mobile homeowner who owns the land on which the manufactured home or mobile home is located shall have the option at the time of registration of declaring whether the manufactured home or mobile home shall be classified as personal or real property. If the manufactured home or mobile home is to be classified as real property, then the wheels and axles must be removed and it must be anchored and blocked in accordance with the rules and procedures promulgated by the Commissioner of Insurance of the State of Mississippi. After the wheels and axles have been removed and the manufactured home or mobile home has been anchored and blocked in accordance with such rules and procedures, the manufactured home or mobile home shall be considered to have been affixed to a permanent foundation. The county tax assessor shall then enter the manufactured home or mobile home on the land rolls and tax it as real property on the land on which it is located from the date of registration. At such time, the county tax assessor shall issue a certificate certifying that the manufactured home or mobile home has been classified as real property. Such certificate shall contain the name of the owner of the manufactured home or mobile home, the name of the manufacturer, the model, the serial number and the legal description of the real property on which the manufactured home or mobile home is located. The county tax assessor shall cause such certificate to be filed in the land records of the county in which the property is situated. After filing, the chancery clerk shall forward the certificate to the owner. For issuance of the certificate, a fee of Twelve Dollars (\$12.00) shall be collected by the county tax assessor, Ten Dollars (\$10.00) of which shall be retained by the assessor and Two Dollars (\$2.00) of which shall be forwarded to the chancery clerk for filing the certificate. Upon the filing of the certificate in the land records, the manufactured home or mobile home shall then be considered real property for purposes of ad valorem taxation. The filing of such a certificate shall not affect the validity or priority of any existing perfected lien. If a manufactured home or mobile home is classified as real property and no certificate of title was required to be issued or issued for such property pursuant to Chapter 21, Title 63, Mississippi Code of 1972, a security interest may be obtained therein through the use of a mortgage or deed of trust describing both the manufactured home or mobile home and the land on which the manufactured home or mobile home is located. For a manufactured home or mobile home classified as personal property for which no certificate of title was required to be issued or issued pursuant to the provisions of Chapter 21, Title 63, Mississippi Code of 1972, the perfection of a security interest therein shall be governed by the provisions of Chapter 9, Title 75, Mississippi Code of 1972. Regardless of whether a manufactured home or mobile home for which a certificate of title was required to be issued or issued pursuant to the provisions of Chapter 21, Title 63, Mississippi Code of 1972, is classified as real property or is classified as personal property, the perfection of a security interest therein shall be governed by the provisions of Chapter 21, Title 63, Mississippi Code of 1972. A manufactured home or mobile home that has been classified as personal property may be reclassified as real property at the option of its owner if the owner obtains a certification from the tax assessor as provided in this section. Conversely, a manufactured home or mobile home that has been classified as real property may be reclassified for purposes of ad valorem taxation as personal property at the option of its owner if there is no lien against it and if the owner notifies the county tax assessor to reassess it and have the county tax collector enter it upon the manufactured home rolls. Upon a request for reclassification,

if no certificate of title was required to be issued or issued for the manufactured home or mobile home, there must be no lien against it and the property owner shall present proof satisfactory to the tax assessor that there are no liens outstanding on the property. If there is a lien against the manufactured home or mobile home, the county tax assessor shall refuse to allow the county tax collector to reclassify it as personal property until the lien has been released. If a certificate of title as provided in Chapter 21, Title 63, Mississippi Code of 1972, has been issued, the manufactured home or mobile home may be reclassified for ad valorem taxation purposes regardless of whether a lien exists on the certificate of title. Upon such request, the tax assessor may issue a certificate cancelling the classification of the manufactured home or mobile home as real property and cause such certification to be filed in the land records of the county in which the property is situated. For issuance of the certificate, a fee of Twelve Dollars (\$12.00) shall be collected by the county tax assessor, Ten Dollars (\$10.00) of which shall be retained by the assessor and Two Dollars (\$2.00) of which shall be forwarded to the chancery clerk for filing the certificate.

#### CREDIT(S)

Laws 1968, Ch. 587, § 8; Laws 1971, Ch. 359, § 1; Laws 1982, Ch. 369, § 1; Laws 1994, Ch. 386, § 5, eff. July 1, 1994; Laws 1999, Ch. 556, § 42, eff. July 1, 1999.

Current through the 2010 Regular and 1st and 2nd Extraordinary Sessions

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