
Solving Elders' Manufactured Home Problems: Tools, Resources, Legal Approaches

Dr. Rodney Harrell, Senior Strategic Policy Advisor at AARP
Carolyn Carter, Deputy Director of Advocacy at the National Consumer Law Center
Ishbel Dickens, Executive Director of the Manufactured Home Owners Association of America

Rick Jurgens & Jessica Hiemenz
National Consumer Law Center

National Elder Rights Training Project for the National Legal Resource Center. Sponsorship for this Webinar is provided by the National Consumer Law Center, CFED's Innovations in Manufactured Homes initiative, and a grant from the Administration on Aging.

April 27, 2011



NLRC

Providing Legal Support to the
Aging Advocacy Network

- <http://www.nlrc.aoa.gov/>
- Collaboration developed by the Administration on Aging between the National Consumer Law Center, National Senior Citizens Law Center, American Bar Association Commission on Law and Aging, Center for Elder Rights Advocacy, and the Center for Social Gerontology
- See upcoming trainings, conferences, and webinars
- Request a training
- Request consulting
- Request technical assistance
- Access articles and resources

Presenter – Rodney Harrell, PhD

- Senior Strategic Policy Advisor for Housing and Livable Communities in AARP's Public Policy Institute. He is responsible for AARP's policy development on housing and livable communities issues, managing the housing research agenda, conducting independent research and making public appearances.
- Dr. Harrell is an author of several publications including "Preserving Affordability and Access in Livable Communities."
- Prior to working at AARP, he worked as a research and evaluation consultant, as a researcher and instructor for the University of Maryland, and as a Maryland Governor's Fellow covering revitalization and housing issues.
- Dr. Harrell was graduated *summa cum laude* and Phi Beta Kappa from the honors program at Howard University, earned dual master's degrees in Public Affairs and in Urban and Regional Planning from the Woodrow Wilson School at Princeton University, and a Ph.D. in Urban Planning and Design from the University of Maryland, College Park, where he was a Wylie Fellowship and a member of the Phi Kappa Phi Honor Society.

Presenter – Carolyn Carter

- Deputy Director for Advocacy at the National Consumer Law Center, a nonprofit organization founded in 1969 that advocates for consumer justice.
- She works on NCLC's manufactured housing initiative and is one of the co-authors of the 2004 AARP publication *Manufactured Housing Community Tenants: Shifting the Balance of Power*.
- She is the primary author of three NCLC-CFED manufactured housing policy guides, on resident purchase opportunity laws, fundamental freedoms, and local policy advocacy.
- She has contributed to many other NCLC publications, including chapters on manufactured housing in NCLC's *Consumer Warranty Law, Repossessions, and Foreclosures*.
- She is a graduate of Brown University and Yale Law School.

Presenter – Ishbel Dickens

- Executive Director of the Manufactured Home Owners Association of America (MHOAA), a national organization representing manufactured homeowners across the country.
- Prior to this Ishbel was a staff attorney at Columbia Legal Services and has been an advocate for manufactured homeowners for more than twenty years. She went to law school specifically to become an even stronger advocate for people who own their homes but not the land under them.
- Ishbel has helped homeowners' associations purchase their communities as resident-owned co-operatives. She is involved in policy changes at the local, state and federal levels that will help manufactured homeowners preserve their lifestyle choice.
- Ishbel has spoken at numerous conferences around the country on issues facing manufactured homeowners and offered a range of possible solutions.
- She had an article published in the April 2007 issue of the Clearinghouse Review.
- In 2007 she was awarded a Washington State Housing Finance Commission "*Friend of Housing*" Award and in 2009 she received the first ever "*Housing Hero of the Decade*" award at the 2009 Housing and Homelessness Advocacy Day.
- Ishbel completed the "Achieving Excellence Program" at Harvard's Kennedy School in March 2010 through which she worked to expand manufactured housing community preservation efforts in Washington

Poll: Are you a:

- Housing Counselor or Advocate
- Attorney
- Manufactured Home owner
- None of the above
- All of the above

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Improving Manufactured Housing for Older Adults



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U.S. population is growing ... and growing older

Year	65+ Population	Total Population	65+ Share of Total Population
2000	34,991,753	281,421,906	12%
2010	40,229,000	310,233,000	13%
2030	72,092,000	373,504,000	19%
2050	88,547,000	439,010,000	20%

Source: U.S Census Bureau - Census projections as of 8/2008

Manufactured Housing Demographics

- In 2009, there were:
 - 8.8 million manufactured homes
 - Approximately 2.7 million were owned or rented by someone 55 or older
 - Approximately 52,000 new homes placed on lots nationwide

Median age of householder in a
manufactured home: **50**

Source: 2009 American Housing Survey

Percent of Households in a Manufactured Home

18-49	50-64	65+	All Ages
5.8%	5.9%	6.7%	6.0%

Source: AARP State Housing Profiles 2011 (Upcoming) – Calculation from 2009 American Communities Survey

Manufactured Housing as Affordable Housing

- Median Income of a 50+ household in Manufactured Housing: \$22,000
- Median Income of a 50+ adult in conventional single-family housing: \$44,000
- 60% of 50+ residents in MH have “low incomes” as defined by HUD

Manufactured Housing as Housing that works

**Maple Ridge Cooperative
Clarkson, NY**

77 homes



Courtesy John Wiltse - PathStone

Lacey, WA



Courtesy Ishbel Dickens - MHOAA

AARP Public Policies



- HOME
- MEMBER BENEFITS
- HEALTH
- MONEY
- WORK & RETIREMENT
- PERSONAL GROWTH
- POLITICS & SOCIETY
- RELATIONSHIPS
- HOME & GARDEN
- FOOD
- TRAVEL
- ENTERTAINMENT
- GAMES
- TECHNOLOGY
- GIVING BACK



Manufactured Housing

Manufactured housing provides a major source of unsubsidized housing for low- and moderate-income households. In 2009 there were almost 8.8 million manufactured homes occupied as a primary residence, of which 2.7 million were owned or rented by someone age 55 or older. In addition there were approximately one million manufactured homes held as vacation or second homes, of which two-thirds were owned by someone age 50 or older. In 2009 approximately 52,000 new homes were placed on lots nationwide.

Housing affordability—Manufactured housing plays a critical role in serving the housing needs of older Americans who might otherwise find it difficult to live affordably. AARP estimates that the median income of households headed by someone age 50 or older living in manufactured housing in 2005 was approximately \$22,000, compared with about \$44,000 for residents 50 and older in conventional single-family housing. Although about 60 percent of residents 50 and older living in a manufactured home have low incomes, as defined by the Department of Housing and Urban Development (HUD), they typically receive no direct housing subsidy. The affordability issue is complicated by the financing,

utilities, maintenance, and repair costs of such housing. In all of these areas there is need for significant enhancement. Improvements to the Manufactured Housing Construction and Safety Standards can go a long way toward reducing maintenance and repair costs.

Reforms—The 1994 National Commission on Manufactured Housing made recommendation modernizing the National Manufactured Housing Construction and Safety Standards Act of 1974 commission advised:

- creating a balanced consensus committee to update relevant federal construction and standards in the HUD code,
- developing an expedited standards adoption process to ensure that changes in the HUD are made in a timely manner,
- eliminating the requirement that manufactured homes have a permanent chassis, and
- enacting a federal requirement that manufacturers provide one-/five-year warranty coverage—one year for all structural defects five years for certain structural defects that during the manufacture, installation, and transportation of a home.

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get more INFORMATION

AARP History

Learn more about the history of the organization and our founder, Dr. Ethel Percy Andrus. Read

Diversity at AARP

Learn more about AARP's efforts to champion diversity and inclusion. More

Volunteer with AARP

Find out about opportunities to volunteer with AARP. Read

Press Center

Get the latest news and read our blog, shAARPsession. Read

WHERE WE STAND

At AARP, we represent nearly 40 million Americans over 50, including workers and retirees, people living alone or with families, and people of various financial means. Using our expertise, research and input from members, AARP develops public policies that reflect our members' concerns and interests. These policies are published every two years in *The Policy Book: AARP Public Policies* and in regular supplements to *The Policy Book*.

our POLICIES

our PROCESS

our POLICY LEADERS

AARP Public Policies 2011-2012

See where AARP stands on the issues in *The Policy Book: AARP Public Policies 2011-2012*.

On February 24, 2011, the AARP Board of Directors approved the National Policy Council's recommended changes to AARP's public policies to help guide the organization's advocacy over the next two years. AARP updated its policies concerning health care, including important elements of the new health care law such as guaranteed access to insurance for those with preexisting conditions, the expansion of home and community-based long-term care services and the strengthening of Medicare. We also added new guidance on policies related to Social Security solvency and strengthened policy on key issues affecting Americans over 50, including protecting the savings and investments of older persons; setting up the new consumer financial protection bureau to strengthen consumer protection; reforming the

www.aarp.org/policybook

AARP Housing Policy Principles

(2011-2012)

- Improve home design.
- Promote affordable housing options.
- Strengthen federal housing programs.
- Increase capacity for public-private partnerships.
- Promote financial security of housing assets.
- Foster home and community-based service delivery.

AARP Manufactured Housing Policies (2011-2012)

Bankruptcy protection

- Congress should pass legislation to protect the owners of manufactured homes who face bankruptcy proceedings from debt obligations that exceed the current market value of the collateral.

AARP Manufactured Housing Policies (2011-2012)

Financing

- Federal Government should expand access to financing beyond the existing retailer network through the greater use of conventional mortgage financing with more competitive rates and provide adequate protection for consumers.
- States should consider provisions that improve the financing options for manufactured housing, including allowing manufactured housing to be treated as real estate regardless of land ownership

AARP Manufactured Housing Policies (2011-2012)

Cooperative Resident ownership of communities

- States should establish programs and policies to help residents of manufactured home communities purchase their community and establish cooperative ownership, including codifying the first right of purchase or providing tax incentives for purchase by selling residents.

AARP Manufactured Housing Policies (2011-2012)

Consumer protection

- HUD should ensure adequate funding for its own activities and those of state agencies designated to act on its behalf to implement and enforce consumer protections developed in accordance with the American Homeownership and Economic Opportunity Act of 2000.
- States should enact legislation to protect the rights of all owners of manufactured homes based on the Manufactured Homeowner's Bill of Rights developed by the National Consumer Law Center.
- States should enforce antitrust statutes regarding retailer tie-ins and restraints of trade.

AARP Manufactured Housing Policies (2011-2012)

Warranties

- Congress should reject efforts to circumvent stronger state laws through federal preemption and should pass a warranty requirement for the home and installation.
- Warranty and installation requirements under the FHA, VA, and RHS mortgage insurance programs for manufactured homes should be upgraded.
- HUD should revise the Manufactured Home Procedural and Enforcement Regulations to provide regulatory relief to manufacturers that voluntarily provide purchasers with a five-year warranty, as recommended by the National Commission on Manufactured Housing.
- States should license manufacturers (both in and out of state) and establish manufactured home recovery funds to assist with warranty repairs if a manufacturer goes out of business or refuses to provide warranty service.

AARP Manufactured Housing Policies (2011-2012)

Rent stabilization

- States should permit local governments to initiate and enforce rent stabilization programs in manufactured housing parks where a closed park situation exists.

AARP Manufactured Housing Policies (2011-2012)

Funding assistance for closures

- States should establish funding assistance to help owners of manufactured homes who must relocate due to a manufactured home park closure or sale.

AARP Manufactured Housing Policies (2011-2012)

Replacement of Dilapidated Homes

- States should establish programs to facilitate the replacement of dilapidated and substandard manufactured homes with new energy-efficient homes for low-income households.

Manufactured Housing Community Tenants: Shifting the Balance of Power



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Institute

AARP Public Policy
Institute

FACT SHEET

Trends in Manufactured Housing

According to the 2005 American Housing Survey, approximately 43 percent of manufactured homes that were occupied as a primary residence were owned or rented by a person age 50 or older in 2005. However, from 1990 to 2005, there has been a decline in the production of new manufactured homes coupled with less vigorous enforcement of federal safety and construction standards.

Introduction
Manufactured homes (commonly called, "mobile homes" or "HUD-code" homes) are a major source of affordable housing for low- and moderate-income families. In 2005, 8.4 percent of the nation's 109 million occupied housing units (about 0.9 million manufactured homes) were occupied as a primary residence. Approximately 3.3 million (48 percent) of manufactured homes occupied as a primary residence were owned or rented by a person age 50 or older. About 44 percent of manufactured homeowners age 50 and older reside in a manufactured home park.

Manufactured Homes and Their Older Residents
Many Older, Single Residents
Of the 3.3 million 50-plus households living in a manufactured home in 2005, nearly 705,000 had a household head between 65 and 74 years of age, and around 695,000 were headed by a person age 75 or older.

About 43 percent of 50-plus households living in manufactured homes were married couple households, and 30 percent were single person households.

High Proportion Move Low-Income
The median income for 50-plus households in manufactured housing was around \$22,000 in 2005 compared to around \$44,000 for 50-plus residents of conventional single-family housing. Limited financial resources make residents of manufactured housing particularly vulnerable to increases in park rents and unexpected home repair cost.

Manufactured Homes Typically Smaller and Less Expensive
Manufactured homes are less expensive than conventional single-family homes. The median sales price for a new manufactured home in 2005 was \$62,600, compared to \$297,000 for a single-family detached house.

Source: Census Bureau's Construction Division, PPI Analysis

Though still a large part of the nation's housing stock, production of manufactured homes has declined by two-thirds in the last seven years. In 1990, 144,000 manufactured homes were shipped from plants, compared to only 117,000 in 2005. The decline may be traced to a number of factors: a slackening among lenders in the industry; new and innovative mortgage

www.aarp.org/ppi and enter
"manufactured housing" in the
"Search PPI" box

AARP in the States



www.aarp.org/states

AARP in the States

Utah



AARP Public Policy Institute



- Informs and stimulates public debate on the issues we face as we age.
- Provides objective research and analysis
- Promotes the development of sound, creative policies to address our common need for economic security, health care, and quality of life.



www.aarp.org/ppi/liv-com

For hard copies of publications, send requests to: ppi@aarp.org

Solving Elders' Manufactured Home Problems: Tools, Resources, Legal Approaches

Carolyn Carter
National Consumer Law Center

Topics

- Defects in home
- Sale of home in manufactured home community
- Sale of community
- Fundamental freedoms in communities

Defects in home or set-up

- Poll: How many of you have had problems, or dealt with elders who had problems, regarding defects in the home or set-up?

Non-litigation solutions: Defects in home

- Complain to retailer and manufacturer
- If not satisfied, put it in writing to both
- Check the booklet that comes with the home!

Non-litigation solutions: Defects in home

- If still unresolved, 38 states have a State Administrative Agency (SAA) that enforces HUD construction standards
 - Contact info:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/rmra/mhs/mhshome
- For AK, CT, DE, HI, KS, MA, MT, NH, OH, OK, VT, or WY, call HUD at 1-800-927-2891
- *Might* send inspector out if state program exceeds HUD's requirements
- May order manufacturer to correct

Disputes about responsibility between manufacturer and installer

Dispute resolution program

- Overseen by HUD – leads to mediation
 - Available for defects reported within first year
- In some places, delegated to the state

- Contact info:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/rmra/mhs/mhshome

- Some states have more wide-ranging programs

If non-litigation solutions fail... What laws apply?

- Written warranty comes with home
 - Required by state law in some states
 - Typically at least one year

What laws apply?

- Also - implied warranty of “merchantability” - that home is fit for ordinary purposes
 - Imposed by Uniform Commercial Code
 - Federal law prohibits disclaimer when written warranty is given
 - Implied warranty must run at least as long as the written warranty

Special State MH Warranty Laws

Alaska

Arkansas

California

Connecticut

Florida

Idaho

Kansas

Kentucky

Louisiana

Maine

Michigan

Minnesota

Nevada

New Hampshire

New Mexico

New York

North Carolina

Oklahoma

South Carolina

Texas

Virginia

Washington

Wisconsin

Wyoming

To make a warranty claim

- Must give written notice
- If want seller to take back home, notice must say this
- Must act promptly
- To force seller to take home back, be prepared to litigate
 - Often can force seller to pay consumer's attorney fees
 - Find an attorney: www.naca.net

Tips for MH warranty case

- Get inspection early
 - by someone who knows MH
- Put all complaints in the letter and send it to *all* involved
- Follow up diligently and promptly
- Consult and follow the booklet for the home
- Take photos and videos
- NCLC's *Consumer Warranty Law*
 - www.nclc.org

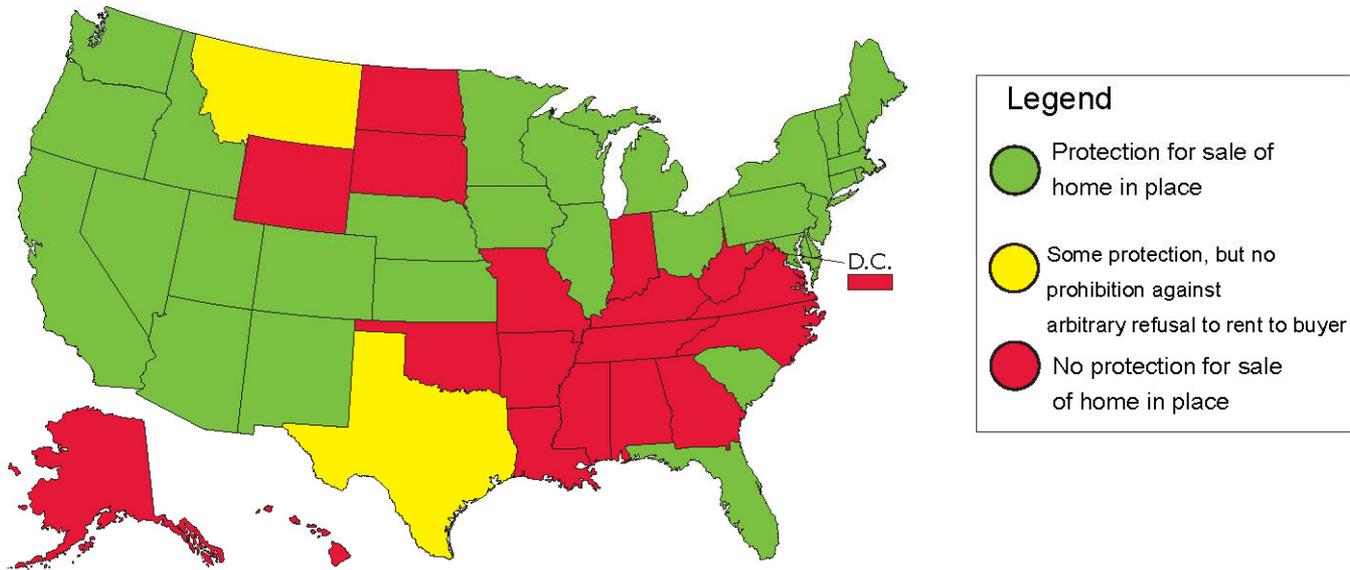
If elder needs to sell the home

- Poll – Have you worked with an elder who needed to sell a manufactured home in a manufactured home community?

If elder needs to sell the home

- Importance of being able to sell it in place, with new buyer renting the lot
- Opportunity for abuse by community owner

States that Prohibit Arbitrary Denial of the Right to Sell a Manufactured Home in Place



If no state law...

- Violation of state unfair and deceptive practices statute?
- Antitrust violation?
- Tort claim – intentional interference with contract?
- Fair housing law claim?

If an elder's MH community is for sale...

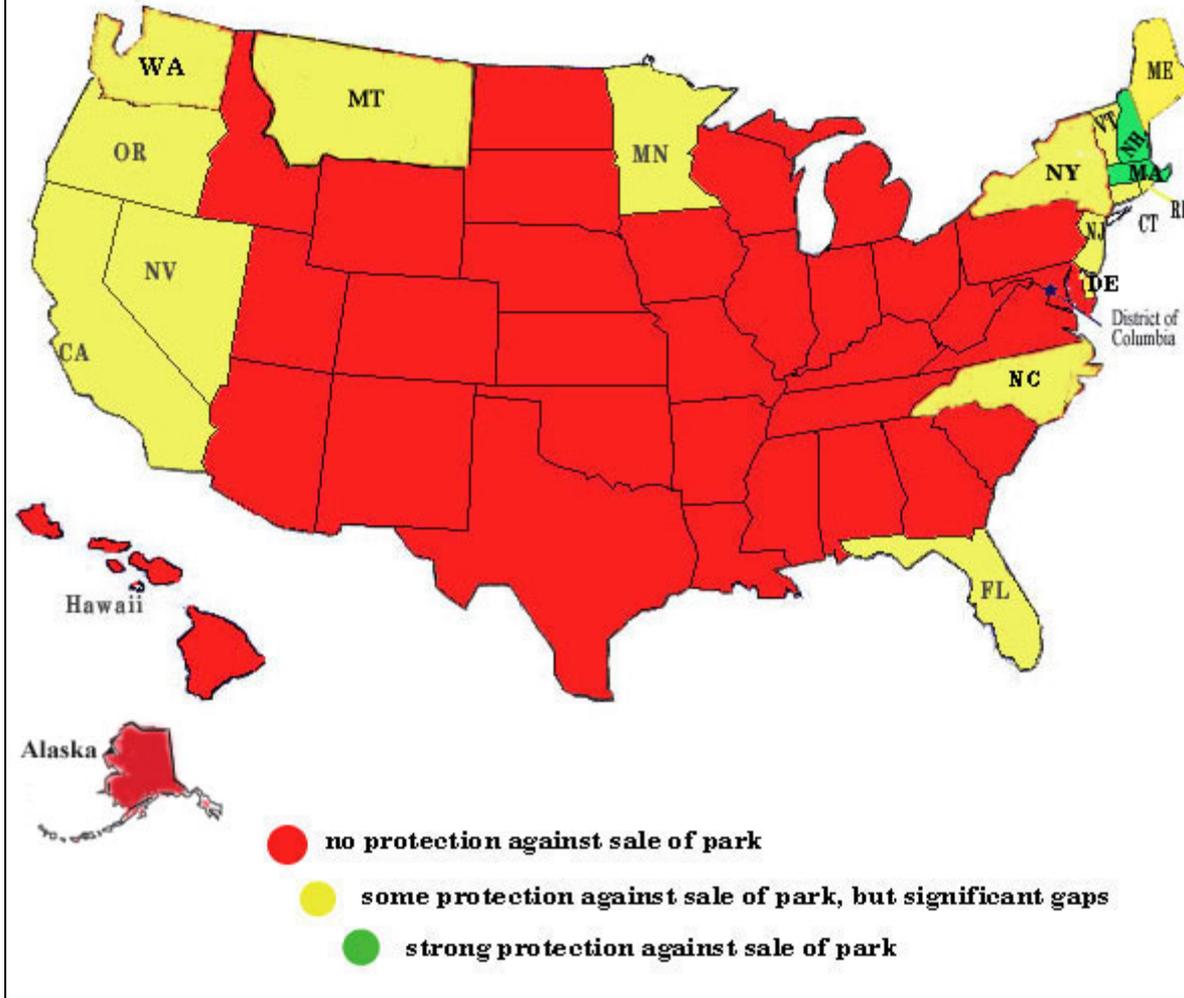
- Danger – may presage rent increase, closure
- Opportunity – can residents buy it?
- Viable and realistic
 - Nearing 1000 US resident-owned co-ops
 - 97 just in New Hampshire - 20% of parks, over 5000 homes

Lilac Drive Co-op, Raymond, NH

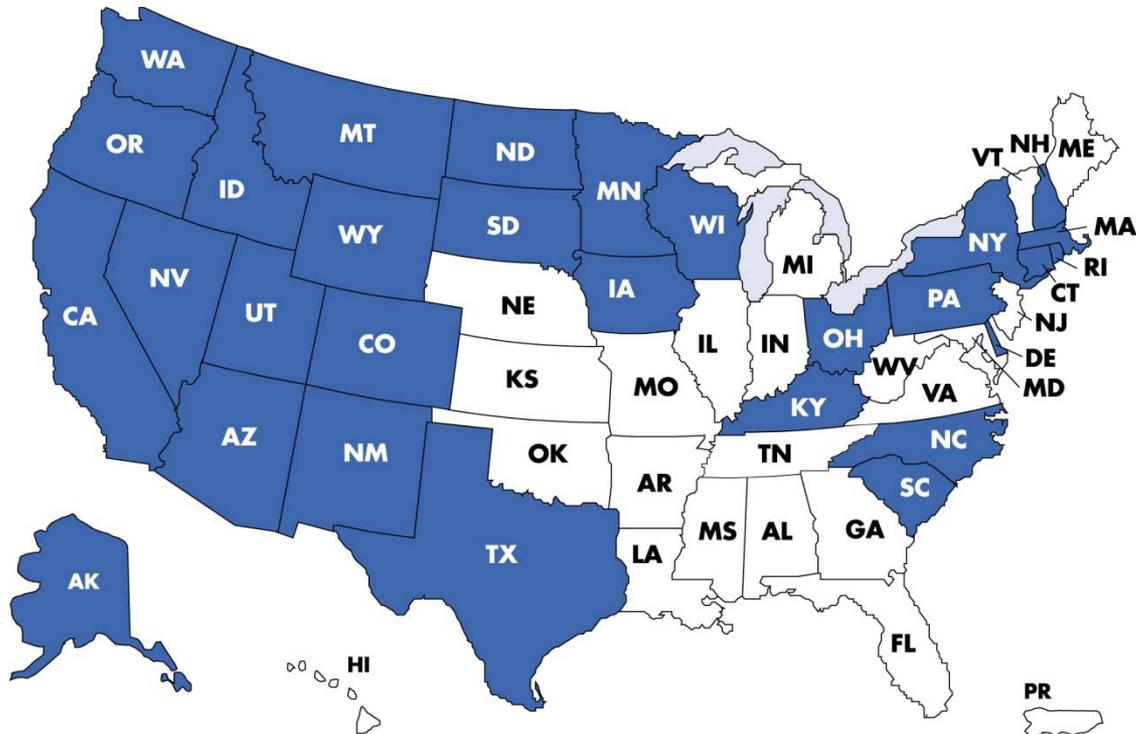


State Purchase Opportunity Laws

How Secure is the Land in Your Manufactured Housing Community?



ROC USA™ Network Certified TA Providers Market Areas: 27 States



How to get help

- To find Technical Assistance Provider in your area, go to <http://www.rocusa.org/for-homeowners/ctap-search.aspx>
- If your area isn't listed, contact ROC USA Network: Mary O'Hara, Interim Director of Training & Development, mohara@rocusa.org

Steps to take if not for sale yet...

In California, Oregon, Nevada, Rhode Island (also Massachusetts in part)

- Form homeowners association
- Send community owner a notice that interested in purchasing
- For details, see NCLC Resident Purchase Opportunity Policy Guide

Fundamental freedoms

- Freedom of speech
- Right to meet
- Right to leaflet, canvas

Why these rights are important

- Great importance
 - Essential if residents are to advocate on their own behalf
 - Resident associations build community ties, improve communities
- MH residents particularly vulnerable

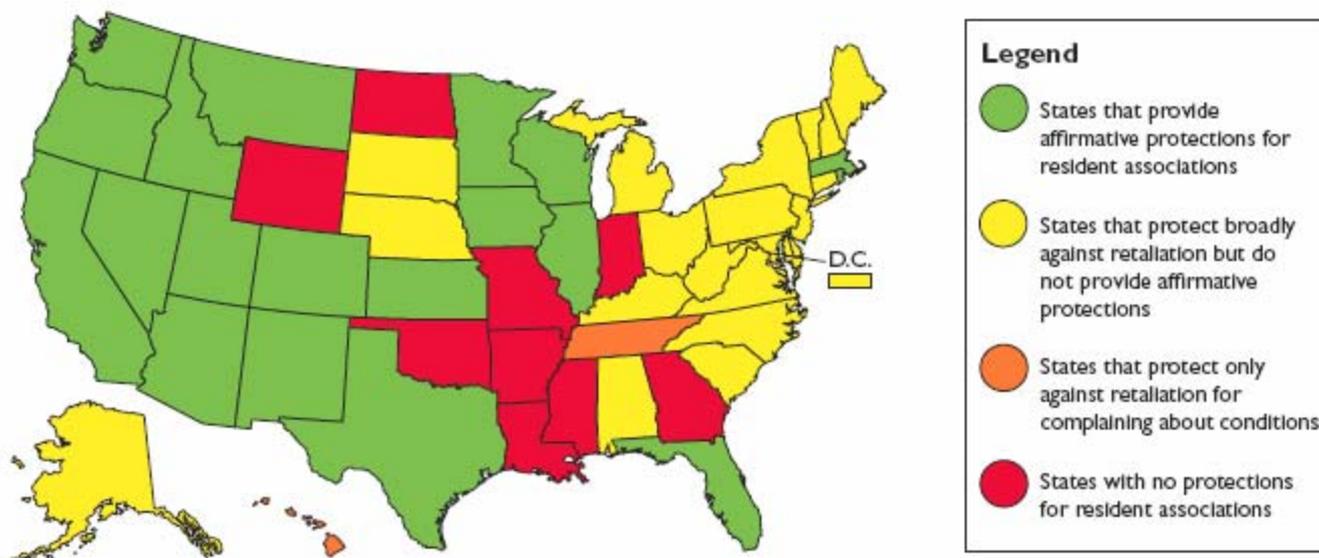
Fundamental freedoms

- Poll – Have you dealt with problems regarding residents' right to meet, leaflet, or speak out in manufactured home communities?

Freedom of speech, association: Constitution vs. statute

- First Amendment of U.S. Constitution
 - Enshrines the general principles - but
 - Protects only against government interference
- Main source of protection is state laws

States that Protect Fundamental Freedoms



Approaches if state statutes are weak

- Ask court to declare retaliation illegal
 - Undermines other laws, e.g. housing code
- Common law right to invite visitors
- State constitution?
- Use your losses to achieve victory

CFED/NCLC Policy Guides

- Resident purchase opportunity – updated
- Fundamental freedoms – updated
- Local policy advocacy
- Financing

www.cfed.org/go/imhome - scroll down to bottom of page and click on I'M HOME

www.nclc.org – click on Manufactured Housing in drop-down menu



MANUFACTURED HOUSING RESOURCE GUIDE

Protecting Fundamental Freedoms in Communities

BACKGROUND

Around the country, thousands of families are losing their homes due to the closure of manufactured housing communities. Owners of land-lease communities are increasingly seeking to maximize their profits by converting the use of the land to something other than a manufactured home community. These closures, however, often mean that the residents of the communities lose their homes – not only their shelter, but their main investment. For millions, these homes are the most viable means to affordable homeownership and protecting their rights has become an important legislative priority. Through community closings, homeowners are forced to either sell their homes at a fraction of their original value; move them, which also causes the homes to lose value; or abandon them altogether.

Advocates in many communities are working hard to implement policies to preserve these communities and establish the asset-building potential of manufactured homes. Resident ownership – through which homeowners buy the land their property sits on and therefore have more determination in what happens in their community – is a promising preservation and asset-building strategy. Policies promoting resident ownership, however, may not be enough to ensure that homeowners can actually act on an opportunity to buy their community. States also need to consider policies that protect residents' rights to assemble and go door-to-door to form homeowner associations and to advocate on their own behalf. Without such policies, residents are likely to fear eviction and loss of their homes if they attempt to create a resident association, organize to purchase their community or advocate for policies that promote resident ownership.

About This Resource Guide

This guide is a resource for anyone interested in safeguarding the rights of homeowners in manufactured home communities through state policy. Although there is a broad array of consumer protections that can improve the life of manufactured home community residents, this reference specifically focuses on those protections that lay the groundwork for resident purchase transactions. It is based on a careful review of existing and proposed state-level legislation, as well as the National Consumer Law Center's (NCLC) experience working with advocates in various states. This guide:

- Describes the growing crisis in closure of manufactured home communities;
- Identifies the four types of homeowner protections that pave the way for asset building in these communities;
- Specifies key elements of strong policies to protect homeowners; and
- Lists state precedents for policy adoption.

The appendices include suggested policy language for each issue. In addition, an appendix containing the full text of state laws that protect manufactured home community residents' freedoms of speech and association and protect them from retaliation is available on-line, along with appendices containing sample state laws that protect residents from eviction without good cause and protect their right to sell their homes.

PRECARIOUS RIGHTS OF HOMEOWNERS IN LAND-LEASE COMMUNITIES

Owners of homes that are located in manufactured home communities gain only some of the advantages of homeownership. For example, because a third party owns the land underneath their homes, these homeowners do not have the same financial and emotional security or opportunity to create wealth that is traditionally associated with homeownership. Like renters, owners of manufactured homes on rented land may be required to move off the land at any time. However, unlike renters who are evicted, an owner of a manufactured home who is evicted from a community must either sell the home in which they have made a significant investment or transport it to another site. Despite the epithet "mobile home," today's manufactured homes are not particularly mobile. Moving a manufactured home typically costs between \$5,000 and \$10,000. This cost severely eats into any home equity the homeowner may have built up, and the move may cause structural damage to the home.

Indeed, the home can lose its entire value if the homeowner is required to leave the manufactured home community because the only realistic option may be to abandon the home or move it straight to a dump. If an owner decides to sell

Comprehensive model law

AARP “Manufactured Housing Community Tenants:
Shifting the Balance of Power” (2004)

<http://www.aarp.org/home-garden/housing/info-2004/aresearch-import-871-D18138.html>

Manufactured Housing Community Tenants:

Shifting the Balance of Power



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Ishbel Dickens

Manufactured Home Owners Association of America

This is a trailer park



- “Trailer Park” by Sutton, Berens and Culler, toured urban neighborhoods in the Summer of 2003.

This is multi-family housing!



This is a manufactured housing community/mobile home park



2010 MHOAA Convention

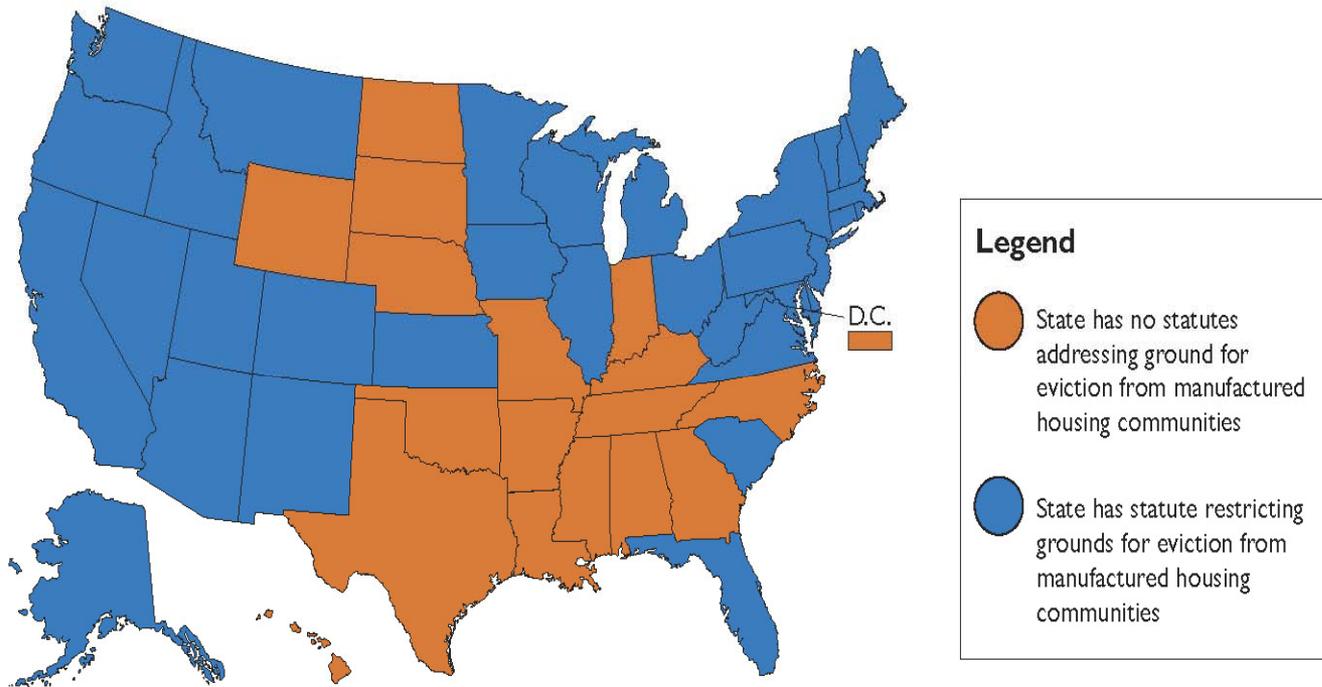


Poll

- Have you advocated on behalf of manufactured homeowners on any of the following issues?
 - * long-term security of tenure
 - * rent stabilization/fairness
 - * multi-year leases
 - * equitable relocation assistance

States with some restriction on grounds for eviction

States with Statutes Restricting Grounds for Eviction from Manufactured Home Community



NOTE: A state is colored blue if it has a statute restricting the grounds for eviction, regardless of the strength of the statute. In some states, the statutes fall considerably short of a good cause requirement.”

Home Owners' Association



Zoning -Another approach to preserving communities

- Listen to [Local Policy to Preserve and Promote Manufactured Housing](#) webinar (Sept. 2, 2010)
- Archived at http://cfed.org/programs/manufactured_housing_initiative/training_and_events/

Poll

- Knowing what you know now, would you be willing to advocate on behalf of manufactured homeowners?

* Yes/No

- Would you be willing to work with MHOAA to advocate for changes in state laws that affect manufactured homeowners?

* Yes/No

MHOAA contact information

Manufactured Home Owners Association of America

United We Stand – Strength in Numbers

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Questions?