CALIFORNIA
DEPARTMENT
OF
HOUSING AND COMMUNITY DEVELOPMENT

OCCUPATIONAL LICENSING

EXAMINATION STUDY GUIDE

2012 EDITION

OL STUDY GUIDE TABLE OF CONTENTS

OL STUDY GUIDE - TABLE OF CONTENTS i
LAW AND REGULATION CHANGES; KEY AND SPECIAL NOTES iii
INTRODUCTION iv
FREQUENTLY ASKED QUESTIONS v
INDUSTRY QUESTIONS AND ANSWERS xiii
PROLOGUE xv

MOBILEHOME-MANUFACTURED HOUSING ACT OF 1980
HEALTH AND SAFETY CODE
Division 13 HOUSING
Part 2 MOBILEHOMES–MANUFACTURED HOUSING
Chapter 1 DEFINITIONS 8
Chapter 2 APPLICATION AND SCOPE 13
Chapter 3 ENFORCEMENT 14
Chapter 4 STANDARDS 17
Chapter 5 SALES AND ESCROWS 25
Chapter 6 MULTIPLE LISTING BETWEEN DEALERS OF MANUFACTURED HOMES, MOBILEHOMES, OR COMMERCIAL COACHES 35
Chapter 7 OCCUPATIONAL LICENSES 35
Article 1 General Requirements 35
Article 2 Applications and Renewals 37
Article 2.5 Continuing Education 41
Article 3 Infractions and Penalties 41
Chapter 7.5 MANUFACTURED HOME RECOVERY FUND 49
Chapter 8 REGISTRATION AND TITLING OF MANUFACTURED HOMES, MOBILEHOMES, AND COMMERCIAL COACHES 52
Article 1 Application and Scope 52
Article 2 General Definitions and Requirements 53
Article 3 Applications for Original Registration and Title 57
Article 4 Amendments, Transfers, and Transactions 61
Article 5 Renewals and Replacements 66
Article 6 Fees and Taxes 67
Article 7 Penalties 70
Chapter 9 MOBILEHOME OMBUDSMAN 71
Part 2.1 MOBILEHOME PARKS ACT **<Excerpts>**
Chapter 5 REGULATIONS 75
Article 1 GENERAL PROVISIONS 75
Article 2 Mobilehome and Special Occupancy Park Lots 79
Chapter 7 PENALTIES 82

MH SALES, OCCUPATIONAL LICENSING AND EDUCATION — REGULATIONS
CALIFORNIA CODE OF REGULATIONS
TITLE 25 HOUSING AND COMMUNITY DEVELOPMENT
Division 1 HOUSING AND COMMUNITY DEVELOPMENT
Chapter 4 MANUFACTURED HOUSING SALES, OCCUPATIONAL LICENSING AND EDUCATION 87
Subchapter 1 SALES AND OCCUPATIONAL LICENSING 87
Article 1. General 87
Article 2. License and Business Requirements 87
Article 3. License, 90-Day and Decal Applications, Changes and Renewals 89
Article 5. Advertising, Listing Agreements, and Sales Practices 98
Article 6. Purchase Documents and Escrow 100
Article 7. Public Access to Information Regarding Occupational Licensing 102
Article 8. Enforcement Actions and Penalties 103
Article 9. 90-Day Certificate Requirements 104
Subchapter 2. PRELIMINARY AND CONTINUING EDUCATION 105

MOBILEHOME RESIDENCY LAW <Excerpts>
CIVIL CODE
Division 2 Property
Chapter 2.5 MOBILEHOME RESIDENCY LAW 116
Article 2 Rental Agreement 116
Article 3 Rules and Regulations 117
Article 4 Fees and Charges 117
Article 7 Transfer of Mobilehome or Mobilehome Park 118

OL STUDY GUIDE TABLE OF CONTENTS

Article 9 Subdivisions, Cooperatives, Condominiums, and Resident Owned Parks..... 123
RESALE DISCLOSURES <Excerpts>
CIVIL CODE
Division 2 Property
Part 4 Acquisition of Property
Title 4 TRANSFER
Chapter 2 TRANSFER OF REAL PROPERTY..... 127
Article 1.5 Disclosures Upon Transfer of Residential Property..... 127
CONSUMER WARRANTY PROTECTION- MOBILEHOME WARRANTIES <Excerpts>
CIVIL CODE
Division 3 Obligations
Part 4 Obligations Arising from Particular Transactions
Title 1.7 CONSUMER WARRANTIES
Chapter 1 Consumer Warranty Protection..... 137
Article 1 General Provisions..... 137
Article 2 Definitions..... 137
Article 3 Sale Warranties..... 139
Chapter 3 MOBILEHOME WARRANTIES..... 147
CALIFORNIA CODE OF REGULATIONS <Excerpts>
TITLE 18. PUBLIC REVENUES
Division 2. STATE BOARD OF EQUALIZATION—BUSINESS TAXES
Chapter IV. SALES AND USE TAX 151
CALIFORNIA BOARD OF EQUALIZATION PUBLICATION #47
Dealer Sales and Leases of New Mobilehomes and Related Items..... 175
Sales for residential use..... 176
Sales of accessories and other items 177
Applying tax to sales-related charges 177
Dealer Purchases and Use of New Mobilehomes and Related Items..... 179
Consumer Purchases of New Mobilehomes from Out-of-State Dealers and Manufacturers..... 180
Purchases for residential use..... 180
Related Sales and Use Tax Exemptions 180
Sales in interstate and foreign commerce..... 180
Mobilehomes and Accessories Installed as Real Property..... 183
Sales and Purchases of Used Mobilehomes..... 185
Possible exempt sales 186
Determining retail value 186
Factory-Built Housing..... 186
Sample factory-built housing transactions 188
General Tax Information 189
Recordkeeping 189
For More Information 190
Appendix 193
SAMPLE TRANSACTION..... 193
Reader Survey Information <NOT INCLUDED IN THIS GUIDE OL STUDY GUIDE>
MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS — PART 3282 (FEDERAL REGULATIONS)
CODE OF FEDERAL REGULATIONS <Excerpts>
Title 24. HOUSING AND URBAN DEVELOPMENT
Subtitle B. REGULATIONS RELATING TO HOUSING AND URBAN DEVELOPMENT
Chapter XX. OFFICE OF ASSISTANT SECRETARY FOR HOUSING—
FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Part 3282. MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS
Subpart F—DEALER AND DISTRIBUTOR RESPONSIBILITIES 198
Subpart I—CONSUMER COMPLAINT HANDLING AND REMEDIAL ACTIONS 199

LAW AND REGULATION CHANGES
KEY AND SPECIAL NOTES

CALIFORNIA HEALTH AND SAFETY CODE
DIVISION 13, PART 2
MOBILEHOMES-MANUFACTURED HOUSING ACT OF 1980
EFFECTIVE DATE: January 1, 2012
(Legislative and regulation changes during 2011)

NOTICE: This printing is prepared for Departmental use and supersedes the 2011 edition.

This printing includes the 2011 Legislative amendments and regulation changes, which affect the following sections of the California Health and Safety Code (HSC), and Title 25 of the California Code of Regulations, (25 CCR) reprinted in this 2012 OL Study Guide.

- Chapter 239, Statutes of 2011 (Senate Bill No. 562) amends HSC 18028 and 18070.2.
- CCR, Title 25, Sections 5002, 5010, and 5040, operative April 6, 2011.

IMPORTANT LEGISLATION THAT CAN AFFECT A LICENSE (Not in Study Guide):

Assembly Bill 1424, Chaptered 10/4/11, became effective January 1, 2012, requiring all state licensing agencies to refuse, revoke, or suspend license applicants and existing licensees if, either the California Board of Equalization (BOE) or California Franchise Tax Board (FTB) has listed such person or business as tax delinquents on or after July 1, 2012. For more information contact BOE or FTB or visit their websites. You can also review Bill Information at the following state website: http://www.leginfo.ca.gov/bilinfo.html

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KEY

Presentation of Changes in Statutes and Regulations

Additions or changes in statutes or regulations are indicated by either highlighted, ***bolded***, *italicized, and/or underlined* text. Deletions are indicated by ~~strikethroughs~~.

COMMERCIAL MODULAR (CM) SPECIAL NOTE

Sections of laws and regulations that may not be on the commercial modular examinations are indicated with a banner "**<Not applicable to CM exams>**" next to the section number, article header, chapter title, etc.

MANUFACTURED HOME, MULTIFAMILY MANUFACTURED HOME, AND MOBILEHOME (MH) SPECIAL NOTE

Sections of laws and regulations that may not be on the manufactured home examinations are indicated with a banner "**<Not applicable to MH exams>**" next to the section number, article header, chapter title, etc.

CM and MH SPECIAL NOTE

Sections of laws and regulations that may not be on the manufactured home or commercial modular examinations are indicated with a banner "**<Not applicable to CM or MH exams>**" next to the section number, article header, chapter title, etc.

MANUFACTURED HOME, MULTIFAMILY MANUFACTURED HOME, MOBILEHOME, COMMERCIAL MODULAR DEALER AND SALESPERSON LICENSES

INTRODUCTION

This Study Guide (Guide) is designed for both HCD Dealer and Salesperson license applicants preparing to take the Occupational Licensing examinations. The Guide also serves as a useful reference for those persons whose business and professional interests involve manufactured home, multifamily manufactured home, mobilehome, or commercial modular transactions. The Guide contains many statutes and regulations applicable to manufacturers, dealers, and salespersons governing the sale, use, construction, alteration, installation, enforcement, and registration and titling of manufactured homes, multifamily manufactured homes, mobilehomes, and commercial modulars.

The licensing examination questions and answers are formulated using the text of this Guide. Applicants are advised to obtain laws and regulations, such as the Federal Truth in Lending Act and Federal Regulation Z, which apply to the activities of dealers and salespersons, and are referenced in this Guide. Whenever a conflict exists between a statute (California Health and Safety Code, unless otherwise noted) and a regulation (California Code of Regulations, Title 25, unless otherwise noted), the requirements of the statute supersedes the regulation. Therefore, for examination questions, if you identify a conflict between statute and regulation, the question should be answered in accordance with the requirement of the statute.

Occupational Licensing examinations for manufactured home and commercial modular dealer and salesperson applicants are administered at Department of Housing and Community Development (HCD) Registration and Titling (RT) District Offices several times weekly. The examinations are divided into two categories for dealer or salesperson and also manufactured home and commercial modular subcategories.

- The Manufactured Home (MH) and Commercial Modular (CM) dealer examination(s) contains **75** multiple choice questions with a **two-hour** (120 minute) time limit.
- The MH and CM salesperson examination(s) contain 50 multiple choice questions with a one and one-half hour (90) minute) time limit.

In order to successfully complete the DEALER examination, a minimum score of **53** correct answers (70%) must be obtained. SALESPERSON applicants must score a minimum of **35** correct answers (70%) to pass. There is no limit to the number of times an applicant may take the examination; however, the examination fee applies to each examination taken.

Due to limited RT testing and operating hours, please contact the RT District Office where you wish to take the examination to schedule an examination appointment. Walk-in examination applicants may not be allowed to take a exam for the aforementioned reasons and if the remaining operating hours of the office is less than the full allotted time limit of the exam and the time necessary to grade the exam. RT District Offices are open Monday-Friday, except most holidays. You can call the RT Toll-Free number (800) 952-8356 to identify the RT District Office nearest you or visit HCD's website to find the RT District Office you want to contact to schedule an examination at: http://www.hcd.ca.gov/ or http://www.hcd.ca.gov/contact.html#codes .

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions (FAQ's) are provided with general answers. For a more comprehensive understanding of the requirements, references are provided.

1. Q. Why do I need a MH or CM dealer or salesperson license?

A1. Any person acting in the capacity of a dealer must be licensed with HCD. A dealer license is required for a person who is engaged in any of the following activities: For commission, money, or other thing of value, sells, exchanges, leases, buys, offers for sale, or negotiates or attempts to negotiate a sale, or exchange of an interest in MH/CM, or induces or attempts to induce any person to buy or exchange of an interest in a MH/CM, and who receives or expects to receive a commission, money, brokerage fees, profit, management fees, or any other things of value from either the seller or purchaser of the MH/CM.
Reference HSC 18002.6 (a).

A2. Any person acting in the capacity of a salesperson must be licensed with HCD. Same as the activities in A1 above. This includes a person that supervises salespersons, such as a general manager, assistant general manager, sales manager, etc.
Reference HSC 18013 (a).

A3. Any manufacturer that: 1) Sells MH or CM product in California, or 2) uses salespersons to solicit business in California, must either obtain a dealer license or sell its product using an existing HCD licensed dealer.

2. Q. Can I be exempt from the requirements to be licensed as a dealer or salesperson?

A1. There are exceptions to licensing requirements for dealers. Common exceptions include banks that repossess a MH, than sell it; licensed salespersons working as a employee of a licensed dealer; Mobilehome Parks that acquire MH's via a warehousemen's lien; persons holding a valid real estate broker's license issued by the California Department of Real Estate (DRE) that sells only used MH's/CM's that have been previously registered with HCD or that have been installed on a foundation system. Another common exception is for sales executed solely outside of California and with no sales presence within California borders.
Reference HSC 18002.6 (b) and BPC 10131.6 (not included in this study guide; see OL FAQ item 20 below).

A2. There are exceptions to licensing requirements for salespersons. Common exceptions include a representative of a bank selling a repossessed MH/CM as part of their official duty or court order; licensed manufacturers for specific types of sales, such as selling to a licensed dealer; a person not in the business of buying or selling MH's, selling a MH acquired for their own personal use; a licensed dealer; a licensed DRE salesperson selling a used MH.
Reference HSC 180013 (b) and HSC 18062.8 (p).

3. Q. Are there requirements to take the dealer or salesperson examination?

A1. An applicant for a MH dealer or salesperson license must have successfully completed a HCD approved six-hour preliminary education course within six months of taking a MH examination and pay the associated fee for the examination. If more than six months lapses before taking the MH examination, the preliminary education course must be taken again.
Reference HSC 18053.5, T25 sections 5020 (f)(11), 5020 (g)(6), 5022, and 5302.

FAQ LEGEND: A = Answer; BPC – California Business & Professions Code; CM = Commercial Modular; HCD = California Department of Housing & Community Development; HSC – California Health & Safety Code; OL = Occupational Licensing; MH = Manufactured Home, Multifamily Manufactured Home, and Mobilehome; SOS = California Secretary of State; T25 = California Code of Regulations, Title 25; TP = Temporary Permit; Q = Question.

A2. An applicant for a CM dealer or salesperson license is only required to pay the associated fee for the examination.
Reference HSC 18053.5, T25 section 5022.

A3. Dealer examination fee is $110; salesperson is $86, for each time the examination is taken.
Reference T25-5040 (e).

Note: Holders of a valid and current MH salesperson license need not take the six-hour preliminary education course if applying for a MH dealer license. The same applies to an MH dealer wanting to get a separate salespersons license to work for another dealer. Holders of multiple MH licenses may be able to apply the same continuing education course requirements for all licenses if earned within the respective licensure terms.
Reference T25 5302.

4. Q. What is Preliminary and Continuing Education? Why is it only required for MH dealers and MH salespersons?

A. To improve consumer protection, preliminary and continuing education requirements were mandated into law to ensure MH dealers and MH salespersons are aware of the legal responsibilities and liabilities associated with their licenses. Generally, CM buyers are businesses or government agencies and better equipped to protect their interests than the average consumer.
Reference HSC 18056.

5. Q. How much continuing education must I complete each renewal period?

A. For the first license renewal period: 24 hours.
For the second license renewal period: 12 hours.
For the third and subsequent license renewal periods 6 hours.
Reference HSC 18056.2.

6. Q. What continuing education courses are required and how many hours is each course?

A1. For the first license renewal period: 24 hours in any of the courses listed below are required:

- Laws and regulations governing MH manufacturing and sales.
- Escrow.
- Advertising and Misrepresentations.
- Registration and Titling.
- Purchase Documents.
- Warranties.
- Mobilehome Park Residency Law and Mobilehome Parks Act.

Reference T25 section 5306.

A2. For the subsequent license renewal periods: One course is always required (Laws and Regulations) and the remaining hours can be from any other approved course they choose.
Reference T25 section 5306.

A3. Course duration varies depending on how many hours the course provider listed when they applied for approval. At the very minimum continuing education courses must be at least 2 hours long. Typical courses are 2, 3, 4, or 6 hours long. Contact the course provider or visit the HCD OL website for more information at: http://www.hcd.ca.gov/codes/ol/corprvd.htm .
Reference T25 section 5310.

FAQ LEGEND: A = Answer; BPC – California Business & Professions Code; CM = Commercial Modular; HCD = California Department of Housing & Community Development; HSC – California Health & Safety Code; OL = Occupational Licensing; MH = Manufactured Home, Multifamily Manufactured Home, and Mobilehome; SOS = California Secretary of State; T25 = California Code of Regulations, Title 25; TP = Temporary Permit; Q = Question.

Note 1: HCD will not accept clock hour credits earned by repeating the same course provided by the same course provider within the same licensure term.
Reference T25 section 5306.

Note 2: You can view a list of HCD approved course providers and their courses online at: http://www.hcd.ca.gov/codes/ol/ .
Reference HCD Website.

7. Q. What are the education or experience requirements for a license applicant?

A1. A MH dealer license applicant must satisfy either education and/or experience requirements in order to be granted an MH dealer license. Please read the detailed and specific qualifying requirements in HSC 18050.7(a). Each person listed on the application as a "participating person" (for an explanation of this term see question 15 below) in the dealership ownership must meet the requirements of HSC 18050.7.
Reference HSC 18050.7.

A2. A CM dealer license applicant has no education or experience requirements. HSC 18050.7 only applies to a MH dealer applicant.
Reference HSC 18050.7.

Note 1: There are no education or experience requirements for manufacturers, distributors, or salespersons.
Reference HSC 18050.7.

8. Q. How do I study and prepare for the OL examination?

A1. A MH dealer or salesperson applicant can prepare for the MH examination by studying the applicable codes, which are contained in the OL Study Guide. The examination questions and answers are created and generated from the OL Study Guide. Preliminary education courses provide much of this knowledge in a classroom environment and may include practice examination questions to test your knowledge. Each person listed on a MH dealer application as a "participating person" (for an explanation of this term see question 15 below) in the dealership ownership must pass the MH dealer exam.
Reference the OL Study Guide.

A2. A CM dealer or salesperson applicant can prepare for the CM examination by studying the applicable codes, which are contained in the OL Study Guide. Code chapters, subchapters, and sections within the OL Study Guide that do not apply to CM licenses have a notice at the beginning of the applicable chapter, subchapter, or section that identifies parts of the OL Study Guide that generally do not apply to CM licensees. Each person listed on a CM dealer application as a "participating person" (for an explanation of this term see question 16 below) in the dealership ownership must pass the CM dealer exam.
Reference the OL Study Guide.

A3. The MH/CM dealer examinations contain 75 multiple choice questions with a two-hour (120 minutes) time limit. In order to successfully complete the dealer examination, a minimum score of 53 correct answers (70%) must be obtained.
Reference the OL Study Guide.

A4. The MH/CM salesperson examinations contain 50 multiple choice questions with a one and

one-half hour (90 minutes) time limit. In order to successfully complete the salesperson examination, a minimum score of 35 correct answers (70%) must be obtained.
Reference the OL Study Guide.

Note1: Continuing education, not preliminary education applies to MH license applicants, whose MH license expired within one year of the new MH license application.
Reference T25 section 5394(d).

Note2: There are no OL examinations for manufacturers or distributors.
Reference HSC 18053.5, T25 section 5022.

9. Q. How long is my MH or CM manufacturer, dealer, or salesperson temporary permit (TP) or license good for?

A1. A TP may be issued while HCD completes its investigation of an applicant. A TP may be issued for a period not to exceed 120 days allowing the applicant to operate as a licensee. HCD may issue more than one TP if HCD deems additional time is necessary on a case-by-case basis.
Reference HSC 18052, 18054.7; T25 sections 5023 and 5030.

A2. The length of time that a license is valid is 24 months from the date of issuance of an initial TP or a license if no TP was initially granted.
Reference HSC 18052, 18054.7.

10. Q. How will I know when to renew my license? What if I don't receive my renewal notice? How much are renewal fees?

A1. Every license issued to a MH/CM manufacturer, dealer, or salesperson is good for 24 months from the date of issuance of either a temporary permit or the license if a temporary permit was not issued.
Reference HSC 18052, 18054.7; T25 sections 5023 and 5030.

A2. License renewals must be received or postmarked to HCD no later than the month of expiration. Licensees are responsible for renewing their license on time to avoid automatic cancellation of the license. Expired licenses may be reinstated within 60 calendar days of the expiration date and pay their renewal fee plus a penalty fee equal to 50% of the renewal fee.
Reference HSC 18054.7; T25 section 5030.

A3. Renewal notices issued by HCD are courtesy notices. The licensee is responsible for renewing their license on time. If you do not receive a renewal notice, contact the OL Program by telephone at (916) 323-9803 or by e-mail at OL@hcd.ca.gov to request assistance and renewal forms. For MH dealers and salespersons, a completed "Certification of Clock Hours Earning" form HCD OL 137 must accompany your renewal application. The form HCD OL 137 is available online at: http://www.hcd.ca.gov or more directly from http://www.hcd.ca.gov/codes/ol/forms/HCD_OL137_Certification_of_Clock_Hour_Earnings.pdf .
Reference HSC 18054.7; T25 section 5030.

A4. Renewal fees for each established place of business or salesperson are: Manufacturer = $1,000; Dealer = $810; Salesperson = $150.
Reference T25 sections 5040 (a)(2), (b)(2), (c)(2).

Note 1: If your license expired it may be reinstated upon application for reinstatement to HCD within 60 calendar days of expiration. However, a reinstatement fee will be required equal to 50 percent of the renewal fee. After 60 days from the expiration date a new license must be obtained.
Reference HSC 18054.7; T25 sections 5030(b), 5302(f), and 5304.

Note 2: For expired MH dealers and MH salespersons, continuing education requirements are still

required for new dealer or salesperson applications within one year of the expiration date of the expired license. After a year a preliminary education course is required to be completed.
Reference HSC 18056.4; T25 sections 5302 and 5304.

11. Q. What is the status of my application?

A. Please allow 7 calendar days for processing your application. You can also visit the HCD website at http://www.hcd.ca.gov to see if your application has been issued a temporary permit or license. At the HCD "Home Page", under the banner "INFORMATION ABOUT…" and under the tab for "Online Services", click on the "Occupational Licensing Query" link and follow the instructions to the query screen.
Reference T25 section 5020.5 and HCD Website.

Note: If you cannot find your personal name or business name using the online OL license query engine, please contact the Occupational Licensing office at (916) 323-9803 or e-mail us at OL@hcd.ca.gov.
Reference T25 section 5020.5.

12. Q. I have moved since the submittal of my application for a license or since my last renewal?

A1. If you are a licensed salesperson, dealer, or manufacturer and have moved your residence, please submit the following:

- A completed form HCD OL 18. Follow the instructions in Section 1 on the form.
- A fee of $45.

Reference T25 section 5027.

A2. If you are a licensed dealer and moved your business location, please submit the following:

- A fee of $358.
- A completed form HCD-OL 12.
- A completed form HCD-OL 21.
- Photo – exterior office of new location.
- Return the original wall license.
- A letter of Authorization and franchise/contractual agreement from each manufacturer to sell their new MH or CM units at the new location.
- A list of any new manufacturers, brand names and model designations offered for sale from each manufacturer.
- A list of names, home addresses, and license numbers of all salespersons and managing persons, employed at the new location.

Reference T25 section 5024 (d).

A3. If you are a licensed manufacturer and moved your business location, please submit the following:

- Fee of $358.
- Completed form HCD-OL 12.
- Completed form HCD-OL 21.
- Photo – exterior office picture of new location.
- Photo – manufacturing area.
- Return the original wall license.

- An explanation of Serial Number Configuration.
- For CM and Multifamily Manufactured Home Manufacturers: Provide a copy of your Third Party Quality Assurance and Design Approval Agency contracts for the new business location.

Reference HSC 18030(b), T25 sections 4874 and 5024.

13. Q. What form and/or fees do I need to submit to HCD to add or remove a salesperson?

A1. To remove a licensed salesperson from employment, submit form HCD OL 18 to the HCD. No fee is required.
Reference T25 section 5026.

A2. To add a licensed salesperson, a fee of $45 is required. Submit the fee with a completed form HCD OL 18.
Reference T25 sections 5026 and 5040.

14. Q: Can a DRE Broker and a HCD Dealer cooperate on the sale of a MH or CM?

A: Yes, for used MH/CM's only.
Reference HSC 18040.

15. Q. What do you mean by a participating person?

A1. A participating person is the person or persons responsible for the HCD OL dealer, or manufacturer license. The participating person is basically the holder of the HCD OL license for a business. The participating person is always the owner of a sole proprietorship business. A participating person may be a designated partner(s) of a partnership; a designated manager(s) or member(s) of a limited liability company; or a controlling stockholder(s), director(s), or officer(s) of a corporation. In order for a dealership or manufacturer to continue business, there must be at least one qualified participating person for the business at all times.
Reference HSC 18053.5 (e), T25 section 5002 (z).

A2. DEALERS Only: A participating person may also be a Responsible Managing Employee (RME) only if <u>no</u> owner, such as if <u>no</u> partner in a partnership; <u>no</u> manager or member of a limited liability company; <u>no</u> controlling stockholder, director, or officer of a corporation will be participating in the direction, control, or management of the sales operation of a dealership. If you have a participating person who is partner, member, controlling shareholder, director, or officer than you <u>cannot</u> also have a RME. Likewise if you have a RME you cannot also have a participating person partner, manager, member, controlling stockholder, director, or officer.
Reference HSC 18053.5 (e); T25 section 5002 (x).

16. Q. If the participating person for a licensed dealer or manufacturer is no longer with the business do we have to notify HCD? What forms and fees are required to remove or add a participating person?

A1. Yes, you are required to notify HCD at least 10 calendar days before the effective date of the termination or addition of a participating person.
Reference HSC sections 18050.7 and 18060; T25 section 5025.

A2. Change of participating person(s) for dealers and manufacturers:

- A fee of $72 for removal of person(s); $130 to add person(s) $202 for both removing and adding a participating person(s).
- A completed form HCD OL 12.
- A completed form HCD OL 29 for each new participating person.
- Two (2) full facial photographs, minimum size 1 1/4" X 1", taken from a

maximum distance of six feet, for each new participating person.

- A completed livescan form HCD OL 8016, fingerprinted by a certified fingerprint roller for each new participating person.

Reference HSC 18060; T25 sections 5020, 5025, and 5040.

A3. DEALERS only: include the following:

- A completed form HCD OL 28, Certificate of Appointment.
- Proof (receipt) of successful completion of the MH or CM Dealer Examination, whichever is applicable, within six (6) months prior to the application date.
- A completed form HCD OL 50, if any of the signatories on the business bank account has changed.

Reference HSC 18053.5, T25 sections 5020 (f), 5025 (a).

A4. If a MH DEALER: include the following:

- Six (6) hours of Preliminary Education unless currently licensed. If currently licensed, contact HCD OL Program to check if continuing education is required.
- Meet the educational and/or work experience requirements of HSC 18050.7.

Reference HSC section 18050.7 and 18060; T25 section 5025.

A5. If a CORPORATION:

- Submit a Notice of Change of Corporate Officer(s) and/or Director(s), form HCD OL 15, a copy of corporate minutes reflecting the (addition of/removal of) corporate officer(s).
- Provide a copy of the current Articles of Incorporation filed with the SOS or acceptable SOS document(s) filed with the SOS showing the change(s) of the participating person(s).

Reference T25 sections 5020 (a), (c) and 5025.

A6. If a LIMITED LIABILITY COMPANY:

- Statement of Relinquishment form HCD OL 49 for each person relinquishing ownership interest.
- A copy of the current Articles of Organization filed with the SOS or acceptable SOS form LLC-1 filed with the SOS showing the change(s) of the participating person(s).

Reference T25 sections 5020 (a), (c) and 5025.

A7. If a PARTNERSHIP:

- Statement of Relinquishment form HCD OL 49 for each person relinquishing ownership interest.
- A copy of the current executed LIMITED PARTNERSHIP agreement filed with the SOS or acceptable SOS form LP-1 filed with the SOS showing the change(s) of the participating person(s).
- A copy of the current executed GENERAL PARTNERSHIP agreement filed with the SOS or acceptable SOS form GP-1 filed with the SOS showing the change(s) of the participating person(s). Note: Per SOS website, in-lieu of filing with the SOS, a general partnership may record its partnership at the county recorder's office where the partnership is located. In this situation, provide a copy of the current general partnership agreement showing it was recorded at the appropriate county recorder's office.

Reference T25 sections 5020 (a), (c) and 5025.

A8. If a RESPONSIBLE MANAGING EMPLOYEE (RME) is the participating person, the RME must have a valid HCD salesperson's license. However, the RME applicant is required to take the dealer exam, not the salesperson exam.
Reference HSC 18053.5, T25 sections 5020 (a), (c) and 5025.

Notes:

1. Foreign or out-of-state businesses should contact the SOS for information. http://www.sos.ca.gov/.
2. HCD does not issue licenses to LIMITED LIABILITY PARTNERSHIPS.

17. Q. What is the website address to obtain HCD OL information and forms?

A. For specific information use the following links:

- The website address to obtain more information and HCD OL forms to apply for new license or make changes to a existing license on the HCD website is http://www.hcd.ca.gov/codes/ol/.
- Salesperson specific info: http://www.hcd.ca.gov/codes/ol/salplic.htm
- Dealer specific info: http://www.hcd.ca.gov/codes/ol/dlrlic.htm
- Distributor specific info: http://www.hcd.ca.gov/codes/ol/distlicpg.htm
- Manufacturer specific info: http://www.hcd.ca.gov/codes/ol/mfgpg.htm

Reference HSC 18050; T25 section 5020.

18. Q. Can I take my forms and fees for a license application directly to a HCD R&T District Office?

A. Yes you may submit your application for an HCD OL license at any HCD RT district office. The RT office will send your application directly to HCD OL at P.O. Box 31, Sacramento, CA 95812-0031. You can locate the RT district office near you via the HCD website at http://www.hcd.ca.gov/ or more directly at http://www.hcd.ca.gov/codes/ol/exmsites.htm.
Reference HCD Website.

Note: At this time, HCD RT offices can only accept credit cards for OL exams. At this time the HCD OL Program cannot accept credit card payments.

19. Q. How do I contact or mail documents to HCD OL?

A1. You can email HCD OL staff at: OL@hcd.ca.gov or call at (916) 323-9803.

A2. If you are mailing documents through the U.S. Postal Service, please mail to:
HCD OL, P. O. Box 31, Sacramento, CA, 95812-0031.

A3. If you are sending documents through another delivery service directly to the building, you may have it sent to HCD OL, 1800 3rd Street, Room 260, Sacramento, CA 95811.
Reference HCD Website.

20. Q. Where can I get access to all of California laws and regulations?

A1. You can view California laws online at: http://www.leginfo.ca.gov/calaw.html .

A2. You can view California regulations online at:
http://government.westlaw.com/linkedslice/default.asp?SP=CCR-1000 .
Reference Internet.

FAQ LEGEND: A = Answer; BPC – California Business & Professions Code; CM = Commercial Modular; HCD = California Department of Housing & Community Development; HSC – California Health & Safety Code; OL = Occupational Licensing; MH = Manufactured Home, Multifamily Manufactured Home, and Mobilehome; SOS = California Secretary of State; T25 = California Code of Regulations, Title 25; TP = Temporary Permit; Q = Question.

INDUSTRY QUESTIONS AND ANSWERS

The following Questions and Answers were provided by MH industry representative JC Strutzel and do not necessarily reflect the position of HCD. However they may provide applicants and licensees with the perspective of a long time industry expert relating to a topic that is becoming more common in today's economic era.

1) Q: So how do Dealers and Brokers cooperate?

A: *If someone licensed only as a Dealer cooperates with a Broker, the sale is subject to §18035 Health and Safety Code and the Dealer must control the sale. The Dealer is charged with the responsibility of controlling the transaction and making sure the sale conforms to HCD law. The Dealer is identified as the 'Seller' in the escrow and purchase documents. The Dealer is allowed to pay, and the Broker is allowed to receive, a 'referral fee' even though the Broker has performed a function that requires a DRE license.*

2) Q: Does that mean a Dealer/Broker cooperative sale would conform to both DRE and HCD law?

A: *No. The respective legal processes governing Dealers and Brokers are vastly different. The transactional differences between the two make it impossible to comply with both sets of laws at the same time. The law governing cooperative sales between a Dealer and Broker is Dealer law such as found in Division 13, Part 2, of the Health and Safety Code. Within that body of law is Section 18035 Health and Safety Code, which contains a code specified escrow law.*

3) Q: Why was HCD law chosen over DRE law as the regulatory process of choice?

A: *Both the California Association of Realtors (CAR) and HCD expressed opinions on this issue. Both parties agreed that such transactions should only be covered by one body of law. CAR recommended DRE law because it annually protected hundreds of thousands of real property homes. HCD said the rights of the consumer were far greater under HCD law. HCD prevailed.*

4) Q: If the buyer, seller, Dealer and Broker all agreed, could a Dealer and Broker each process their end of the deal according to HCD and DRE law respectively?

A: *No. As already stated, it is impossible to comply with both regulatory schemes at the same time. There are unavoidable conflicts that cannot be waived.*

5) Q: What are some of those conflicts?

A: *Examples of some conflicts are:*

1. *Dealers are in the chain of title; they guarantee title like an auto- mobile dealer (DMV dealer law was the genesis for HCD dealer law). Brokers act only as agents.*
2. *The rights of consumers differ significantly depending upon whether HCD law or DRE law is applied. A few examples are: under DRE law a buyer and seller can agree to liquidated damage clauses; early releases of funds from escrow; or waive the creation of an escrow. All three of these actions violate HCD law.*
3. *Remedies for the consumers differ depending upon which body of law governs the transaction.*
4. *A 'secured party' (i.e. a 'legal owner or junior lienholder) is required to deliver their original title document and a HCD 'Conditional Release of Interest' form prior to the payoff of their liens if the escrow is governed by HCD law (§18035(d) Health and Safety Code). In all other instances a secured party is not required to deliver their original title to escrow until after receiving payment in full of the unpaid balance due on their loan.*

   HCD law prohibits any provision in an agreement that waives the buyer's rights. Any waiver is deemed contrary to public policy and is deemed void and unenforceable.

6) Q: Why is a Dealer regarded as the seller when the MH unit is still owned by the registered owner and what is the significance of that fact?

A: *HCD has said that simultaneously to when the buyer has paid the purchase price and accepted delivery of the home, and the conditions of escrow have been met, title to the home automatically passes to the dealer for a brief instant in time, thereby enabling the dealer to have the ability to close the escrow, report the sale and guarantee title. At close of escrow the Dealer was the seller. The Dealer and purchaser mutually executed a code specified receipt for deposit (see §18035.1 Health and Safety Code), a purchase order, conditional sales contract, or other document evidencing the purchase contemporaneous with, or prior to, the receipt of any cash from the purchaser. All payments toward the purchase shall only be made payable to the escrow agent.*

7) Q: A common school of thought is that an escrow agent only accepts instructions. Assuming that is true, do escrow agents have to be concerned with making sure the escrow instructions they prepare comply with MH unit escrow law?

A: *Yes. Several years ago Deputy Attorney General Michael Botwin answered this question when he caused an article to be published in "CEA News:' The subject of the article concerned a popular escrow agent that complied with the instructions of her principals on the sale of a new MH unit, Those instructions did not comply with the mobile home escrow law (§18035 Health and Safety Commission); Instead funds were released early and the buyer suffered damages. The Dealer fled. The AG filed suit against the escrow agent. The escrow agent paid the buyer's damages and went out of business. That said, probably the greatest exposure to litigation for an escrow agent derives from civil litigation initiated by consumers or lenders, not government enforcement agencies. Therefore, it may be wise to have a discussion with your attorney prior to accepting instructions that do not conform to the law.*

8) Q: For the protection of a Broker's client, wouldn't it be better if the Broker continued their involvement with the transaction until the close of escrow?

A: *At first blush this sounds good. But the fact is that Brokers probably know no more about HCD law than Dealers know about DRE law. This supports the notion that the only fair thing to do is to excuse the Broker from any further duty once an offer is accepted. The Broker gets referral fee, which seems to imply the Broker has minimal exposure to a valid complaint.*

9) Q: What procedure should a Broker follow when an offer is about to be made involving a Dealer co-op?

A: *You have a duty to disclose to your client that the pending offer involves a Dealer and if the offer is accepted, you will be required to excuse yourself from further participation in the progression of the transaction since the sale must be handled by the Dealer pursuant to HCD law. You may add that you will receive a referral fee.*

10) Q: Can someone who is dual-licensed as a Dealer and a Broker cooperate with another Broker pursuant to DRE law instead of HCD law?

A: *Yes. Someone who is dual-licensed is not required to use one license or the other. The forms and actions used by the dual-licensee dictate which license is in play. Hence, it is possible that someone who is licensed as a Broker can cooperate pursuant to DRE law with someone who is dual-licensed.*

PROLOGUE

What Is It Called?

In addition to creating the state standards for conventional site built housing, the Division of Codes and Standards oversees an industry whose products are known by different names. This sometimes causes confusion. This information should clarify the usage of the different names.

What is a Manufactured Home?

"Manufactured Homes" are single-family dwellings manufactured in a factory to preemptive federal construction standards. Available designs range from low priced single section homes known as "singlewides," to upscale homes manufactured in several sections, and even multi-story homes. Shown at the left is a model designed for placement on a foundation with the garage constructed after the installation of the three-section home. Note: A "Park Trailer" model is not a manufactured home, it is a recreational vehicle and excluding loft areas may have up to 400 square feet of gross floor area.

What is a Multifamily Manufactured Home?

Formally known as multi-unit manufactured housing, a multifamily manufactured home is a structure manufactured in one or more transportable sections to form two or more dwelling units into a single structure when installed. Multifamily manufactured homes may be used as a duplex, a dormitory, a hotel, efficiency units, or apartments, installed on a support system or foundation system. Depending on the situation, it may be required to comply with state and/or federal accessibility requirements.

PROLOGUE

What is a Mobilehome?

The term "mobilehome" was originally used to describe structures constructed in factories containing one and not more than two dwelling units. In 1982, the definition of "mobilehome" changed to "manufactured home" to identify structures containing only one dwelling unit. However, the term "mobilehome" was amended further to remove the two dwelling unit provision, and the term "multifamily manufactured home" (formally known as "multi-unit manufactured housing") was added to address structures containing more than one dwelling unit. In 2008 the term was further amended to specify structures built under state standards prior to June 15, 1976.

What is a Commercial Modular?

"Commercial Modular," formerly known as "Commercial Coach" until January 1, 2003*, is one of the most diverse types of nonresidential transportable structures manufactured in a factory. They are manufactured in single or multiple transportable sections, have many varied configurations and uses, and may be multi-storied units. They are designed and equipped for human occupancy for industrial, professional, or commercial uses. These structures can be a corner convenience store, an architect's office, a factory, a school classroom(s), etc. A permit is required to transport these units.

What is a Special Purpose Commercial Modular?

A "Special Purpose Commercial Modular," formerly known as a Special Purpose Commercial Coach until January 1, 2003*, is not a structure. They are vehicles, with or without motive power, designed and equipped for human occupancy for industrial, professional, or commercial purposes. These vehicles are not required to be moved under permit, but they must be registered and licensed by the California Department of Motor Vehicles for movement on public roads. The mobile food preparation unit at the left is an example of a Special Purpose Commercial Modular. In most instances, the local health department or the California Department of Health Services also must approve the unit in order to affix a Department insignia of approval.

* Reference HSC Sections 18001.8, 18012.5, and 18015.1.

MOBILEHOMES-MANUFACTURED HOUSING ACT OF 1980
TABLE OF CONTENTS

MOBILEHOMES-MANUFACTURED HOUSING ACT OF 1980

HEALTH AND SAFETY CODE

Division 13 HOUSING

Part 2 MOBILEHOMES–MANUFACTURED HOUSING

Chapter 1 DEFINITIONS

§ 18000. Citation of part 8
§ 18000.5. Continuation of existing law; Emergency regulations 8
§ 18001. "Approved" 8
§ 18001.6. "Building" 8
§ 18001.8. "Commercial modular" 8
§ 18002. "Commission" 8
§ 18002.3. "Consumer" 8
§ 18002.6. "Dealer" 8
§ 18002.8. "Department" 9
§ 18003. "Distributor" 9
§ 18003.3. "Dwelling unit" 9
§ 18003.5. "Escrow agent" 9
§ 18003.6. "Established place of business" 9
§ 18003.8. "Franchise" 9
§ 18004. "Franchisee" 9
§ 18004.3. "Franchisor" 10
§ 18004.6. "Fraud"; Deceit 10
§ 18004.8. "Good moral character" 10
§ 18005. "Hearing" or "notice of hearing" 10
§ 18005.3. "Junior lienholder" 10
§ 18005.6. "Lease" 10
§ 18005.8. "Legal owner" 10
§ 18006. "Licensee" 10
§ 18006.3. "Manufacturer" 10
§ 18007. "Manufactured home" 10
§ 18007.5. [Section repealed 1981] 10
§ 18008. "Mobilehome" 10
§ 18008.5. "Manufactured home or mobilehome accessory building or structure"; "Manufactured home or mobilehome accessory" 11
§ 18008.7. "Multifamily manufactured home" 11
§ 18009. "New manufactured home"; "New mobilehome"; "New commercial coach" 11
§ 18009.3. "Park trailer" requirements 11
§ 18009.5. "Registered owner" 12
§ 18010. "Recreational vehicle" 12
§ 18010.5. "Regulations" or "rules and regulations" 12
§ 18011. "Rent" 12
§ 18012. "Retailer" 12
§ 18012.3. "Sale" or "sold" 12
§ 18012.4. "Slide–in camper" 12
§ 18012.5. "Special purpose commercial modular" 12
§ 18013. "Salesperson" 12
§ 18013.2. "Third–party entity" or "third party" 13
§ 18013.4. "Truck camper" 13
§ 18014. "Used manufactured home", "used mobilehome," or "used commercial coach" 13
§ 18014.5. "Net listing agreement" defined 13

MOBILEHOMES-MANUFACTURED HOUSING ACT OF 1980
TABLE OF CONTENTS

Chapter 2 APPLICATION AND SCOPE

§ 18015. Statewide applicability 13
§ 18015.1. Statutory references to “commercial coach” and “special purpose commercial coach” 13
§ 18015.5. Application of manufactured home and mobilehome standards to commercial coaches 13
§ 18015.7. Sale to unlicensed persons by public agency for low–and moderate housing 14
§ 18016. Use of alternate construction materials or methods 14
§ 18016.5. Mobilehome–Manufactured Home Revolving Fund 14

Chapter 3 ENFORCEMENT

§ 18020. Regulations for approval of third–party entities; Criteria 14
§ 18020.5. Violations as misdemeanor; Time for filing charges 15
§ 18021. Violations of federal safety standards 15
§ 18021.5. Remedies for violations relating to licensing or titling and registration 15
§ 18021.6. Application of other penal laws 16
§ 18021.7. Citation and civil penalty assessment; Petition for hearing; Proceedings 16
§ 18022. Authorized inspections 16
§ 18022.5. Action to enjoin violations; Appointment of receiver; Claim for restitution 16
§ 18023. Director’s powers as peace officer; Notice by department of violation by escrow agent 17
§ 18024. Engaging in business of dealer without valid license; Citation; Order of abatement; Civil penalty 17
§ 18024.2. Time limit for issuing citation 17
§ 18024.3. Appeal from citation; Delivery of citation 17
§ 18024.4. When citation deemed final; Judicial review; Costs 17
§ 18024.5. Hearing; Decision 17
§ 18024.6. Application to superior court for civil penalty judgment and order compelling abatement 17

Chapter 4 STANDARDS

§ 18025. Construction and equipment standards 17
§ 18025.5. Enforcement of federal standards; Inspections and investigations 18
§ 18025.6. Enforcement of federal standard for specified period after repeal 18
§ 18026. Insignias of approval for preexisting units 18
§ 18026.1. Exemption for units sold to federal government 18
§ 18027. Denial of insignia of approval 18
§ 18027.3. Legislative findings; Standards for recreational vehicles; Insignia indicating compliance; Prohibitions 18
§ 18027.5. Truck camper identification numbers 19
§ 18028. Adoption of regulations for construction of certain vehicles not subject to federal standards 19
§ 18028.5. Applicability of fire safety standards 20
§ 18029. Alterations and conversions 20
§ 18029.3. Use of manufactured home, mobilehome, vehicle, or transportable structure as commercial coach; Commercial coach mobile food preparation units 20
§ 18029.4. Compliance of special purpose commercial coaches with construction standards 20
§ 18029.5. Fire protection regulations; Reports of fires 20
§ 18029.6. Smoke detectors in used manufactured homes and used mobilehomes 20
§ 18030. Standards for out of state commercial coaches; Enforcement by third party entities 21
§ 18030.5. Compliance with local ordinances 21
§ 18031. Schedule of fees 21
§ 18031.5. Installation of fireplaces 21
§ 18031.7. Replacement of water heaters with fuel gas burning water heaters; Warning label 21

MOBILEHOMES-MANUFACTURED HOUSING ACT OF 1980
TABLE OF CONTENTS

§ 18031.8. Replacement in manufactured homes or mobilehomes with fuel gas burning appliances 22
§ 18032. Informational labels 22
§ 18032.5. [Section repealed 1995.] 23
§ 18033. Requirements for loft area excluded from gross floor area 23
§18033.1. Requirements for statutory compliance of park trailers with lofts 24
§18034. Licensure as mortgage loan originator not required 24

Chapter 5 SALES AND ESCROWS
§18035. Escrow account; Provisions of escrow instructions; Escrow procedure; Damages action 25
§18035.1. Receipt for deposit; Contents; Requirements for sale not subject to registration 27
§18035.2. Installation on foundation system; Document evidencing purchase; Escrow account 28
§ 18035.25. Dealer's failure to correct defects in installation performed by licensed contractor 28
§ 18035.26. Manufactured home and mobilehomes, completion of sale; Warranty period; Escrow and reporting requirements 28
§ 18035.3. Contents of purchase document 29
§ 18035.4. Sales to which provisions do not apply 30
§ 18035.5. Demand for copy of conditional sale contract from secured party; Failure to prepare; Charges 30
§ 18036. Rescission of contract for inability to obtain financing 30
§ 18036.5. Truth in lending; Correction of disclosure violations; Damages 31
§ 18037. Assignee's recourse against seller 32
§ 18037.5. Default; Notice requirements; Repossession; Proceeds of sale; Accounting 32
§ 18038.7. Prohibition against deficiency judgments 34
§ 18039. Prohibition against waiver of rights 35
§ 18039.1. Law governing procedures for notice of default and sale 35
§ 18039.5. Applicability of chapter; Effect of other consumer sales statutes 35

Chapter 6 MULTIPLE LISTING BETWEEN DEALERS OF MANUFACTURED HOMES, MOBILEHOMES, OR COMMERCIAL COACHES
§ 18040. Solicitation of listings; Multiple listing arrangements 35
§ 18040.5. Suspension or revocation of dealer's license 35

Chapter 7 OCCUPATIONAL LICENSES
Article 1 General Requirements
§ 18045. Requirement of license or temporary permit 35
§ 18045.5. Established place of business required for license; Requirements; Inspection 35
§ 18045.6. Notice of change of location or loss of franchise 36
§ 18045.8. Issuance of temporary permit; Cancellation 36
§ 18046. "Agent"; "Seller"; Inspection and disclosure duty of dealer or salesperson; Transfer disclosure statement 36
§ 18046.1. Standard of care 37

Article 2 Applications and Renewals
§ 18050. Form and contents; Investigation 37
§ 18050.5. Refusal to issue license 37
§ 18050.7. Education and experience requirements for dealer's license 38
§ 18051. Probationary licenses; Demand for hearing 38
§ 18052. Temporary permits; Demand for hearing 39
§ 18052.5. Certificates of convenience 39
§ 18052.6. 90–day certificate on one–time–only basis 39
§ 18052.7. Restrictions on employment of 90–day licensees 39
§ 18053. Reapplications 39

MOBILEHOMES-MANUFACTURED HOUSING ACT OF 1980
TABLE OF CONTENTS

§ 18053.5. Examinations 39
§ 18054. Issuance of licenses and other evidence of licensure 40
§ 18054.7. Expiration and renewal of licenses and decals 40
§ 18055. License fees 40

Article 2.5 Continuing Education
§ 18056. Legislative determination; Adoption of regulations 41
§ 18056.1. Solicitation of expert assistance and advice 41
§ 18056.2. Number of continuing education hours; Regulations 41
§ 18056.3. Amendment or repeal of regulations 41
§ 18056.4. Completion of requirements prior to issuance or renewal or license 41
§ 18056.5. Grace period 41

Article 3 Infractions and Penalties
§ 18058. Violations by licensees; Suspension or revocation of license 41
§ 18058.1. Service of process 42
§ 18058.5. License applications 42
§ 18059. Taxation, fees, title, and registration 42
§ 18059.5. Escrows and sales practices 42
§ 18060. Business operations 42
§ 18060.5. Business practices 42
§ 18061. Advertising practices 43
§ 18061.5. Other acts 44
§ 18061.6. Notice of other occupancy; year of manufacture 44
§ 18062. Specified acts by dealers 44
§ 18062.2. Additional acts by dealers 44
§ 18062.5. Coercion of dealer by manufacturer or distributor 45
§ 18062.8. Unlawful acts of manufacturers or distributors 45
§ 18062.9. Sale of manufactured home directly to licensed California general building contractor 46
§ 18063. Unlawful acts by salespersons 47
§ 18064. Temporary suspension of license 47
§ 18064.2. Cease and desist order by director; Hearing 47
§ 18064.5. Compromise settlement and monetary penalty agreements 47
§ 18065. Automatic cancellation of licenses or permits 48
§ 18065.5. Limited revocations or suspensions 48
§ 18066. Filing of accusation 48
§ 18066.5. Return of excess title fees 48

Chapter 7.5 MANUFACTURED HOME RECOVERY FUND
§ 18070. Legislative intent; Definitions; Use of funds; Investment of money in Fund; Continuous appropriation 49
§ 18070.1. License fees 49
§ 18070.2. Time for collecting fees and making claims; Date of sale; Reduction of fees 50
§ 18070.3. Filing of claims against fund; Limits on payments; Prerequisites; Time limitations; Other requirements; Satisfaction of judgment; Priority of claims; Provision of information to legislature upon request 50
§ 18070.4. Liability of judgment debtor for repayment 51
§ 18070.5. Subrogation rights 51
§ 18070.6. Administrative actions 51
§ 18070.7. Application of amendments to specified transactions 51

MOBILEHOMES-MANUFACTURED HOUSING ACT OF 1980
TABLE OF CONTENTS

Chapter 8 REGISTRATION AND TITLING OF MANUFACTURED HOMES, MOBILEHOMES, AND COMMERCIAL COACHES

Article 1 Application and Scope

§ 18075. Regulations; Schedule of fees 52
§ 18075.5. Exceptions to registration requirements 52
§ 18075.55. Registration of and title to floating homes; “Floating home” 52
§ 18075.6. Registration of mobilehome, manufactured home, or commercial coach used as office 53
§ 18075.7. Registration of truck camper 53
§ 18076. Government owned manufactured homes, mobilehomes, commercial coaches, and truck campers 53
§ 18076.5. Administration of licensing and taxation 53
§ 18077. Deposit of license fees in State Treasury 53
§ 18077.5. Reports to county auditors of situs addresses 53
§ 18079. Property tax postponement programs 53

Article 2 General Definitions and Requirements

§ 18080. Co-ownership 53
§ 18080.1. Name on registration 54
§ 18080.2. Ownership and title in beneficiary form 54
§ 18080.3. Registration as single or separate unit 54
§ 18080.4. Registration cards 54
§ 18080.5. Report of sale, lease, or rental; Fees and penalties; Notice of transfer; Completion of transaction 55
§ 18080.7. Documents to be forwarded to department; Perfection of security interest; Permanent title record 55
§ 18080.9. Lien for unpaid rent against mobilehome owner by owner of park 56
§ 18081. Disclosure of registration and title information 57
§ 18081.3. Bulk information regarding registration and title status for statistical or commercial purposes 57
§ 18081.5. Reports to county assessors of changes in ownership 57
§ 18084.7. Applicability of registration and titling requirements and taxes 57

Article 3 Applications for Original Registration and Title

§ 18085. Form and contents 57
§ 18085.5. Required presence within state 58
§ 18086. Acceptance of application for home, coach, or camper not within state 58
§ 18086.5. Posting of bond in absence of evidence of ownership 58
§ 18087. Previous out–of–state registrations 58
§ 18087.5. Surrender of out–of–state license plates 58
§ 18088. Grant of full faith and credit to out–of–state certificates of title 58
§ 18088.5. Out–of–state certificates of title showing liens or encumbrances 59
§ 18089. Withholding California certificate of title 59
§ 18089.5. Return of documents upon refusal to grant application 59
§ 18090. Notice of application to state of last registration 59
§ 18090.5. Establishment of permanent title record; Certificate of title; Registration card 59
§ 18090.6. Electronic transmittal of certificate of title 59
§ 18090.7. Electronic programs to facilitate improved business practices 59
§ 18091. Contents of certificate of title 60
§ 18091.5. Contents of registration card 60
§ 18092. Registration decals 60
§ 18092.5. Refusal of registration, renewal, or transfer 60
§ 18092.7. Tax clearance certificates 60
§ 18093. Certificates of origin 61
§ 18093.5. Certificate of origin for truck camper 61

MOBILEHOMES-MANUFACTURED HOUSING ACT OF 1980
TABLE OF CONTENTS

Article 4 Amendments, Transfers, and Transactions

§ 18098. Notification of change of address 61
§ 18099. Notification of new situs address of commercial coach 62
§ 18099.5. Consent to change of situs 62
§ 18100. Amended registration cards 62
§ 18100.5. Notification of transfer of title or interest, satisfaction of obligation, or taking of security interest; Transfer of registration 62
§ 18101. Conditions precedent to transfer of title 63
§ 18101.5. Dealers as transferees 63
§ 18102. Transfer of registration to surviving heir or beneficiary 64
§ 18102.2. Transfer of ownership to beneficiary; Revocation 64
§ 18102.3. Protection from liability 65
§ 18102.5. Transfer of registration when documents of title are unavailable 65
§ 18103. Transfer of registration while renewal application is pending 65
§ 18105. Priority of security interests 65
§ 18105.5. Assignment of title or interest by legal owner or junior lienholder 66
§ 18106. Priority of rights of lien creditors and persons with security interests 66

Article 5 Renewals and Replacements

§ 18108. Replacement of registration cards and decals 66
§ 18108.5. Replacement of certificates of title 66
§ 18109. Expiration and renewal of registration cards 66
§ 18109.5. Renewal of certificates of title 67
§ 18110. Application for transfer to provide duplicate certificate of title 67

Article 6 Fees and Taxes

§ 18114. Registration fees 67
§ 18114.1. Additional annual fee; Exemption for transportable sections 67
§ 18114.5. Payment of registration fees by transferees 67
§ 18115. Vehicle license fees 67
§ 18115.5. Classification plan; Determination of market value 68
§ 18116. Payment of license fees; Late fees 68
§ 18116.1. Liens 69
§ 18116.2. Unsatisfied liens; Seizure; Notice; Proceeds of sale 69
§ 18116.5. Exemptions from use tax 70
§ 18117. Payment of use tax for manufactured homes, mobilehomes, and commercial coaches previously registered out–of–state 70
§ 18117.5. Transfer fee delinquencies 70
§ 18118. Payment of renewal fees in conjunction with registration transaction 70
§ 18119. Delinquent license fee; Notice; Listing; Transfer 70

Article 7 Penalties

§ 18122. Suspension, revocation, or cancellation of certificate of title; Notice 70
§ 18122.5. Unlawful acts with respect to transfer of registration 70
§ 18123. Payment of use tax and penalty 70
§ 18123.5. Violations by dealers 71
§ 18124. Seizure of documents of title or decals 71
§ 18124.5. Fraudulent acts with respect to documents of title 71

Chapter 9 MOBILEHOME OMBUDSMAN

§ 18150. Legislative findings and declarations 71
§ 18151. Establishment of position; Powers and duties 72
§ 18152. Designation of deputy director 72
§ 18153. Procedures to address complaints 72

Mobilehomes — Manufactured Housing Act of 1980

California Health and Safety Code

http://www.leginfo.ca.gov/calaw.html

MOBILEHOME-MANUFACTURED HOUSING ACT OF 1980

HEALTH AND SAFETY CODE
Division 13 HOUSING
Part 2 MOBILEHOMES–MANUFACTURED HOUSING

Chapter 1 DEFINITIONS

§ 18000. Citation of part

(a) This part shall be known and may be cited as the Manufactured Housing Act of 1980.

(b) The Legislature finds and declares all of the following:

(1) Manufactured housing, both in mobilehome parks or manufactured housing communities, and outside of those parks or communities, provides a safe and affordable housing option for many Californians.

(2) Confusion exists among consumers, enforcement agencies, lenders, and others in the housing industry regarding the difference between "manufactured housing" and "mobilehomes." All single-family factory-constructed housing built on or after June 15, 1976, that is in compliance with the standards of the United States Department of Housing and Urban Development promulgated under the federal National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 and following) are manufactured housing or manufactured homes, not "mobilehomes" and, as such, often are subject to additional benefits.

(3) Continued use of the term "mobilehome" in various statutes, as well as the implication that the terms are interchangeable, exacerbates the confusion between the two products and deters affordable financing, discourages use in certain localities, and perpetuates incorrect perceptions as to codes and standards.

(4) The changes made by the act adding this subdivision to clarify the meaning of the terms "mobilehomes" and "manufactured homes" are not intended to effect any substantive change with respect to the treatment of those housing products or to the consumer protections provided for those housing products.

§ 18000.5. Continuation of existing law; Emergency regulations

The provisions of this part, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. During any transition required by this part, and until July 1, 1982, the department may determine or effectuate any action or requirement in a manner which implements the legislative intent of this part and which protects appropriate interests of any parties subject to or protected by this part. Regulations implementing this part and promulgated prior to July 1, 1982, shall be deemed emergency regulations pursuant to Section 11346.1 of the Government Code.

§ 18001. “Approved”

“Approved,” when used in connection with any material, appliance, or construction, means meeting the requirements and approval of the Department of Housing and Community Development.

§ 18001.6. “Building”

“Building” is any permanent structure built for the support, shelter, or enclosure of persons, animals, chattel, or property of any kind.

§ 18001.8. “Commercial modular”

“Commercial modular” means a structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional, or commercial purposes, which is required to be moved under permit, and shall include a trailer coach as defined in Section 635 of the Vehicle Code. “Commercial coach” has the same meaning as “commercial modular” as that term is defined in this section.

§ 18002. “Commission”

“Commission” is the Commission of Housing and Community Development.

§ 18002.3. “Consumer”

“Consumer” includes any person or entity which purchases or leases a manufactured home, mobilehome, commercial coach, recreational vehicle, or truck camper for consideration, except a dealer or manufacturer.

§ 18002.6. “Dealer”

(a) “Dealer” means a person not otherwise expressly excluded by subdivision (b), who is engaged in any of the following activities:

(1) For commission, money, or other thing of value, sells, exchanges, leases, buys, offers for sale, or negotiates or attempts to negotiate a sale or exchange of an interest in a manufactured home, mobilehome, or commercial coach, or induces or attempts to induce any person to buy or exchange an interest in a manufactured home, mobilehome, or commercial coach, and who receives or expects to receive a commission, money, brokerage fees, profit, management fees, or any other things of value from either the seller or purchaser of the manufactured home, mobilehome, or commercial coach.

(2) Is engaged wholly or in part in the business of selling manufactured homes, mobilehomes, or commercial coaches or buying or taking in trade manufactured homes, mobilehomes, or commercial coaches for the purpose of reselling, selling, or offering for sale, or consigning to be sold, or otherwise dealing in manufactured homes, mobilehomes, or

commercial coaches, whether or not these manufactured homes, mobilehomes, or commercial coaches are owned by the dealer.

(b) "Dealer" does not include any of the following:

(1) An insurance company, bank, savings and loan association, finance company, or public official coming into possession of one or more manufactured homes, mobilehomes, or commercial coaches in the regular course of business, who only sells manufactured homes, mobilehomes, or commercial coaches under a contractual right or obligation, in performance of an official duty, or under the authority of any court of law. However, a sale subject to this paragraph shall be for the purpose of preventing the seller from suffering a loss or pursuant to the authority of a court of competent jurisdiction.

(2) Persons who sell or distribute manufactured homes, mobilehomes, or commercial coaches, subject to registration or titling pursuant to Chapter 8 (commencing with Section 18075), for a manufacturer to dealers licensed under this part, or who are employed by manufacturers or distributors to promote the sale of manufactured homes, mobilehomes, or commercial coaches dealt in by that manufacturer or distributor. However, if any person also sells manufactured homes, mobilehomes, or commercial coaches at retail, the person is a dealer and is subject to this part.

(3) Persons regularly employed as salespersons by dealers licensed under this part while acting within the scope of that employment.

(4) Persons exclusively engaged in the bona fide business of exporting manufactured homes, mobilehomes, or commercial coaches, or of soliciting orders for the sale and delivery of manufactured homes, mobilehomes, or commercial coaches outside the territorial limits of the United States, if no federal excise tax is legally payable on any of those transactions or the tax is legally refundable on the transactions. Persons not exclusively engaged in the bona fide business of exporting manufactured homes, mobilehomes, or commercial coaches but who are engaged in the business of soliciting orders for the sale and delivery of manufactured homes, mobilehomes, or commercial coaches outside the territorial limits of the United States shall be exempt from licensure as dealers only if their gross sales proceeds from manufactured homes, mobilehomes, or commercial coaches produce less than 10 percent of their total gross revenue from all business transacted.

(5) Persons not engaged in the purchase or sale of manufactured homes, mobilehomes, or commercial coaches as a business.

(6) Persons disposing of manufactured homes, mobilehomes, or commercial coaches acquired for their own use or for use in a business of acquiring, leasing, or selling manufactured homes, mobilehomes, or commercial coaches, if the manufactured homes, mobilehomes, or commercial coaches have been so acquired and used in good faith and not acquired or used for the purpose of avoiding the provisions of this part.

(7) Persons licensed as real estate brokers who buy, sell, list, or negotiate the purchase, sale, or exchange of manufactured homes or mobilehomes pursuant to Section 10131.6 of the Business and Professions Code.

§ 18002.8. "Department"

"Department" means the Department of Housing and Community Development.

§ 18003. "Distributor"

"Distributor" means any person other than a manufacturer who sells or distributes new manufactured homes, mobilehomes, or commercial coaches to dealers in this state.

§ 18003.3. "Dwelling unit"

"Dwelling unit" means one or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating, and sanitation.

§ 18003.5. "Escrow agent" ***<Not applicable for CM exams>***

"Escrow agent" means the person, firm, or corporation authorized by law to conduct the escrows required by Section 18035.

§ 18003.6. "Established place of business"

"Established place of business" means a place actually occupied, either continuously or at regular periods, by a licensee, where the books and records pertinent to the type of business being conducted are kept.

§ 18003.8. "Franchise"

"Franchise" means a written agreement between two or more persons having all of the following conditions:

(a) A commercial relationship of definite duration or continuing indefinite duration.

(b) The franchisee is granted the right to offer, and sell at retail, new manufactured homes, mobilehomes, or commercial coaches manufactured or distributed by the franchisor.

(c) The franchisee constitutes a component of the franchisor's distribution system.

(d) The operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor, as determined by the department.

(e) The operation of a portion of the franchisee's business is substantially reliant on the franchisor for a continued supply of new manufactured homes, mobilehomes, or commercial coaches, parts, and accessories, as determined by the department.

§ 18004. "Franchisee"

"Franchisee" means any person who, pursuant to a franchise, receives new manufactured homes, mobilehomes, or commercial coaches from the franchisor and who sells manufactured homes, mobilehomes, or commercial coaches at retail.

§ 18004.3. "Franchisor"

"Franchisor" means any person who manufactures, assembles, or distributes new manufactured homes, mobilehomes, or commercial coaches and who grants a franchise.

§ 18004.6. "Fraud"; Deceit

"Fraud" includes any act or omission which is included within the definition of either "actual fraud" or "constructive fraud" as defined, respectively, in Sections 1572 and 1573 of the Civil Code, and the term "deceit" has the same meaning as defined in Section 1710 of the Civil Code.

In addition, the terms "fraud" and "deceit" include, but are not limited to, the following:

(a) A misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact.

(b) A promise or representation not made honestly and in good faith.

(c) An intentional failure to disclose a material fact.

(d) Any act falling within the provisions of Section 484 of the Penal Code.

§ 18004.8. "Good moral character"

"Good moral character" has the same meaning as specified in Division 1.5 (commencing with Section 475) of the Business and Professions Code.

§ 18005. "Hearing" or "notice of hearing"

"Hearing" or "notice of hearing", as used in this part, shall mean notice and hearing under Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code except in the case of summary action pursuant to Section 18064.5.

§ 18005.3. "Junior lienholder"

"Junior lienholder" means a person, other than a legal owner, holding a security interest in a manufactured home, mobilehome, commercial coach, floating home, or truck camper perfected by filing the appropriate documents with the department pursuant to Section 18080.7.

§ 18005.6. "Lease"

"Lease" means an oral or written contract for the use, possession, and occupation of property. "Lease" includes rent.

§ 18005.8. "Legal owner"

"Legal owner" means a person holding a security interest in a manufactured home, mobilehome, commercial coach, floating home, or truck camper perfected by filing the appropriate documents with the department pursuant to Section 18080.7 if the person is entitled to the designation, as provided in Article 3 (commencing with Section 18085) or 4 (commencing with Section 18098) of Chapter 8. A lien created pursuant to Section 18080.9 is not a security interest for purposes of this definition.

§ 18006. "Licensee"

"Licensee" means a dealer, dealer branch, manufacturer, distributor, or salesperson licensed pursuant to this part.

§ 18006.3. "Manufacturer"

"Manufacturer" means any person who produces from raw materials or basic components a manufactured home, mobilehome, or commercial coach of a type subject to the provisions of this part, or who permanently alters for purposes of retail sales, rent, or lease, within this state, manufactured homes, mobilehomes, or commercial coaches by converting them into manufactured homes, mobilehomes, or commercial coaches subject to this part.

§ 18007. "Manufactured home" ***<Not applicable for CM exams>***

(a) "Manufactured home," for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

(b) Notwithstanding any other provision of law, if a codified provision of state law uses the term "manufactured home," and it clearly appears from the context that the term "manufactured home" should apply only to manufactured homes, as defined under subdivision (a), the codified provision shall apply only to those manufactured homes. If any codified provision of state law, by its context, requires that the term applies to manufactured homes or mobilehomes without regard to the date of construction, the codified provision shall apply to both manufactured homes, as defined under subdivision (a), and mobilehomes as defined under Section 18008.

§ 18007.5. [Section repealed 1981.]

§ 18008. "Mobilehome" ***<Not applicable for CM exams>***

(a) "Mobilehome," for the purposes of this part, means a structure that was constructed prior to June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected onsite, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation system when connected to the required utilities, and includes the

plumbing, heating, air conditioning, and electrical systems contained therein. "Mobilehome" includes any structure that meets all the requirements of this paragraph and complies with the state standards for mobilehomes in effect at the time of construction. "Mobilehome" does not include a commercial modular, as defined in Section 18001.8, factory-built housing, as defined in Section 19971, a manufactured home, as defined in Section 18007, a multifamily manufactured home, as defined in Section 18008.7, or a recreational vehicle, as defined in Section 18010.

(b) Notwithstanding any other provision of law, if a codified provision of state law uses the term "mobilehome," and it clearly appears from the context that the term "mobilehome" should apply only to mobilehomes, as defined under subdivision (a), the codified provision shall apply only to those mobilehomes. If any codified provision of state law, by its context, requires that the term applies to mobilehomes or manufactured homes without regard to the date of construction, the codified provision shall apply to both mobilehomes, as defined under subdivision (a), and manufactured homes, as defined under Section 18007.

§ 18008.5. "Manufactured home or mobilehome accessory building or structure"; "Manufactured home or mobilehome accessory" ***<Not applicable for CM exams>***

"Manufactured home or mobilehome accessory building or structure" or "manufactured home or mobilehome accessory" includes, but is not limited to, any awning, portable, demountable, or permanent cabana, ramada, storage cabinet, carport, skirting, heater, cooler, fence, windbreak, or porch or other equipment established for the use of the occupant of the manufactured home or mobilehome.

§ 18008.7. "Multifamily manufactured home" ***<Not applicable for CM exams>***

(a) "Multifamily manufactured home," for the purposes of this part, means either of the following:

(1) A structure transportable under permit in one or more sections, designed and equipped to contain not more than two dwelling units, a dormitory, or an efficiency unit, to be used either with a support system pursuant to Section 18613 or a foundation system pursuant to subdivision (a) of Section 18551.

(2) A structure transportable under permit in one or more sections, designed to be used with a foundation system for three or more dwelling units, as defined by Section 18003.3.

(b) Multifamily manufactured homes shall be constructed in compliance with applicable department regulations. The egress and fire separation requirements of Title 24 of the California Code of Regulations applicable to dormitories, hotels, apartment houses, and structures that contain two dwelling units shall also be applicable to all multifamily manufactured homes constructed for those purposes. The accessibility and adaptability requirements of Title 24 of the California Code of Regulations applicable to covered multifamily dwelling units shall also be applicable to multifamily manufactured homes containing three or more dwelling units.

(c) Notwithstanding any other provision of law, all provisions of law that apply to manufactured homes shall apply equally to multifamily manufactured homes, except as provided in this section.

(d) For purposes of this section:

(1) "Dormitory" means a room or rooms inhabited for the purposes of temporary residence by two or more persons.

(2) "Efficiency unit" has the same meaning as defined in Section 17958.1.

(3) "Multiunit manufactured housing" has the same meaning as "multifamily manufactured home," as that term is defined in this section.

§ 18009. "New manufactured home"; "New mobilehome"; "New commercial coach"

"New manufactured home," "new mobilehome," or "new commercial coach" is a manufactured home, mobilehome, or commercial coach which is not defined as a "used manufactured home," "used mobilehome", or "used commercial coach" under Section 18014, which is delivered for sale or lease in this state, and which has not been delivered to a first purchaser or lessor for purposes other than resale or reletting.

§ 18009.3. "Park trailer" requirements ***<Not applicable for CM or MH exams>***

(a) "Park trailer" means a trailer designed for human habitation for recreational or seasonal use only, that meets all of the following requirements:

(1) It contains 400 square feet or less of gross floor area, excluding loft area space if that loft area space meets the requirements of subdivision (b) and Section 18033. It may not exceed 14 feet in width at the maximum horizontal projection.

(2) It is built upon a single chassis.

(3) It may only be transported upon the public highways with a permit issued pursuant to Section 35780 of the Vehicle Code.

(b) For purposes of this section and Section 18033, "loft area" means any area within a unit that is elevated 30 inches or more above the main floor area and designed to be occupied. In order for the floor of a loft area to be occupied and excluded from the calculation of gross floor area for purposes of subdivision (a), the loft area shall meet all of the requirements of Section 18033. Loft areas not meeting the requirements of this subdivision and Section 18033 shall not be occupied and shall be posted with a permanent label conspicuously located within 24 inches of the opening of each noncomplying loft. The label language and design shall provide the following.

WARNING
This area is not designed to be occupied and shall be used only for storage.

Lettering on this label shall contrast with the label's background and shall be not less than one–quarter inch in height, except for the word "WARNING" which shall be not less than one–half inch in height.

(c) A park trailer hitch, when designed by the manufacturer to be removable, may be removed and stored beneath a park trailer.
(d) If any provision of this section or Section 18033 conflicts with ANSI Standard A1 19.5 Recreational Park Trailers as it is published at any time, the statutory provision shall prevail.

§ 18009.5. "Registered owner"
"Registered owner" means a person registered by the department as the owner of a manufactured home, mobilehome, commercial coach, floating home, or truck camper.

§ 18010. "Recreational vehicle" ***<Not applicable for CM or MH exams>***
"Recreational vehicle" means both of the following:
(a) A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy, that meets all of the following criteria:
(1) It contains less than 320 square feet of internal living room area, excluding built–in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.
(2) It contains 400 square feet or less of gross area measured at maximum horizontal projections.
(3) It is built on a single chassis.
(4) It is either self–propelled, truck–mounted, or permanently towable on the highways without a permit.
(b) A park trailer, as defined in Section 18009.3.

§ 18010.5. "Regulations" or "rules and regulations"
"Regulations" or "rules and regulations," as used in this part, means regulations promulgated by the commission or department, as appropriate, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

§ 18011. "Rent"
"Rent" means money or other consideration given for the right of use, possession, and occupation of property.

§ 18012. "Retailer"
"Retailer" means a dealer.

§ 18012.3. "Sale" or "sold"
"Sale" or "sold," for purposes of Chapter 8 (commencing with Section 18075) does not include or extend to any sale made by a manufacturer or a distributor to a dealer or by a dealer to another dealer licensed under this part.

§ 18012.4. "Slide–in camper" ***<Not applicable for CM or MH exams>***
"Slide–in camper" means a portable unit, consisting of a roof, floor, and sides, designed to be loaded onto, and unloaded from, a truck and designed for human habitation for recreational or emergency occupancy. "Slide–in camper" means a truck camper.

§ 18012.5. "Special purpose commercial modular" ***<Not applicable for CM or MH exams>***
"Special purpose commercial modular" means a vehicle with or without motive power, designed and equipped for human occupancy for industrial, professional, or commercial purposes, which is not required to be moved under permit, and shall include a trailer coach. "Special purpose commercial coach" has the same meaning as "special purpose commercial modular" as that term is defined in this section.

§ 18013. "Salesperson"
(a) "Salesperson" means a person employed by a dealer and not otherwise expressly excluded by this section, who does one or more of the following:
(1) For commission, money, profit, or other thing of value, sells, exchanges, buys, leases, or offers for sale, negotiates, or attempts to negotiate, a sale, lease, or exchange of an interest in a manufactured home, mobilehome, or commercial coach.
(2) Induces or attempts to induce any person to buy, lease, or exchange an interest in a manufactured home, mobilehome, or commercial coach, and who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value, from either the seller, lessee, or purchaser of the manufactured home, mobilehome or commercial coach.
(3) Exercises managerial control over the business of a licensed manufactured home, mobilehome, or commercial coach dealer or who supervises salespersons employed by a licensed dealer, whether compensated by salary or commission, including, but not limited to, any person who is employed by the dealer as a general manager, assistant general manager, sales manager, or in any capacity, regardless of title, where the individual reviews, advises, supervises, or oversees, sales contracts, credit applications, or any other documents pertaining to the sale, purchase, or lease of manufactured homes or mobilehomes, or any employee of a licensed manufactured home, mobilehome, or commercial

coach dealer who negotiates with or induces a customer to enter into a security agreement, lease, or purchase agreement or purchase order for the sale of a manufactured home, mobilehome, or commercial coach on behalf of the licensed manufactured home, mobilehome, or commercial coach dealer.

(b) The term "salesperson" does not include any of the following:

(1) A representative of an insurance company, finance company, bank, savings and loan association, or public official, who in the regular course of business, is required to dispose of, or sell manufactured homes, mobilehomes, or commercial coaches under a contractual right or obligation of the employer, or in the performance of an official duty, or under authority of any court of law, as long as the sale is for the purpose of protecting the seller from any loss or is pursuant to the authority of a court of competent jurisdiction.

(2) A person who is licensed as a manufacturer or distributor.

(3) A person exclusively employed in a bona fide business of exporting manufactured homes, mobilehomes, or commercial coaches, or of soliciting orders for the sale and delivery of mobilehomes or commercial coaches outside the territorial limits of the United States.

(4) A person not engaged in the purchase or sale of manufactured homes, mobilehomes, or commercial coaches as a business, disposing of manufactured homes, mobilehomes, or commercial coaches acquired for the person's own use, or for use in business when they have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this part.

(5) A person licensed as a manufactured home, mobilehome, or commercial coach dealer doing business as a sole ownership or a member of a partnership or a stockholder and director of a corporation licensed as a manufactured home, mobilehome, or commercial coach dealer under this part, as long as the person engages in the activities of a salesperson exclusively on behalf of the sole ownership or partnership or corporation in which the person owns an interest or stock, and the person owning the stock is a director of the corporation; otherwise, the person shall be deemed to be a manufactured home, mobilehome, or commercial coach salesperson and subject to the provisions of Section 18045.

§ 18013.2. "Third–party entity" or "third party"

"Third–party entity" or "third party," as used in this part, means an entity which is all of the following:

(a) In the business of inspecting equipment, systems, and assemblies and monitoring quality assurance programs, or analyzing plans, designs, specifications, and engineering calculations supporting design concepts.

(b) Not under the control or jurisdiction of any manufacturer or supplier for any affected industry except by contract as required and approved by the department.

(c) Making available specific information as required by the department.

(d) Approved by the department.

§ 18013.4. "Truck camper" ***<Not applicable for CM or MH exams>***

"Truck camper" means a slide–in camper as defined in Section 18012.4.

§ 18014. "Used manufactured home", "used mobilehome," or "used commercial coach"

"Used manufactured home," "used mobilehome," or "used commercial coach" means a manufactured home, mobilehome, or commercial coach that was previously sold and registered or titled with the department, or with an appropriate agency or authority, or any other state, District of Columbia, territory or possession of the United States or a foreign state, province, or country.

§ 18014.5. "Net listing agreement" defined ***<Not applicable for CM exams>***

For purposes of this part, a "net listing agreement" means any agreement entered into by a seller of a manufactured home or mobilehome that is not a new manufactured home or mobilehome and a licensed dealer in which the seller agrees to accept a specific purchase price and under which the dealer may receive as a commission all proceeds from the sale in excess of that purchase price.

Chapter 2 APPLICATION AND SCOPE

§ 18015. Statewide applicability

The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county which conflict with the provisions of this part. The department may promulgate regulations to interpret and make specific the provisions of this part relating to construction, titling and registration, occupational licensing, advertising, commercial transactions, and other related or specifically enumerated activities, and, when adopted, these rules and regulations shall apply in all parts of the state. The department may promulgate rules and regulations to interpret and make specific the other provisions of this part and when adopted these rules and regulations shall apply in all parts of the state.

§ 18015.1. Statutory references to "commercial coach" and "special purpose commercial coach"

All statutory references to "commercial coach" and to "special purpose commercial coach" are hereby deemed to refer to "commercial modular" and to "special purpose commercial modular," respectively.

§ 18015.5. Application of manufactured home and mobilehome standards to commercial coaches

The provisions of Chapter 4 (commencing with Section 18025), applicable to manufactured homes and mobilehomes, shall also apply to commercial coaches, except that reasonable variations in standards for commercial coaches shall be established by regulations if the department determines these variations will not endanger public health, welfare, or safety.

§ 18015.7. Sale to unlicensed persons by public agency for low–and moderate housing

Subdivision (p) of Section 18062.8 shall not apply to a sale to a city, county, city and county, or any other public agency for the purpose of providing housing for low– and moderate–income households, as defined in Section 50093.

§ 18016. Use of alternate construction materials or methods

(a) The provisions of this part are not intended to prevent the use of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by this part and the rules and regulations promulgated pursuant thereto, provided any alternate has been approved by the department.

(b) The department may approve any alternate if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this part and the rules and regulations promulgated pursuant thereto in quality, strength, effectiveness, fire resistance, durability, safety, and for the protection of life and health.

(c) Whenever there is evidence that any material, appliance, installation, device, arrangement, or method of construction does not conform to the requirements of this part and the rules and regulations promulgated pursuant thereto, or in order to substantiate claims for alternates, the department may require tests or proof of compliance to be made at the expense of the owner or his or her agent.

§ 18016.5. Mobilehome–Manufactured Home Revolving Fund *<Not applicable for CM exams>*

(a) The Mobilehome Revolving Fund is continued in existence and renamed the Mobilehome–Manufactured Home Revolving Fund. Money transferred to, or deposited in, the fund is continuously appropriated to the department notwithstanding Section 13340 of the Government Code, for expenditure in carrying out the provisions of this part. All fees or other moneys accruing to the department pursuant to this part shall, except as otherwise expressly provided by law, be deposited in the fund.

(b) Total money contained in the Mobilehome–Manufactured Home Revolving Fund on June 30 of each fiscal year shall not exceed the amount of money needed for operating expenses for one year for the enforcement of this part. If the total money contained in the fund exceeds this amount, the commission or department, as appropriate, shall make appropriate reductions in the schedule of fees authorized by this part.

Chapter 3 ENFORCEMENT

§ 18020. Regulations for approval of third–party entities; Criteria

(a) Except as provided in Section 18027.3, and except as provided by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.), as it applies to the manufacture of new manufactured housing, the department shall enforce this part and the rules and regulations adopted pursuant to this part.

(b) The department may, at the department's sole option, enforce Chapter 4 (commencing with Section 18025) and the rules and regulations adopted pursuant to Chapter 4 through department–approved third–party entities. The department shall adopt regulations for the approval of third–party entities, including, but not limited to, all of the following criteria:

(1) Freedom from any conflict of interest.

(2) Qualifications of personnel.

(3) Frequency of inspections or monitorings of manufacturer quality control.

(4) Involvement in collusive or fraudulent actions related to the performance of activities required by Section 18013.2.

(5) Any other conditions of operation that the department may reasonably require.

(c) The department may require rotation of third–party entities performing inspection services for any manufacturing facility within the state to prevent the third–party entity from either performing inspections within the same facility for more than 365 calendar days or performing inspections for any facility when the third–party entity performed inspection services within the previous 365 calendar days.

(d) The department shall monitor the performance of third–party entities approved pursuant to subdivision (b) and shall require periodic reports in writing containing information that the department may reasonably require to determine compliance with the conditions of the department's approval.

(1) When the department receives information about an alleged inadequacy in the performance of a third–party entity, including any involvement in collusive or fraudulent actions related to the performance of activities required by Section 18013.2, it shall consider the information in its monitoring efforts and make a determination about the validity of the alleged inadequacy in a timely manner.

(2) When the department determines, either through its monitoring efforts or through information provided by any other person, that an approved third–party entity has failed to perform according to the conditions of approval, the department may withdraw approval by forwarding written notice to the approved third–party entity by registered mail to its address of record, briefly summarizing the cause for the department's decision.

(3) A third–party entity, upon having its approval withdrawn by the department, may request a hearing before the director of the department. The request for hearing shall be in writing and either delivered or postmarked prior to midnight on the 10th calendar day from the date of the department's notice.

(4) The department, upon timely receipt of a written request for hearing, shall, within 30 calendar days, schedule a hearing before the director or his or her agent. All hearings pursuant to this subdivision shall be held in the department's Sacramento offices and the decision of the director shall be final.

(5) A third–party entity whose approval has been withdrawn by the department shall not be permitted to reapply for the department's approval pursuant to subdivision (b) for a period of one year from the date that the approval was withdrawn

by the department.

(6) A third–party entity whose approval has been withdrawn more than once by the department shall not be permitted to reapply for department approval pursuant to subdivision (b) for a period of not less than one year from the date that the department's approval was last withdrawn.

(7) No third–party entity shall perform the activities required by Section 18013.2 unless it has the approval of the department.

(e)(1) Upon finding a violation of subdivision (b) on the part of a third–party entity, the director shall issue citations and levy administrative fines. Each citation and fine assessment shall be in writing and describe the particulars for the citation. The citation and fine assessment shall be issued not later than six months after discovery of the violation.

(2) The fine for a first violation shall be at least five hundred dollars ($500) and shall not exceed one thousand dollars ($1, 000). The fine for a second violation shall be at least two thousand dollars ($2,000) and shall not exceed four thousand dollars ($4,000). The fine for a third violation shall be at least five thousand dollars ($5,000), and shall not exceed ten thousand dollars ($10,000). The fines shall be assessed for each day the violation occurs. If a third– party entity has been cited more than three times during a 365–day period, the approval to conduct inspections on behalf of the department shall be suspended for a minimum of one year.

(3) The third–party entity may request an administrative hearing on the citation or fine. If the party fails to request a hearing within 30 days and does not pay the fine, the approval to perform inspections shall be automatically revoked, until the time that the department finds that the circumstances that led to the citation have been corrected and the fines have been paid.

(4) Upon review of the findings from the administrative hearing, the director may modify, rescind, or uphold the citation and fine assessment. The decision of the director shall be served by regular mail.

(5) The fines shall be paid into the Housing and Community Development Fund, which is hereby created in the State Treasury, and shall be used, when appropriated by the Legislature, to offset the department's costs to administer this part.

(f) The remedies provided in this part to any aggrieved party are not exclusive and shall not preclude the applicability of any other provision of law.

§ 18020.5. Violations as misdemeanor; Time for filing charges

(a) Any person who knowingly violates any provision of this part or any rule or regulation issued pursuant to this part, except for a violation of any federal manufactured home or mobilehome construction and safety standard for which a penalty is provided in Section 18021, is guilty of a misdemeanor, punishable by a fine not exceeding two thousand dollars ($2,000), by imprisonment not exceeding 30 days, or by both.

(b) Notwithstanding Section 801 of the Penal Code, the one–year period for filing an indictment or an information or complaint with respect to any misdemeanor in subdivision (a) by a licensee in the first sale or lease of any manufactured home, mobilehome, or commercial coach to a consumer shall commence on the date that the manufactured home, mobilehome, or commercial coach is delivered to the consumer.

§ 18021. Violations of federal safety standards *<Not applicable for CM exams>*

(a) Any person who knowingly violates any provision of Section 5409 of Title 42 of the United States Code, or any regulation or final order issued thereunder as it exists on the effective date of this section in this state, shall be liable to the state for a civil penalty of not to exceed one thousand dollars ($1,000) for each violation. Each violation of a provision of Section 5409 of Title 42 of the United States Code, or any regulation or order issued thereunder, as it exists on the effective date of this section shall constitute a separate violation with respect to each manufactured home or mobilehome, or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars ($1,000,000) for any related series of violations occurring within one year from the date of the first violation.

(b) Any individual or a director, officer, or agent of a corporation, who knowingly violates Section 5409 of Title 42 of the United States Code as it exists on the effective date of this section in this state in a manner which threatens the health and safety of any purchaser, shall be subject to a state fine of not more than one thousand dollars ($1,000), or by imprisonment for not more than one year, or by both such a fine and imprisonment.

§ 18021.5. Remedies for violations relating to licensing or titling and registration

(a) Any person who knowingly violates any of the provisions of this part relating to licensing or titling and registration, or any rules or regulations promulgated therefor, is guilty of a misdemeanor, punishable by a fine not exceeding two thousand dollars ($2,000) or by imprisonment not exceeding 30 days, or by both.

(b) The department, after notice and hearing, may suspend or revoke the license issued to a licensee, as provided for by this part, who knowingly violates any of the provisions of this part. In any hearing before a judge or in any administrative action before an administrative law judge, the department may seek and may recover its investigative and enforcement costs from the licensee unless the licensee prevails on the charges. The department may also seek fines and may seek restitution as provided in subdivision (d).

(c) Any person who knowingly violates any provision of this part relating to licensing or titling and registration, or any rules or regulations promulgated therefor, shall be liable for a civil penalty not exceeding two thousand dollars ($2,000) for each violation or for each day of a continuing violation. The department shall institute or maintain an action in a court of appropriate jurisdiction to collect any civil penalty arising under this section.

(d) In addition to the other remedies provided in this section, the department may pursue any other remedies provided for in this part and may seek restitution for any monetary loss to a purchaser, seller, licensee, financing agency,

governmental agency, or other person or entity suffering a monetary loss as a result of a violation of this part.

(e) In any disciplinary hearing before an administrative law judge concerning licensing, upon request of the department and pursuant to appropriate proof, the administrative law judge shall make the following findings:

(1) The amount of the actual and direct monetary loss to any person or entity as a result of fraud, willful misrepresentation, or breach of warranty or guarantee by the respondent.

(2) The amount of the department's investigative and enforcement costs up to and including the date of the hearing, including, but not limited to, charges imposed by the Office of Administrative Hearings for hearing the case and issuing a proposed decision.

§ 18021.6. Application of other penal laws

Nothing in this part shall be construed as precluding the application of any other provision of the penal laws of this state to any transaction involving fraud, misrepresentation, forgery, or deceit which violates this part.

§ 18021.7. Citation and civil penalty assessment; Petition for hearing; Proceedings

(a)(1) In addition to other remedies provided in this part, the Director of Housing and Community Development or his or her designee may issue a citation that assesses a civil penalty payable to the department to any licensee who violates subdivision (d) of Section 18020, Section 18021.5, 18026, 18029.6, or 18030, subdivision (b) of Section 18032, Section 18035, 18035.1, 18035.2, 18035.3, 18036, 18039, 18045, 18045.5, 18045.6, 18046, or 18058, subdivision (a) of Section 18059, subdivision (b) of Section 18059.5, subdivision (c) of Section 18060, subdivision (c) of Section 18060.5, Section 18061, subdivision (d), (i), or (j) of Section 18061.5, subdivision (a) or (b) of Section 18062, subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 18062.2, subdivision (c) of Section 18063, or Section 18080.5.

(2) A violation of subdivision (d) of Section 18060.5 is also cause for citation if both the dealer and the manufacturer receive written notice of a warranty complaint from the complainant, from the department, or another source of information, and, at a minimum, the 90–day period provided for correction of substantial defects pursuant to Section 1797.7 of the Civil Code has expired.

(3) Each citation and related civil penalty assessment shall be issued no later than one year after discovery of the violation.

(b) The amount of any civil penalty assessed pursuant to subdivision (a) shall be one hundred dollars ($100) for each violation, but shall be increased to two hundred fifty dollars ($250) for each subsequent violation of the same prohibition for which a citation for the subsequent violation is issued within one year of the citation for the previous violation. The violation or violations giving cause for the citation shall be corrected if applicable, and payment of the civil penalty shall be remitted to the department within 45 days of the date of issuance of the citation. Civil penalties received by the department pursuant to this section shall be deposited in the Mobilehome–Manufactured Home Revolving Fund.

(c) Any person or entity served a citation pursuant to this section may petition for, and shall be granted, an informal hearing before the director or his or her designee. The petition shall be a written request briefly stating the grounds for the request. Any petition to be considered shall be received by the department within 30 days of the date of issuance of the citation.

(d) Upon receipt of a timely and complying petition, the department shall suspend enforcement of the citation and set a time and place for the informal hearing and shall give the licensee written notice thereof. The hearing shall commence no later than 30 days following receipt of the petition or at another time scheduled by the department pursuant to a request by the licensee or department if good and sufficient cause exists. If the licensee fails to appear at the time and place scheduled for the hearing, the department may notify the licensee in writing that the petition is dismissed and that compliance with terms of the citation shall occur within 10 days after receipt of the notification.

(e) The department shall notify the petitioner in writing of its decision and the reasons therefor within 30 days following conclusion of the informal hearing held pursuant to this section. If the decision upholds the citation, in whole or in part, the licensee shall comply with the citation in accordance with the decision within 30 days after the decision is mailed by the department.

(f) Nothing in this section shall be construed to preclude remedies available under other provisions of law.

§ 18022. Authorized inspections

(a) The director, and other representatives of the department designated by him or her, shall enforce those provisions of law committed to the administration of the department pursuant to this part.

(b) Any person designated in subdivision (a) may inspect any manufactured home, mobilehome, commercial coach, or truck camper of a type required to be registered under this code, or any component part thereof, in any garage, repair shop, parking lot, new or used sales facility, manufacturer's facility, display facility, or any other establishment engaged in the business of selling, repairing, or displaying manufactured homes, mobilehomes, commercial coaches, or truck campers, or the integral parts thereof, for the purpose of investigating the title and registration of the manufactured home, mobilehome, commercial coach, or truck camper, or the sales practices thereof.

§ 18022.5. Action to enjoin violations; Appointment of receiver; Claim for restitution

(a) Whenever the director determines through an investigation that any person has violated this part, or any regulation, order, license, permit, decision, demand, or requirement or any part or provision thereof issued pursuant to this part, the director may bring an action in the name of the people of the State of California against that person to enjoin the person from continuing the violation or engaging therein or doing any act or acts in furtherance thereof. In the action, an order or judgment may be entered awarding a preliminary or final injunction as may be proper.

If the director makes a showing satisfactory to the court that the violation or threatened violation jeopardizes funds and properties of others in the custody or under the control of the defendant, the court may appoint a receiver for management of

the business of the defendant, including, but not limited to, the funds and properties of others in his or her possession or may make any other order as it deems appropriate to protect and preserve those funds and properties.

(b) The director may include in any action authorized by subdivision (a), a claim for restitution on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award appropriate relief to those persons.

§ 18023. Director's powers as peace officer; Notice by department of violation by escrow agent

(a) The director, and any other representatives of the department designated by the director, shall have the powers of peace officers only for the purpose of service of warrants or documents and for the cooperation with other law enforcement agencies in the collection of information.

(b) The department shall notify any concerned governmental agency whenever it is determined by investigation that an escrow agent has done any of the following:

(1) Violated Section 18035, 18035.2, or applicable administrative rules and regulations.

(2) Engaged in loan fraud.

(3) Submitted false information to the department for the purpose of titling and registration of a manufactured home or mobilehome.

§ 18024. Engaging in business of dealer without valid license; Citation; Order of abatement; Civil penalty

(a) If, upon inspection or investigation, based upon a complaint or otherwise, the department has cause to believe that a person is acting in the capacity, or engaging in the business, of a dealer within this state without having a license in good standing therefor, and the person is not otherwise exempt pursuant to subdivision (b) of Section 18002.6, the department may issue a citation to that person in writing, describing with particularity the basis of the citation. Each citation may contain an order of abatement and assessment of a civil penalty not to exceed two thousand dollars ($2,000). All civil penalties collected under this section shall be deposited in the Mobilehome– Manufactured Home Revolving Fund provided for in Section 18016.5.

(b) The department may adopt regulations prescribing procedures for issuance of citations under this section and covering the assessment of a civil penalty which shall give due consideration to the gravity of the violation, the good faith of the person cited, and any history of previous violations.

(c) The sanctions authorized under this section shall be separate from, and in addition to, all other civil or criminal remedies.

§ 18024.2. Time limit for issuing citation

A citation under Section 18024 shall be issued by the department within three years after the act or omission which is the basis for the citation.

§ 18024.3. Appeal from citation; Delivery of citation

Any person served with a citation under Section 18024 may appeal to the department within 30 days from the receipt of the citation with respect to violations alleged, scope of the order of abatement, or amount of civil penalty assessed. The citation shall inform the person served that an appeal is required to be filed within 30 days of receipt by the person of the citation. The citation shall be delivered by personal service or substitution.

§ 18024.4. When citation deemed final; Judicial review; Costs

If, within 30 days from receipt of the citation, the person cited fails to notify the department that he or she intends to appeal the citation, the citation shall be deemed final. However, the person cited may obtain judicial review in accordance with Section 11523 of the Government Code. The person cited shall receive court costs and attorney's fees if he or she prevails. The 30–day period may be extended by the department for good cause.

§ 18024.5. Hearing; Decision

If the person cited under Section 18024 timely notifies the department that he or she intends to contest the citation, the department shall afford an opportunity for a hearing. The department shall thereafter issue a decision, based on findings of fact, affirming, modifying, or vacating the citation or directing other appropriate relief. The proceedings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted therein.

§ 18024.6. Application to superior court for civil penalty judgment and order compelling abatement

After the exhaustion of the review procedures provided for in Sections 18024.3 to 18024.5, inclusive, the department may apply to the appropriate superior court for a judgment in the amount of the civil penalty and an order compelling the cited person to comply with the order of abatement. The application, which shall include a certified copy of the final order of the department, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

Chapter 4 STANDARDS

§ 18025. Construction and equipment standards

(a) Except as provided in subdivisions (b) and (c), it is unlawful for any person to sell, offer for sale, rent, or lease within this state, any manufactured home or any mobilehome, commercial coach, or special purpose commercial coach manufactured after September 1, 1958, containing structural, fire safety, plumbing, heat–producing, or electrical systems and equipment unless the systems and equipment meet the requirements of the department for those systems and that equipment and the installation of those systems and that equipment. The department may adopt rules and regulations that are reasonably consistent with recognized and accepted principles for structural, fire safety, plumbing, heat–producing,

and electrical systems and equipment and installations, respectively, to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe structural, fire safety, plumbing, heat–producing, and electrical systems, equipment and installations.

(b) All manufactured homes and mobilehomes manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.).

(c) The sale of used manufactured homes and mobilehomes by an agent licensed pursuant to this part shall be subject to Section 18046.

§ 18025.5. Enforcement of federal standards; Inspections and investigations ***<Not applicable for CM exams>***

(a) Pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.), the department may assume responsibility for the enforcement of manufactured home and mobilehome construction and safety standards relating to any issue with respect to which a federal standard has been established. The department may adopt regulations to ensure acceptance by the Secretary of Housing and Urban Development of California's plan for the administration and enforcement of federal manufactured home and mobilehome safety and construction standards.

(b) The department may conduct inspections and investigations that it determines may be necessary to secure enforcement of this part and regulations adopted pursuant to this part.

(c) Subdivision (b) shall not apply to the enforcement of Section 18027.3 unless the department determines that there is a compelling reason to exercise oversight in the inspection of recreational vehicles or park trailers at a factory, in which case the department may investigate the inspection, or conduct a department inspection, on recreational vehicles or park trailers at a factory and utilize any means necessary to collect a fee from the manufacturer for the cost of the department investigation or inspection.

(d) For the purposes of enforcement of this part and the related regulations, persons duly designated by the director of the department, upon presenting appropriate credentials to the owner, operator, or agent in charge, may do both of the following:

(1) Enter, at reasonable times and without advance notice, any factory, warehouse, sales lot, or establishment in which manufactured homes, mobilehomes, commercial coaches, or special purpose commercial coaches are manufactured, stored, held for sale, sold, or offered for sale, rent, or lease.

(2) Inspect, at reasonable times and within reasonable limits and in a reasonable manner, any factory, warehouse, sales lot, or establishment, and inspect the books, papers, records, and documents to ensure compliance with this part.

§ 18025.6. Enforcement of federal standard for specified period after repeal ***<Not applicable for CM exams>***

When a standard for manufactured homes which was adopted pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.), is repealed by the United States Department of Housing and Urban Development and no new preemptive federal standard is adopted as a replacement standard, the department may continue to enforce the federal standard for manufactured homes to be sold in this state, for a period of one year from the operative date of the repeal or until the department adopts a regulation to replace the repealed federal standard, whichever occurs first. The replacement standard, if any, may be adopted as an emergency regulation.

§ 18026. Insignias of approval for preexisting units

(a) All manufactured homes, mobilehomes, commercial coaches, and special purpose commercial coaches manufactured on or after September 1, 1958, that are sold, offered for sale, rented, or leased within this state shall bear a federal label or an insignia of approval issued by the department, whichever is appropriate, to indicate compliance with the regulations of the department adopted pursuant to this part, which were in effect on the date of manufacture of the manufactured home, mobilehome, commercial coach, or special purpose commercial coach.

(b) The department may issue insignia for manufactured homes, mobilehomes, commercial coaches, or special purpose commercial coaches manufactured prior to the effective dates of the appropriate regulations that meet the requirements of reasonable standards of health and safety as set forth in this part or the regulations adopted pursuant to this part in effect at the time of that issue.

(c) It is unlawful for any person to remove, or cause to be removed, an insignia of approval affixed pursuant to this section without prior authorization by the department.

§ 18026.1. Exemption for units sold to federal government

Units sold to the federal government for use on federal lands are exempt from the requirements of Sections 18025 and 18026.

§ 18027. Denial of insignia of approval

Any manufactured home, mobilehome or commercial coach which is manufactured in violation of the provisions of Chapter 11 (commencing with Section 19870) of Part 3 of Division 13 of this code, or Division 15 (commencing with Section 25004.2) of the Public Resources Code, or regulations adopted pursuant thereto, shall not be issued the department's insignia of approval.

§ 18027.3. Legislative findings; Standards for recreational vehicles; Insignia indicating compliance; Prohibitions ***<Not applicable for CM or MH exams>***

(a) The Legislature finds and declares as follows:

(1) The American National Standards Institute (ANSI) and National Fire Protection Association (NFPA) have adopted standards for the design and safety of recreational vehicles, including park trailers, pursuant to procedures that have given diverse views an opportunity to be considered and which indicate that interested and affected parties have reached

substantial agreement on their adoption.

(2) The ANSI A119.2 and A119.5 standards and the NFPA 1192 standards are designed to protect the health and safety of persons using recreational vehicles and park trailers.

(3) Compliance with those standards as required by this section may be enforced by any law enforcement authority having appropriate jurisdiction, pursuant to Section 18020.5, which makes it a crime to violate any provision of this part. Therefore, to promote governmental efficiency and economy and to avoid duplication of activities and services, it is appropriate to eliminate the role of the department in modifying and enforcing standards for the construction of recreational vehicles.

(b) Recreational vehicles specified in subdivision (a) of Section 18010 that are manufactured on or after January 1, 1999, and before July 14, 2005, shall be constructed in accordance with Standard No. A119.2, as contained in the 1996 edition of the Standards of the American National Standards Institute. Recreational vehicles specified in subdivision (a) of Section 18010 that are manufactured on or after July 14, 2005, shall be constructed in accordance with the NFPA 1192 Standard on Recreational Vehicles.

(c) Recreational vehicles specified in subdivision (b) of Section 18010 that are manufactured on or after January 1, 1999, shall be constructed in accordance with Standard No. A119.5, as contained in the 1998 edition of the Standards of the American National Standards Institute.

(d) A change in Standard No. A119.2 or A119.5 or in the NFPA 1192 Standard on Recreational Vehicles contained in a new edition of the Standards of the American National Standards Institute shall become operative on the 180th day following the publication date.

(e) No recreational vehicle shall be equipped with more than one electrical power supply cord.

(f) Any recreational vehicle manufactured on or after January 1, 1999, that is offered for sale, sold, rented, or leased within this state shall bear a label or an insignia indicating the manufacturer's compliance with the American National Standards Institute or National Fire Protection Association standard specified in subdivision (b) or (c).

(g) Any recreational vehicle manufactured prior to January 1, 1999, that is offered for sale, sold, rented, or leased within this state shall bear a label or an insignia of approval indicating the manufacturer's compliance with the American National Standards Institute standard or a department insignia issued prior to January 1, 1999, indicating compliance with the state standard that was in effect pursuant to this chapter on the date of manufacture, including any modifications contained in regulations.

(h) It is unlawful for any person to do either of the following:

(1) Remove, or cause to be removed, a label, an insignia, or an insignia of approval affixed pursuant to this section.

(2) Alter or convert, or cause to be altered or converted, any recreational vehicle in a manner that is inconsistent with ANSI Standard No. A119.2 or A119.5 or the NFPA 1192 Standard on Recreational Vehicles when the recreational vehicle is used, occupied, sold, or offered for sale within this state.

§ 18027.5. Truck camper identification numbers ***<Not applicable for CM or MH exams>***

(a) It shall be unlawful to manufacture a truck camper as defined in Section 18010, unless the truck camper has a manufacturer's serial or identification number legibly stamped onto or permanently affixed to the interior and exterior of the truck camper.

(b) No retailer shall sell any new truck camper unless the truck camper has a manufacturer's serial or identification number as required in subdivision (a).

§ 18028. Adoption of regulations for construction of certain vehicles not subject to federal standards

(a) The department may adopt regulations regarding the construction of commercial modulars and special purpose commercial modulars, other than mobile food facilities subject to Article 11 (commencing with Section 114250) of Chapter 4 of Part 7 of Division 104, and of multifamily manufactured homes, manufactured homes, and mobilehomes that are not subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Sec. 5401 et seq.) that the department determines are reasonably necessary to protect the health and safety of the occupants and the public.

(b) Requirements for the construction, alteration, or conversion of commercial modulars shall be those contained, with reasonably necessary additions or deletions, as adopted by department regulations, in all of the following:

(1) The 1991 Edition of the Uniform Building Code, published by the International Conference of Building Officials.

(2) The 1993 Edition of the National Electrical Code, published by the National Fire Protection Association.

(3) The 1991 Edition of the Uniform Mechanical Code, published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.

(4) The 1991 Edition of the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials.

(c)(1) The department shall, on or after January 1, 2008, adopt regulations for the construction, alteration, or conversion of commercial modulars based on Parts 2, 3, 4, 5, and 6 of the California Building Standards Code, as contained in Title 24 of the California Code of Regulations, with appropriate additions, deletions, and other implementing provisions. The regulations adopted under this paragraph shall be placed within Title 25 of the California Code of Regulations.

(2) The requirements promulgated by the department pursuant to this section shall only apply to the construction, alteration, and conversion of commercial modulars, and not to the use or operation of commercial modulars.

(d) ~~No municipality~~ A municipality shall not prohibit the use of commercial modulars that bear a valid insignia, based on the date the insignia was issued.

§ 18028.5. Applicability of fire safety standards

(a) The provisions of Section 17920.9, and the rules and regulations adopted pursuant thereto, shall be applicable to the sale, offering for sale, or use in the construction of commercial modulars and of manufactured homes and mobilehomes which are not subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.), of any foam building system, and to any such mobilehome or commercial coach in which that system is used as a component.

(b) All manufactured homes, including mobilehomes manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

§ 18029. Alterations and conversions

(a) It is unlawful for any person to alter or convert, or cause to be altered or converted, the structural, fire safety, plumbing, heat-producing, or electrical systems and installations or equipment of a manufactured home, mobilehome, multifamily manufactured home, special purpose commercial modular, or commercial modular that bears a department insignia of approval or federal label when the manufactured home, mobilehome, multifamily manufactured home, special purpose commercial modular, or commercial modular is used, occupied, sold, or offered for sale within this state, unless its performance as altered or converted is in compliance with this chapter and applicable regulations adopted by the department. The department may adopt regulations providing requirements for alterations and conversions described in this section.

(b)(1) Any person required by this chapter or the regulations adopted pursuant to this chapter to file an application for an alteration or conversion who fails to file that application shall pay double the application fee prescribed for the alteration or conversion by this chapter or by regulations adopted pursuant to this chapter.

(2) Any person found for a second or subsequent time within a five-year period to have failed to file an application for alteration or conversion or causing the failure to file an application for alteration or conversion for a manufactured home, mobilehome, multifamily manufactured home, special purpose commercial modular, or commercial modular shall pay 10 times the application fee prescribed in this chapter or by the regulations adopted pursuant to this chapter.

§ 18029.3. Use of manufactured home, mobilehome, vehicle, or transportable structure as commercial coach; Commercial coach mobile food preparation units

(a) Any manufactured home, mobilehome, vehicle, or transportable structure manufactured, remanufactured, altered, used, or converted for use as a commercial coach or special purpose commercial coach shall comply with this part and the regulations adopted pursuant to this part relating to insignia and inspection requirements, construction, fire safety, electrical, heating, mechanical, plumbing, occupancy, and energy conservation.

(b) Special purpose commercial coach mobile food preparation units shall also meet the requirements of Article 12 (commencing with Section 114285) of Chapter 4 of Part 7 of Division 104 and the regulations implementing, interpreting, and clarifying that article, as enforced by the State Department of Health Services, which shall supersede the requirements in this part and the regulations adopted pursuant to this part in the event of a conflict.

§ 18029.4. Compliance of special purpose commercial coaches with construction standards

<Not applicable for CM or MH exams>

Any special purpose commercial coach which is designed, manufactured, remanufactured, altered, used, or converted for use as a module of a permanently constructed building shall comply with the construction standards applicable to commercial coaches.

§ 18029.5. Fire protection regulations; Reports of fires

(a) The department may adopt rules and regulations, which it determines to be reasonably consistent with generally recognized fire protection standards, governing conditions relating to the prevention of fire or for the protection of life and property against fire in manufactured homes, mobilehomes, special purpose commercial coaches, and commercial coaches. All manufactured homes and mobilehomes manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Sec. 5401, et seq.).

(b) The chief fire official of every city, county, city and county, fire protection district, or other local fire protection agency shall file a report on each manufactured home and mobilehome fire occurring within his or her jurisdiction with the State Fire Marshal. The report shall be made on forms provided by the State Fire Marshal.

(c) The State Fire Marshal shall annually compile a statistical report on all manufactured home and mobilehome fires occurring within this state and shall furnish the department with a copy of the report. The annual report shall include, but need not be limited to, the number of manufactured home and mobilehome fires, the causes of the fires, the monetary loss, and any casualties or fatalities resulting from the fires.

§ 18029.6. Smoke detectors in used manufactured homes and used mobilehomes

<Not applicable for CM exams>

(a) (1) On or after January 1, 2009, all used manufactured homes, used mobilehomes, and used multifamily manufactured homes that are sold shall have a smoke alarm installed in each room designed for sleeping that is operable on the date of transfer of title. For manufactured homes and multifamily manufactured homes manufactured on or after September 16, 2002, each smoke alarm shall comply with the federal Manufactured Housing Construction and Safety Standards Act. For manufactured homes and multifamily manufactured homes manufactured before September 16, 2002, each smoke alarm shall be installed in accordance with the terms of its listing and installation requirements, and battery-powered smoke alarms shall be acceptable for use when installed in accordance with the terms of their listing and installation requirements.

(2) For manufactured homes and multifamily manufactured homes manufactured before September 16, 2002, the smoke alarm manufacturer's information describing the operation, method and frequency of testing, and proper maintenance of the smoke alarm shall be provided to the purchaser for any smoke alarm installed pursuant to paragraph (1).

(b) On or after January 1, 2009, the requirements of subdivision (a) shall be satisfied if, within 45 days prior to the date of transfer of title, the transferor signs a declaration stating that each smoke alarm in the manufactured home, mobilehome, or multifamily manufactured home is installed pursuant to subdivision (a) and is operable on the date the declaration is signed.

(c) The department may promulgate rules and regulations to clarify or implement this section.

(d) For sales of manufactured homes or mobilehomes installed on real property pursuant to subdivision (a) of Section 18551, as to real estate agents licensed pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code, the real estate licensee liability provisions of subdivisions (e), (f), and (g) of Section 13113.8 shall apply to the disclosures required by this section.

§ 18030. Standards for out of state commercial coaches; Enforcement by third party entities

(a) If the department determines that standards for commercial coaches and special purpose commercial coaches prescribed by the statutes or regulations of another state are at least equal to the standards prescribed by the department, the department may so provide by regulation. Thereafter, any commercial coaches or special purpose commercial coaches which that other state has approved as meeting its standards shall be deemed to meet the standards of the department, if the department determines that the standards of the other state are actually being enforced.

(b) In lieu of the procedure set forth in subdivision (a), the department may contract with approved third–party entities for enforcement of the applicable provisions of this part for commercial coaches or special purpose commercial coaches manufactured outside this state for sale within this state. Third–party entities may apply to the department for enforcement authority pursuant to this subdivision by providing evidence to the satisfaction of the department that they satisfy all of the following criteria:

(1) They are independent and free from conflict of interest, have the ability to enforce this part, and shall enforce this part without an actual conflict of interest or any appearance of a conflict of interest.

(2) They are adequately staffed with qualified personnel who can, and shall, implement all provisions of the contract, including monitoring, reporting, and enforcement.

(3) They have the authority, through contract or otherwise, and the ability to obtain correction of defects detected or reported as a result of their enforcement activities.

(4) They meet any other conditions of operation that the department may reasonably incorporate into the contract.

(c) If the department enters into a contract authorized by subdivision (b), the department may require cancellation clauses, fees, personnel résumés, reports, or other reasonable information or documents deemed necessary to ensure that subdivision (b) and this part are adequately enforced.

§ 18030.5. Compliance with local ordinances

A manufactured home, mobilehome, recreational vehicle, commercial coach, or special purpose commercial coach which meets the standards prescribed by this chapter, and the regulations adopted pursuant thereto, shall not be required to comply with any local ordinances or regulations prescribing requirements in conflict with the standards prescribed in this chapter.

§ 18031. Schedule of fees

The department, by rules and regulations, may establish a schedule of fees to pay the costs of work related to administration and enforcement of this part. The fees collected shall be deposited in the Mobilehome–Manufactured Home Revolving Fund.

§ 18031.5. Installation of fireplaces *<Not applicable for CM exams>*

Nothing in this part or any other provision of law shall be construed to prohibit the installation of fireplaces in manufactured homes and mobilehomes. The department shall adopt any regulations for the installation of fireplaces in manufactured homes, mobilehomes, or commercial coaches which it may determine are reasonably necessary in order to protect the health and safety of the occupants and to assure that an installation does not impair the efficiency of the primary heating or cooling system of the manufactured home, mobilehome, or commercial coach. All manufactured homes, mobilehomes, and commercial coaches manufactured on or after June 15, 1976, which contain fireplaces, shall comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

§ 18031.7. Replacement of water heaters with fuel gas burning water heaters; Warning label
<Not applicable for CM exams>

(a) Nothing in this part shall prohibit the replacement of water heaters in manufactured homes or mobilehomes with fuel-gas-burning water heaters not specifically listed for use in a manufactured home or mobilehome or from having hot water supplied from an approved source within the manufactured home or mobilehome, or in the garage, in accordance with this part or Part 2.1 (commencing with Section 18200).

(b) Nothing in this part shall prohibit the replacement of appliances for comfort heating in manufactured homes, mobilehomes, or multifamily manufactured homes with fuel-gas appliances for comfort heating not specifically listed for use in a manufactured home or mobilehome within the manufactured home, mobilehome, or multifamily manufactured home in accordance with this part, Part 2.1 (commencing with Section 18200), or Part 2.3 (commencing with Section 18860).

(c) Replacement fuel-gas-burning water heaters shall be listed for residential use and installed within the

specifications of that listing to include tiedown or bracing to prevent overturning.

(d) Replacement fuel-gas-burning water heaters installed in accordance with subdivision (c) shall bear a label permanently affixed in a visible location adjacent to the fuel gas inlet which reads, as applicable:

WARNING
This appliance is approved only for use with natural gas (NG).
OR
WARNING This appliance is approved only for use with liquefied petroleum gas (LPG).

Lettering on the label shall be black on a red background and not less than 1⁄4 inch in height except for the word "WARNING" which shall be not less than 1⁄2 inch in height.

(e)(1) All fuel-gas-burning water heater appliances in new manufactured homes or new multifamily manufactured homes installed in the state shall be seismically braced, anchored, or strapped pursuant to paragraph (3) and shall be completed before or at the time of installation of the homes.

(2) Any replacement fuel-gas-burning water heater appliances installed in existing mobilehomes, existing manufactured homes, or existing multifamily manufactured homes that are offered for sale, rent, or lease shall be seismically braced, anchored, or strapped pursuant to paragraph (3).

(3) On or before July 1, 2009, the department shall promulgate rules and regulations that include standards for water heater seismic bracing, anchoring, or strapping. These standards shall be substantially in accordance with either the guidelines developed pursuant to Section 19215 or the California Plumbing Code (Part 5 of Title 24 of the California Code of Regulations), and shall be applicable statewide.

(4) The dealer, or manufacturer acting as a dealer, responsible, as part of the purchase contract, for both the sale and installation of any home subject to this subdivision shall ensure all water heaters are seismically braced, anchored, or strapped in compliance with this subdivision prior to completion of installation.

(5) In the event of a sale of a home, pursuant to either paragraph (1) of subdivision (e) of Section 18035 or Section 18035.26, the homeowner or contractor responsible for the installation of the home shall ensure all fuel-gas-burning water heater appliances are seismically braced, anchored, or strapped consistent with the requirements of paragraph (3). This requirement shall be satisfied when the homeowner or responsible contractor signs a declaration stating each fuel-gas-burning water heater is secured as required by this section on the date the declaration is signed.

(f) All used mobilehomes, used manufactured homes, and used multifamily manufactured homes that are sold shall, on or before the date of transfer of title, have the fuel-gas-burning water heater appliance or appliances seismically braced, anchored, or strapped consistent with the requirements of paragraph (3) of subdivision (e). This requirement shall be satisfied if, within 45 days prior to the transfer of title, the transferor signs a declaration stating that each water heater appliance in the used mobilehome, used manufactured home, or used multifamily manufactured home is secured pursuant to paragraph (3) of subdivision (e) on the date the declaration is signed.

(g) For sales of manufactured homes or mobilehomes installed on real property pursuant to subdivision (a) of Section 18551, as to real estate agents licensed pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code, the real estate licensee duty provisions of Section 8897.5 of the Government Code shall apply to this section.

§ 18031.8. Replacement in manufactured homes or mobilehomes with fuel gas burning appliances ***<Not applicable for CM exams>***

(a) Nothing in this part or the regulations promulgated thereunder shall prohibit the replacement in manufactured homes or mobilehomes of ovens, ranges, or clothes dryers with fuel gas burning ovens, ranges, or clothes dryers not specifically listed for use in a manufactured home or mobilehome.

(b) Replacement fuel gas burning ovens, ranges, or clothes dryers shall be listed for residential use and installed in accordance with the specifications of that listing to include tie down and bracing to prevent displacement.

(c) Replacement fuel gas burning ovens, ranges, or clothes dryers installed in accordance with subdivision (b) shall bear a label in compliance with subdivision (c) of Section 18031.7.

§ 18032. Informational labels ***<Not applicable for CM exams>***

(a) The manufacturer of any new manufactured home or mobilehome manufactured on or after January 1, 1977, shall affix a label to the manufactured home or mobilehome, if the manufactured home or mobilehome is to be displayed for retail sale in this state. The label shall include the following information about the manufactured home or mobilehome:

(1) Make, model, and serial or identification number.

(2) Final assembly point.

(3) Name and location of dealer to whom delivered.

(4) Name of city or unincorporated area at which delivered.

(5) Manufacturer's suggested retail price which shall include the price of the following:

(A) The basic manufactured home or mobilehome unit.

(B) Extra construction features and materials.

(C) Total price of the manufactured home or mobilehome.

(D) A statement of whether the price includes or excludes the towbar, wheels, wheel hubs, and axles.

(b) A dealer may not display a manufactured home or mobilehome for sale or deliver a manufactured home or mobilehome manufactured on or after January 1, 1977, in this state which does not contain the label required by subdivision (a).

(c) Except as otherwise provided in subdivisions (d) and (e), the removal or alteration of any label required by this section from the manufactured home or mobilehome by anyone except the retail purchaser is a misdemeanor.

(d) The label required by this section may be removed by any person after the manufactured home or mobilehome is affixed to a foundation system.

(e) The label required by this section may be removed by any person after the manufactured home or mobilehome has been installed as a display model within a designated model center, along with an enclosed vehicle garage or carport, within a mobilehome park or subdivision. For the purposes of this subdivision, "designated model center" means a display of two or more new manufactured homes or new mobilehomes located within close proximity of each other that are used for the purpose of selling similar models within a mobilehome park or subdivision and those new manufactured homes or mobilehomes that are on display are installed pursuant to Section 18613.

(f) If a label required by this section has been removed pursuant to subdivision (e), the dealer shall provide the buyer or potential buyer of the new manufactured home or new mobilehome with all of the information required by subdivision (a), except for the manufacturer's suggested retail price. The dealer shall display a total price for the new manufactured home or new mobilehome along with either the vehicle garage or carport and any other manufactured home or mobilehome accessory building or structure or manufactured home or mobilehome accessory as defined in Section 18008.5 that is included in the total purchase price.

§ 18032.5. [Section repealed 1995.]

§ 18033. Requirements for loft area excluded from gross floor area *<Not applicable for CM or MH exams>*

Each loft area excluded from the gross floor area pursuant to Section 18009.3 shall comply with all of the following requirements:

(a) A loft ceiling shall be a minimum of 54 inches above the loft floor for not less than 50 percent of the total loft ceiling area, or 50 inches above the loft floor for not less than 70 percent of the total loft ceiling area. The ceiling height shall be measured from the highest point of the finished floor of the loft area to the finished ceiling.

(b) The floor of the loft area is designed to withstand at least 30 pounds per square foot live load.

(c) The combined floor area of all loft areas shall not exceed 50 percent of the total gross floor area of the unit.

(d) Each loft shall be accessed only by use of a stairway and not a ladder or any other means. The stairway shall be constructed as follows:

(1) The stairs shall have a maximum rise of nine inches and a minimum tread of seven and one–quarter inches. The riser shall be an open–type riser design. The riser height and the tread run shall be allowed a maximum variation of one–quarter inch between each step. The stairway width shall be a minimum of 22 inches as measured along the step tread.

(2) The stairs shall be capable of supporting 50 pounds per square foot.

(3) Each stairway serving a loft shall be provided with a handrail not less than 34 inches in height as measured horizontally from the nose of the step tread. The stairway handrail must be designed to withstand a 20–pound load per lineal foot applied horizontally at right angles to the top rail. The handrail shall be continuous the full length of the stairs.

(4) The handgrip portion of the handrail shall not be less than one and one–quarter inches nor more than two inches in cross–sectional dimension, or the shape shall provide an equivalent gripping surface. The handgrip portion of the handrail shall have a smooth surface with no sharp corners. The handrail projection from a wall or other similar surface shall have a space of not less than one and one–half inches between the wall and the handrail. Handrails installed on the open side of stairways shall have intermediate rails or an ornamental pattern installed as specified in paragraph (1) of subdivision (e).

(e) Each loft area shall have guardrails located at open areas and at the open side of the stairway. The guardrail shall comply with all of the following:

(1) Guardrails shall have intermediate rails or an ornamental pattern so that a sphere four inches in diameter cannot pass through, except that triangular openings at the open side of a stairway may be of a size that a sphere six inches in diameter cannot pass through.

(2) Guardrails shall be capable of supporting a load of 20 pounds per lineal foot applied horizontally at right angles at the top of the rail.

(3) The guard rail shall be a minimum of 34 inches in height as measured from the finished floor covering of the loft area to the top of the rail.

(f) Each loft area shall have a minimum of two exits complying with ANSI Standard A119.5 Recreational Park Trailers, Chapter 3, one of which may be the stairway. Each alternate exit shall comply with both of the following:

(1) Lead directly to the exterior of the park trailer.

(2) The location of each alternate exit shall meet all requirements for access, operation, size markings, and identification as specified in ANSI Standard A1 19.5 Recreational Park Trailers, Chapter 3, for alternate exits.

(g) The loft area shall be provided with light and ventilation consistent with ANSI Standard A1 19.5 Recreational Park Trailers, Chapter 3. In addition to the smoke detector or detectors to serve the main floor, an additional smoke detector shall be installed in each loft area and shall comply with the requirements in ANSI Standard A119.5 Recreational Park Trailers, Chapter 3.

(h) The following electrical requirements shall be followed:

(1) At least one recessed light fixture shall be installed over the stairway. Each recessed light over a stairway shall be operated by a three–way switch with one switch located at the main floor and one switch located in the loft area. Both light switches shall be located immediately adjacent to each stairway. Additional lighting in the loft area shall only be of the recessed type.

(2) Wiring methods and receptacle placement shall be installed per the requirements in ANSI Standard A119.5 Recreational Park Trailers, Chapter 1.

§18033.1. Requirements for statutory compliance of park trailers with lofts
<Not applicable for CM or MH exams>

(a) The Legislature finds and declares that certain park trailer units with lofts that do not comply with Section 18009.3, as amended in 2001, and Section 18033 were designed and manufactured for residential occupancy in the lofts, and were sold and occupied in this state prior to January 3, 2001. On or about January 3, 2001, the department issued an information bulletin informing local government building code enforcement agencies, park trailer manufacturers and dealerships, and other interested parties that, in fact, many of these park trailers did not comply with applicable standards with respect to the lofts and related areas and therefore were not recreational vehicles or park trailers, as defined by this part.

(b)(1) In order to ensure reasonable standards of public safety while avoiding undue hardship to purchasers of park trailers with lofts that are in substantial compliance with Section 18009.3, as amended in 2001, and Section 18033, park trailers with lofts shall be deemed to comply with those sections if there is compliance with all of the following requirements of this subdivision and subdivision (c):

(A) They were manufactured prior to January 3, 2001, and sold prior to June 3, 2001.

(B) The notices described in subdivision (c) are provided as specified in subdivision (c).

(2) For purposes of this subdivision, “substantial compliance” shall require being constructed and maintained in a manner consistent with Section 18009.3, as amended in 2001, and Section 18033, except for the following:

(A) Notwithstanding Section 18009.3, as amended in 2001, and Section 18033, ceilings of lofts shall be a minimum height of 50 inches above the loft floor for not less than 70 percent of the total loft ceiling area. One exit window shall be provided in all lofts used for human habitation, providing an unobstructed opening of at least 484 square inches, with a minimum dimension of 22 inches in any direction. The window shall be located on a wall or roof located opposite the access stairs to the loft area.

(B) Notwithstanding Section 18009.3, as amended in 2001, and Section 18033, stairs serving as access to or egress from lofts shall not be required to comply with the provisions for rise and run as described in paragraph (1) of subdivision (c) of Section 18009.3 if the stairs are provided with a complying handrail as provided in paragraph (4) of subdivision (c) of Section 18009.3.

(c) For purposes of being deemed in compliance pursuant to this section, a park trailer with one or more lofts shall comply with the following paragraphs:

(1) Within 24 inches of the opening of each loft, a permanent label shall be posted conspicuously, which states, in letters not less than one–half inch in height and in a color contrasting with the sign’s background and wall color, the following:

> “NOTICE: THIS LOFT AREA AND THE STAIRS DO NOT COMPLY WITH CODES IN EFFECT ON JANUARY 1, 2002, AND MAY BE DIFFICULT TO EXIT FROM IN THE EVENT OF A FIRE.”

(2) The manufacturer of each park trailer subject to this section shall, to the extent feasible, mail the purchaser of the park trailer a written notice entitled, in bold 16–point type, the following:

> “WARNING: LOFT AREAS AND STAIRS IN YOUR PARK TRAILER DO NOT COMPLY WITH STANDARDS IN EFFECT ON OR AFTER JANUARY 1, 2002. EXTRA CARE MAY BE REQUIRED TO EXIT FROM A LOFT IN THE EVENT OF A FIRE.”

This notice also shall set forth the provisions of this section and shall provide the name, address, and telephone number of a person to whom the owner may address questions.

(3) If the owner rents or otherwise provides for consideration the park trailer subject to this section, the owner shall provide a written notice to the occupant that provides, in bold 16–point type, the following:

> “WARNING: LOFT AREAS AND STAIRS IN YOUR PARK TRAILER DO NOT COMPLY WITH STANDARDS IN EFFECT ON OR AFTER JANUARY 1, 2002. EXTRA CARE MAY BE REQUIRED TO EXIT FROM A LOFT IN THE EVENT OF A FIRE.”

(d) If the lofts and stairs of any park trailer do not comply with the requirements of this section, Section 18009.3, as amended in 2001, and Section 18033, the park trailer shall be deemed not in substantial compliance with this section, the loft area may not be used for human habitation but only for storage, and the loft area shall comply with the signage requirements prescribed by subdivision (b) of Section 18009.3.

§18034. Licensure as mortgage loan originator not required

(a) A dealer, as defined in Section 18002.6, or a salesperson, as defined in Section 18013, is not required to be licensed as a mortgage loan originator under the provisions of state law that implement the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Public Law 110-289), if the dealer or salesperson performs only administrative or clerical tasks on behalf of a person meeting the definition of a mortgage loan originator, and if the dealer or salesperson does not accept compensation from a lender, mortgage loan originator, or from any agent of any lender or mortgage loan originator.

(b) For purposes of this section, the term “administrative and clerical tasks” means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

Chapter 5 SALES AND ESCROWS

<This chapter is not applicable for CM exams>

§18035. Escrow account; Provisions of escrow instructions; Escrow procedure; Damages action

(a)(1) For every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome subject to registration under this part, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase contemporaneous with, or prior to, the receipt of any cash or cash equivalent from the buyer, shall establish an escrow account with an escrow agent, and shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to the close of escrow as a deposit, downpayment, or whole or partial payment for the manufactured home or mobilehome or accessory thereto. Checks, money orders, or similar payments toward the purchase shall be made payable only to the escrow agent.

(2) The downpayment, or whole or partial payment, shall include an amount designated as a deposit, which may be less than, or equal to, the total amount placed in escrow, and shall be subject to subdivision (f). The parties shall provide for escrow instructions that identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit if one is required by Section 18035.1. The deposits shall be made by the dealer within five working days of receipt, one of which shall be the day of receipt.

(3) For purposes of this section, "cash equivalent" means any property, other than cash. If an item of cash equivalent is, due to its size, incapable of physical delivery to the escrow holder, the property may be held by the dealer for the purchaser until close of escrow and, if the property has been registered with the department or the Department of Motor Vehicles, its registration certificate and, if available, its certificate of title shall be delivered to the escrow holder.

(b) For every transaction by or through a dealer to sell or lease with the option to buy a new manufactured home or mobilehome subject to registration under this part, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2)(A) That, in the alternative, either of the following shall occur:

(i) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(ii) The inventory creditor shall consent in writing to other than full payment.

(B) For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome, as contemplated by Section 9103 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every transaction by or through a dealer to sell or lease with the option to buy a used manufactured home or mobilehome subject to registration under this part, the escrow instructions shall provide:

(1) That the current registration card, all copies of the registration cards held by junior lienholders, and the certificate of title be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A)(i) The registered owner shall acknowledge in writing the amount of the commission to be received by the dealer for the sale of the manufactured home or mobilehome, and (ii) the registered owner shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of the escrow where the buyer has executed a security agreement approved by the registered owner covering the unpaid balance of the purchase price.

(B)(i) The dealer shall declare in writing that the manufactured home or mobilehome is its inventory, (ii) the registered owner shall acknowledge in writing that the purchase price relating to the sale of the manufactured home or mobilehome to the dealer for resale has been paid in full by the dealer, (iii) the current certificate of title shall be appropriately executed by the registered owner to reflect the release of all of its ownership interests, and (iv) the dealer shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of escrow where the buyer has executed a security agreement approved by the dealer covering the unpaid balance of the purchase price.

(3) That, in the alternative, the legal owner and each junior lienholder, respectively, shall do either of the following:

(A) Release his or her security interest or transfer its security interest to a designated third party contemporaneously upon the payment of a specified amount from the escrow account.

(B) Advise the escrow agent in writing that the new buyer or the buyer's stated designee shall be approved as the new registered owner upon the execution by the buyer of a formal assumption of the indebtedness secured by his or her lien approved by the creditor at or before the close of escrow.

(d) For every transaction by or through a dealer to sell or lease with the option to buy a used manufactured home or mobilehome subject to registration under this part:

(1) The dealer shall present the buyer's offer to purchase the manufactured home or mobilehome to the seller in written form signed by the buyer. The seller, upon accepting the offer to purchase, shall sign and date the form. Copies of the fully executed form shall be presented to both the buyer and seller, with the original copy retained by the dealer. Any portion of the form that reflects the commission charged by the dealer to the seller need not be disclosed to the buyer.

(2) The escrow agent, upon receipt of notification from the dealer that the seller has accepted the buyer's offer to

purchase and receipt of mutually endorsed escrow instructions, shall, within three working days, prepare a notice of escrow opening on the form prescribed by the department and forward the completed form to the department with appropriate fees. If the escrow is canceled for any reason before closing, the escrow agent shall prepare a notice of escrow cancellation on the form prescribed by the department and forward the completed form to the department.

(3)(A) The escrow agent shall forward to the legal owner and each junior lienholder at their addresses shown on the current registration card a written demand for a lien status report, as contemplated by Section 18035.5, and a written demand for either an executed statement of conditional lien release or an executed statement of anticipated formal assumption, and shall enclose blank copies of a statement of conditional lien release and a statement of anticipated formal assumption on forms prescribed by the department. The statement of conditional lien release shall include, among other things, both of the following:

(i) A statement of the dollar amount or other conditions required by the creditor in order to release or transfer its lien.

(ii) The creditor's release or transfer of the lien in the manufactured home or mobilehome contingent upon the satisfaction of those conditions.

(B) The statement of anticipated formal assumption shall include, among other things, both of the following:

(i) A statement of the creditor's belief that the buyer will formally assume the indebtedness secured by its lien pursuant to terms and conditions which are acceptable to the creditor at or before the close of escrow.

(ii) The creditor's approval of the buyer or his or her designee as the registered owner upon the execution of the formal assumption.

(4) Within five days of the receipt of the written demand and documents required by paragraph (3), the legal owner or junior lienholder shall complete and execute either the statement of conditional lien release or, if the creditor has elected to consent to a formal assumption requested by a qualified buyer, the statement of anticipated formal assumption, as appropriate, and prepare the lien status report and forward the documents to the escrow agent by first–class mail. If the creditor is the legal owner, the certificate of title in an unexecuted form shall accompany the documents. If the creditor is a junior lienholder, the creditor's copy of the current registration card in an unexecuted form shall accompany the documents.

(5) If either of the following events occur, any statement of conditional lien release or statement of anticipated formal assumption executed by the creditor shall become inoperative, and the escrow agent shall thereupon return the form and the certificate of title or the copy of the current registration card, as appropriate, to the creditor by first– class mail:

(A) The conditions required in order for the creditor to release or transfer his or her lien are not satisfied before the end of the escrow period agreed upon in writing between the buyer and the seller or, if applicable, before the end of any extended escrow period as permitted by subdivision (g).

(B) The registered owner advises the creditor not to accept any satisfaction of his or her lien or not to permit any formal assumption of the indebtedness and the creditor or registered owner advises the escrow agent in writing accordingly.

(6) If a creditor willfully fails to comply with the requirements of paragraph (4) within 21 days of the receipt of the written demand and documents required by paragraph (3), the creditor shall forfeit to the escrow agent three hundred dollars ($300), except where the creditor has reasonable cause for noncompliance. The three hundred dollars ($300) shall be credited to the seller, unless otherwise provided in the escrow instructions. Any penalty paid by a creditor under this paragraph shall preclude any civil liability for noncompliance with Section 18035.5 relating to the same act or omission.

(e) For every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome, the escrow instructions shall specify one of the following:

(1) Upon the buyer receiving delivery of an installed manufactured home or mobilehome on the site and the manufactured home or mobilehome passing inspection pursuant to Section 18613 or after the manufactured home or mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the buyer, all funds in the escrow account, other than escrow fees and amounts for accessories not yet delivered, shall be disbursed. If mutually agreed upon between buyer and dealer, the escrow instructions may specify that funds be disbursed to a government agency for the payment of fees and permits required as a precondition for an installation acceptance or certificate of occupancy, and the information that may be acceptable to the escrow agent.

(2) Upon the buyer receiving delivery of an installed manufactured home or mobilehome not subject to the provisions of Section 18613 with delivery requirements as mutually agreed to and set forth in the sales documents, all funds in the escrow account, other than escrow fees, shall be disbursed.

(f) Upon receiving written notice from a party to the escrow of a dispute, the escrow agent shall inform the party of his or her right to hold funds in escrow by submitting a written request to hold funds in escrow. Upon receipt by the escrow agent of a party's written request to hold funds in escrow, all funds denoted as deposit shall be held in escrow until a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other funds, other than escrow fees, shall be returned to the buyer or any person, other than the dealer or seller, as appropriate. At the opening of escrow, the escrow agent shall give notice of the right to request that funds be held in escrow pursuant to this subdivision.

(g) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(h) No dealer or seller shall establish with an escrow agent any escrow account in an escrow company in which the dealer or seller has more than a 5 percent ownership interest.

(i) The escrow instructions may provide for the proration of any local property tax due or to become due on the manufactured home or mobilehome, and if the tax, or the license fee imposed pursuant to Section 18115, or the registration

fee imposed pursuant to Section 18114, is delinquent, the instructions may provide for the payment of the taxes or fees, or both, and any applicable penalties.

(j) For every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome that is subject to inspection pursuant to Section 18613, and for which it is stated, on the face of the document certifying or approving occupancy or installation, that the issuance of the document is conditioned upon the payment of a fee, charge, dedication, or other requirement levied pursuant to Section 53080 of the Government Code, the escrow instructions shall provide that the payment of that fee, charge, dedication, or other requirement be made to the appropriate school district upon the close of escrow.

(k) No agreement shall contain any provision by which the buyer waives his or her rights under this section, and any waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(l) If a portion of the amount in the escrow is for accessories, then that portion of the amount shall not be released until the accessories are actually installed.

(m) Upon opening escrow on a used manufactured home or mobilehome which is subject to local property taxation, and subject to registration under this part, the escrow officer may forward to the tax collector of the county in which the used manufactured home or mobilehome is located, a written demand for a tax clearance certificate, if no liability exists, or a conditional tax clearance certificate if a tax liability exists, to be provided on a form prescribed by the office of the Controller. The conditional tax clearance certificate shall state the amount of the tax liability due, if any, and the final date that amount may be paid out of the proceeds of escrow before a further tax liability may be incurred.

(1) Within five working days of receipt of the written demand for a conditional tax clearance certificate or a tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or a tax clearance certificate showing no tax liability exists to the requesting escrow officer. In the event the tax clearance certificate's or conditional tax clearance certificate's final due date expires within 30 days of date of issuance, an additional conditional tax clearance certificate or a tax clearance certificate shall be completed which has a final due date of at least 30 days beyond the date of issuance.

(2) If the tax collector on which the written demand for a tax clearance certificate or a conditional tax clearance certificate was made fails to comply with that demand within 30 days from the date the demand was mailed, the escrow officer may close the escrow and submit a statement of facts certifying that the written demand was made on the tax collector and the tax collector failed to comply with that written demand within 30 days. This statement of facts may be accepted by the department in lieu of a conditional tax clearance certificate or a tax clearance certificate, as prescribed by subdivision (a) of Section 18092.7, and the transfer of ownership may be completed.

(3) The escrow officer may satisfy the terms of the conditional tax clearance certificate by paying the amount of tax liability shown on the form by the tax collector out of the proceeds of escrow on or before the date indicated on the form and by certifying in the space provided on the form that all terms and conditions of the conditional tax clearance certificate have been complied with.

(n) This section creates a civil cause of action against a buyer or dealer or other seller who violates this section, and upon prevailing, the plaintiff in the action shall be awarded actual damages, plus an amount not in excess of two thousand dollars ($2,000). In addition, attorney's fees and court costs shall also be awarded a plaintiff who prevails in the action.

§18035.1. Receipt for deposit; Contents; Requirements for sale not subject to registration

(a) As a part of the documents executed for every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome, the dealer and purchaser shall sign a receipt for deposit, a copy of which shall be provided to the purchaser and a copy shall be retained by the dealer for not less than three years. It shall state at least the following in type not less than 6–point type size:

(1) A statement that the purchaser shall receive a copy of the purchase contract and receipt for deposit.

(2) A statement that all portions of the purchase documents and receipt for deposit shall be completed prior to obtaining the purchaser's signature.

(3) A statement of the specific amounts of the deposit, downpayment, or other category of funds required to be placed in escrow prior to closing, and a warning that the deposit may be withheld in escrow in case of a dispute between the purchaser and the dealer.

(4) A statement that the amounts of the deposit and downpayment shall be agreed upon by the purchaser and dealer and shall have been entered on the purchase documents and receipt of deposit prior to the purchaser's signing.

(5) Sections 18035, 18035.1, and 18035.3 of this code and Section 1797.3 of the Civil Code reprinted in their entirety.

(6) A statement that any oral promises or commitments that have been made are not binding unless they appear in writing on the purchase documents.

(7) A warning that a warranty document complying with Section 1797.3 of the Civil Code shall be provided to the purchaser of a new manufactured home or mobilehome immediately after signing the purchase documents.

(8) A statement that the terms and duration of any other warranty, not required by law, offered by the dealer shall be in writing.

(9) A statement that, if the purchaser has any complaints with respect to sales practices, delivery, warranty, or other matters related to the manufactured home or mobilehome, he or she may seek administrative relief from the department or legal relief in a court of competent jurisdiction.

(10) A statement that the sale will not be complete until the escrow for the sale closes.

(b) For the sale of a manufactured home or mobilehome not subject to registration by the department, the dealer shall provide a statement of fact, in type not less than 6–point type size, containing the information specified in paragraphs

(6), (7), (8), (9), and (10) of subdivision (a) as part of the purchase documents.

(c) Where the sale of a new or used manufactured home or mobilehome subject to registration under this part does not involve a dealer, the department, by regulation, may require the seller and buyer to execute a receipt for deposit containing whatever information of the nature described in this section, the department deems appropriate.

§18035.2. Installation on foundation system; Document evidencing purchase; Escrow account

(a) For every sale by a dealer of a new or used manufactured home or mobilehome to be installed on a foundation system pursuant to subdivision (a) of Section 18551, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase, and provide a statement of fact complying with subdivision (b) of Section 18035.1, contemporaneous with or prior to the receipt of any cash or cash equivalent from the buyer and shall establish an escrow account with an escrow agent. The escrow shall not be subject to Section 18035. The parties shall provide for escrow instructions that identify the fixed amounts of the deposit and balances due prior to closing, consistent with the amounts set forth in the document evidencing the purchase and related services. Escrow disbursements and closing shall be consistent with the mutually agreed terms and conditions of the documents evidencing the purchase and related services. Disbursements of funds from escrow prior to delivery and installation of the unit, any accessory structures, and related services shall only be as mutually agreed upon in writing by the dealer and buyer.

(b) For every sale by a dealer of a new manufactured home or mobilehome installed or to be installed on a foundation system pursuant to subdivision (a) of Section 18551, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(B) That the inventory creditor shall consent in writing to other than full payment. For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome as contemplated by Section 9103 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every sale by a dealer of a new or used manufactured home or mobilehome that is subject to inspection pursuant to subdivision (a) of Section 18551, and for which it is stated, on the face of the document certifying or approving occupancy, that the issuance of the document is conditioned upon the payment of a fee, charge, dedication, or other requirement levied pursuant to Section 17620 of the Education Code, the escrow instructions shall provide that the payment of that fee, charge, dedication, or other requirement be made to the appropriate school district upon the close of escrow.

§ 18035.25. Dealer's failure to correct defects in installation performed by licensed contractor

Notwithstanding any other provision of this part to the contrary, it is a ground for disciplinary action, and not a criminal offense, for a dealer to fail to correct, or cause to be corrected, any defects in the installation of a manufactured home or mobilehome performed by a licensed contractor whom the dealer had certified to the purchaser as the installation contractor pursuant to subdivision (c) of Section 7027 of the Business and Professions Code. Any accusation filed against a licensee for a violation of this section shall be filed within three years after the occurrence of the act or omission alleged as the ground for disciplinary action.

§ 18035.26. Manufactured home and mobilehomes, completion of sale; Warranty period; Escrow and reporting requirements

(a) Notwithstanding any other provision of law, the requirements of this section apply only to the sale of a new or used manufactured home or multiunit manufactured housing or used mobilehome sold by a dealer and to be installed by the buyer on a foundation system pursuant to subdivision (a) of Section 18551.

(b) The sale shall be deemed complete at the close of escrow. Escrow shall be deemed closed when all of the following have been completed:

(1) The following document is executed:

Declaration of Delivery Sale

The undersigned purchaser hereby declares that he/she is agreeing to a delivery sale wherein he/she intends to actually and physically install the subject home described below, or accept responsibility for engaging the services of a licensed contractor to perform that installation. Additionally, the purchaser hereby declares that he/she understands that most manufacturers' warranties do not cover defects caused by improper site preparation or installation. The purchaser takes full responsibility for the proper storage, including blocking of the home and protection from the elements, prior to the completion of the installation. It is strongly recommended that, before entering into this agreement, the purchaser has ensured that the home described below will be installed pursuant to subdivision (a) of Section 18551 of the Health and Safety Code (see reverse side) and the manufacturer's installation instructions. Additionally, the purchaser should make certain that he/she can meet all permit and fee requirements, including school development fees, most of which may be financed, for the installation of the subject home.

Warranty Expiration

Notwithstanding Section 1797 of the Civil Code, in order to provide reasonable time for the installation of your home, the manufacturer's warranty, when applicable, will expire one year after either the issuance of a certificate of occupancy or 120 days from the close of escrow, whichever occurs first.

Name of Escrow Company:_____; Escrow Number: _____
Manufacturer's Name:_____; Serial Number: _____
Dealer's Name:_____; Address where purchaser intends to install home: _____
Address where purchaser will accept delivery:_____
Address where purchaser intends to install home: _____

(NOTE: An original copy of this document must be deposited with the above named escrow agent as a condition precedent to the preparation of escrow instructions. Upon close of escrow, the escrow agency shall submit a copy of the original document to the department along with documents required to report the sale; the original document shall be retained by the escrow agent. Additionally, a copy of the original document shall be sent to the manufacturer.)

WARNING: This is an important document. Do not sign unless you have read and understood the above declaration.

Purchaser's Printed Name:_____ Purchaser's Signature:_____ Date: _____

Purchaser's Printed Name:_____ Purchaser's Signature:_____ Date: _____

(Section 18551 of the Health and Safety Code shall be reprinted on the reverse side of this document.)

(2) All funds in the escrow account, other than escrow fees, amounts for accessories not yet delivered, and any other amounts mutually agreed to by the dealer and buyer are disbursed.

(3) The buyer takes delivery of the manufactured home, mobilehome, or multiunit manufactured housing. For the purpose of this section, taking delivery occurs upon the transfer of the home to the buyer at a location mutually agreed upon and as specified in the purchase agreement and the escrow instructions.

(c) The warranty period pursuant to Chapter 3 (commencing with Section 1797) of the Civil Code shall expire one year after either 120 days after the close of escrow or upon the issuance of the certificate of occupancy, whichever occurs first.

(d) All sales subject to this section shall meet the escrow requirements of Section 18035.2 and the reporting requirements of Section 18080.5. An escrow agent shall not create an escrow instruction wherein a purchaser accepts responsibility for the installation of a manufactured home unless and until the escrow agent is in receipt of the declaration specified in subdivision (a). An escrow instruction created before the receipt of the declaration is null and void and unenforceable.

(e) The report of sale and any related required documents shall be filed with the department within 10 calendar days of the close of escrow. The department shall designate its record as “pending installation” for the unit until the certificate of occupancy is issued and the recorded HCD and applicable fees are received from the enforcement agency. Only at this time shall the record be amended to designate the foundation type to be a permanent foundation pursuant to subdivision (a) of Section 18551 and the department's record cancelled.

§ 18035.3. Contents of purchase document

(a) For every sale by a dealer of a new or used manufactured home or mobilehome, either the purchase order, conditional sale contract, or other document evidencing the purchase thereof, or any attachment to a purchase document signed and dated by the purchaser, shall contain all of the following:

(1) A description of the manufactured home or mobilehome, a description and the cash price of each accessory, structure, or service included with the purchase, and the total cash price for the purchase. The statement shall also state whether the purchase price includes or excludes the towbar, wheels, wheel hubs, tires, and axles and, if they are not included in the purchase price, the price of each shall be listed.

(2) The amount, if any, charged by the dealer for documentary preparation and, if a documentary preparation charge is imposed, a notice advising the purchaser that the charge is not a governmental fee.

(3) A notice in type no smaller than 8–point that complaints concerning the purchase shall be referred to the dealer and, if the complaint is not resolved, may be referred to the Department of Housing and Community Development, Division of Codes and Standards, Occupational Licensing. The notice shall contain the current address and telephone number of the department.

(4) A notice, in at least 10–point boldface type reading as follows:

(A) Do NOT sign the purchase agreement before you read it or if it contains any blank spaces to be filled in.

(B) You are entitled to a completely filled–in copy of that agreement and, if purchasing a manufactured home or mobilehome covered by a warranty, a copy of the warranty.

(5) The name, business address, and contractor’s license number of the licensed contractor whom the dealer certifies as performing the installation of the manufactured home or mobilehome pursuant to subdivision (c) of Section 7026.2 of the Business and Professions Code.

(6) The disclosures required by this subdivision need not be contained in the same document.

(b) A failure to disclose pursuant to this section shall not be the basis for rescission of a conditional sales contract.

(c) Notwithstanding any other provision of this part to the contrary, a failure to provide the disclosures specified in paragraph (5) of subdivision (a) is a ground for disciplinary action and not a criminal offense.

(d) If the dealer is also licensed as a real estate broker, the sale of a manufactured home or mobilehome being installed on a foundation system pursuant to Section 18551 may be included in the purchase document for the underlying real property, if the requirements of this section are met.

§ 18035.4. Sales to which provisions do not apply

Sections 18035, 18035.1, and 18035.2 shall not apply to the sale of manufactured homes or mobilehomes to:

(a) The federal government.

(b) The state.

(c) Any agency or political subdivision of the state.

(d) Any city, county, or city and county.

§ 18035.5. Demand for copy of conditional sale contract from secured party; Failure to prepare; Charges

(a) As used in this section:

(1) "Secured party" means a legal owner or junior lienholder.

(2) "Entitled party" means a registered owner or any person holding a security interest or other lien or encumbrance which is subordinate to the security interest of the secured party or an escrow agent in conjunction with an escrow involving the sale or transfer of an interest in a manufactured home, mobilehome, or commercial coach subject to registration under this part.

(b) A secured party shall, on the written demand of an entitled person, or the authorized agent of the entitled person, prepare and deliver to the person demanding it, a true, correct, and complete copy of the conditional sale contract or the promissory note and security agreement and any subsequent modification thereto, and a written statement indicating all of the following:

(1) The amount of the unpaid balance of the obligation owing to the secured party and the interest rate, together with the total amounts, if any, of all overdue installments of either principal or interest, or both.

(2) The amounts of periodic payments, if any.

(3) The date on which the obligation is due in whole or in part.

(4) The date to which taxes and special assessments have been paid to the extent that information is known to the secured party.

(5) The amount of hazard insurance in effect and the term and premium of that insurance to the extent that information is known to the secured party.

(6) The amount in an account, if any, maintained for the accumulation of funds with which to pay taxes and insurance premiums.

(7) The nature and, if known, the amount of any additional charges, costs, or expenses paid or incurred by the secured party which have become a lien on the manufactured home, mobilehome, or commercial coach involved.

(8) If applicable, a statement indicating that subsequently incurred obligations will be secured by the manufactured home, mobilehome, or commercial coach involved.

(c) The secured party may, before delivering a statement, require reasonable proof that the person making the demand is, in fact, an entitled person, in which event the secured party shall not be subject to the penalties of this section until 21 days after receipt of the proof herein provided for. A statement in writing signed by the entitled person appointing an authorized agent when delivered personally to the secured party or delivered by registered return receipt mail shall constitute reasonable proof as to the identity of an agent. Similar delivery of a policy of title insurance, preliminary report issued by a title company, original or photographic copy of a sales agreement covering the manufactured home, mobilehome, or commercial coach or certified copy of letters testamentary, guardianship, or conservatorship shall constitute reasonable proof as to the identity of a successor in interest, provided the person demanding a statement is named as successor in interest in the document.

(d) Delivery of the statement by the secured party, as herein referred to, shall mean depositing or causing to be deposited in the United States mail an envelope, with postage prepaid, containing a copy of the statement, addressed to the person whose name and address is set forth in the demand therefor.

(e) If a secured party for a period of 21 days after receipt of the written demand willfully fails to prepare and deliver the statement, the secured party is liable to the entitled person for all damages which may be sustained by reason of the refusal and, whether or not actual damages are sustained, the secured party shall forfeit to the entitled person the sum of three hundred dollars ($300). Each such failure to prepare and deliver such a statement, occurring at a time when, pursuant to this section, the secured party is required to prepare and deliver the statement, creates a separate cause of action, but a judgment awarding an entitled person such forfeiture, or damages and forfeiture, for any such failure to prepare and deliver a statement bars recovery of such damages and forfeiture for any other failure to prepare and deliver a statement, with respect to the same obligation, in compliance with a demand therefor made within six months before or after the demand as to which the award was made.

(f) If the secured party has more than one branch, office, or other place of business, then the demand shall be made to the branch or office at which the payments of the obligation are made, and the statement, unless it specifies otherwise, shall be deemed to apply only to the unpaid balance owing to or payable at that branch office or place of business.

(g) The secured party may make a charge not to exceed fifty dollars ($50) for furnishing the required statement, whether or not the security agreement covering the manufactured home, mobilehome, or commercial coach so provides.

§ 18036. Rescission of contract for inability to obtain financing

In the event a buyer of a manufactured home or mobilehome obligates himself or herself to purchase, or receive possession of, a manufactured home or mobilehome pursuant to a contract or purchase order, and the seller knows that the

buyer intends to obtain financing from a third party without the assistance of the seller, and the buyer is unable to obtain the financing within 30 days of the execution of the contract or purchase order, the contract or purchase order shall be deemed rescinded and all consideration thereupon, other than escrow fees, shall be returned by the respective parties without demand.

§ 18036.5. Truth in lending; Correction of disclosure violations; Damages

(a) As used in this section:

(1) "Act" means the federal Truth in Lending Act, as amended (15 U.S.C., Sec. 1601, et seq.).

(2) "Regulation Z" means any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System under the act and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the act to issue these interpretations or approvals.

(b) A conditional sale contract relating to a new or used manufactured home or mobilehome subject to registration under this part shall contain all the disclosures required by Regulation Z if Regulation Z otherwise applies to the transaction. Any disclosure violation corrected pursuant to subdivision (d) shall not be the basis of any recovery by the buyer.

(c) With respect to a violation which is not corrected as provided in subdivision (d), the seller shall be liable to the buyer in an amount equal to the sum of:

(1) Any actual damage sustained by such person as a result of the failure;

(2)(A) In the case of an individual action twice the amount of any finance charge in connection with the transaction, except that the liability under this subparagraph shall not be less than one hundred dollars ($100) or greater than one thousand dollars ($1 ,000); or

(B) In the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same seller shall not be more than the lesser of five hundred thousand dollars ($500,000) or 1 per cent of the net worth of the seller; and

(3) In the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the seller, the resources of the seller, the number of persons adversely affected, and the extent to which the seller's failure of compliance was intentional. In connection with the disclosures referred to in Section 128 of the act, a seller shall have a liability determined under paragraph (2) of this subdivision only for failing to comply with the requirements of paragraph (2) (insofar as it requires a disclosure of the "amount financed"), (3), (4), (5), (6), or (9) of Section 128(a) of the act. With respect to any failure to make disclosures required under this section, liability shall be imposed only upon the seller required to make disclosure, except as provided in subdivision (k).

(d) A seller or assignee has no liability under this section for any failure to comply with any requirement imposed under this section if within 60 days after discovering an error, whether through the seller's or assignee's own procedures or pursuant to procedures permissible under the act, and prior to the institution of an action under this section or the receipt of written notice of the error from the buyer, the seller or assignee notifies the buyer concerned of the error and makes whatever adjustments as are necessary to assure that the buyer will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

(e) A seller or assignee may not be held liable in any action brought under this section if the seller or assignee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a person's obligations under this section is not a bona fide error.

(f) When there are multiple buyers in a transaction, there shall be no more than one recovery of damages under paragraph (2) of subdivision (c).

(g) Any action under this section may be brought within one year from the date of the occurrence of the violation. This subdivision does not bar a person from asserting a violation of this section in an action to collect the debt which was brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set–off in such action, except as otherwise provided by law. No action may be brought under this section if an action relating to the transaction or a defense thereto has been brought or asserted under the act.

(h) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board of Governors of the Federal Reserve System or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board of Governors of the Federal Reserve System to issue such interpretations or approvals under such procedures as the Board of Governors of the Federal Reserve System may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded or determined by judicial or other authority to be invalid for any reason.

(i) The multiple failure to disclose to any person any information required under this section shall entitle the buyer to a single recovery.

(j) A buyer may not take any action to offset any amount for which a seller or assignee is potentially liable to such buyer under paragraph (2) of subdivision (c) against any amount owed by such buyer, unless the amount of the seller's or assignee's liability under this section has been determined by judgment of a court of competent jurisdiction in an action to which such buyer was a party. This subdivision does not bar a buyer then in default on the obligation from asserting a

violation of this section as an original action, or as a defense or counterclaim to an action to collect amounts owed by the buyer brought by a person liable under this title.

(k) Except as otherwise specifically provided in this section, any civil action for a violation of this section which may be brought against a seller may be maintained against any assignee of such seller only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, provided, however, that no civil action may be brought against such assignee for such violation if the assignment was involuntary. For purposes of this section, a violation apparent on the face of the disclosure statement includes, but is not limited to, (1) a disclosure which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or (2) a disclosure which does not use the terms required to be used in Regulation Z.

(l) In any action or proceeding by or against any assignee of the seller without knowledge to the contrary by the assignee when the assignee acquires the obligation, written acknowledgment of receipt by a buyer to whom disclosures are required to be given pursuant to this section shall be conclusive proof of the delivery thereof and, except as provided in subdivision (k), of compliance with this section. This subdivision does not affect the rights of the buyer in any action against the original seller.

(m) No final judgment shall be entered in an action brought pursuant to this section in favor of a buyer until the later of (1) the expiration of one year after the occurrence of the violation, or (2) the entry of judgment in an action for the violation brought under Section 130 of the act and filed within such one–year period. A buyer who has recovered any amount by way of judgment, settlement, or otherwise under Section 130 or 131 of the act shall not be entitled to any damages or other relief for the violation under this section.

§ 18037. Assignee's recourse against seller

Notwithstanding any agreement to the contrary, the holder of a conditional sale contract for which Regulation Z disclosures are required pursuant to Section 18036.5 is subject to all equities and defenses of the buyer against the seller, except as provided by Section 18036.5. However, the assignee's liability may not exceed the amount of the debt owing to the assignee at the time of assignment. The assignee shall have recourse against the seller to the extent of any liability incurred by the assignee pursuant to this section whether the assignment was with or without recourse except to the extent of any written agreement between the seller and assignee which expressly references this section and modifies its effect.

§ 18037.5. Default; Notice requirements; Repossession; Proceeds of sale; Accounting

(a) In the event of default under the provisions of any security agreement relating to a loan or conditional sale contract which, according to its terms, gives the secured party the right to foreclose its security interest in a manufactured home, mobilehome, truck camper, or floating home subject to registration under this part which is not inventory of a dealer, including the right to repossess the property, notwithstanding any contrary provisions in the security agreement or conditional sale contract or in any other agreement entered into prior to default, the secured party may foreclose its security interest only by satisfying the requirements of this section.

(1) Unless the registered owner of the manufactured home, mobilehome, truck camper, or floating home has abandoned the property or has voluntarily surrendered possession of the property to the foreclosing creditor, the foreclosing creditor shall deposit or cause to be deposited in the United States mail an envelope addressed to each registered owner as shown on the current registration of the manufactured home, mobilehome, truck camper, or floating home, registered or certified with postage prepaid, containing a notice in substantially the following form and in at least 10–point type, which notice shall be signed by the foreclosing creditor:

NOTICE OF DEFAULT

To:_____
(names of all registered owners)

You (if the registered owner is not the person who is in default, substitute name of defaulting person(s)) are in default under the terms of the

_____
(identify security agreement by title or caption and date)

in that

_____
(describe default)

This default gives the creditor named below the right to sell your manufactured home, mobilehome, truck camper, or floating home which is registered with the Department of Housing and Community Development under registration number(s), located at_____(give registration number(s))

_____
(give location of property as shown on current registration)

unless the default is promptly cured.

You may cure the default by_____
(describe conditions precedent to reinstatement required to cure default)

or by entirely repaying the outstanding secured indebtedness on or before

_____
(state final date available for cure, which date shall be no earlier than 45 days after mailing of the notice)

To cure the default you may also be required to reimburse the creditor for its reasonable attorney's fees and legal expenses and for any other sums to which the creditor may have become entitled under the terms of your credit agreement after the date of this notice.

You may entirely repay the outstanding obligation by paying the creditor _____ (state dollar amount required to obtain release of if the security interest, and amount may increase due to passage of time, state that fact) plus any amount necessary to reimburse the creditor for its reasonable attorney's fees and legal expenses and any other sums to which the creditor may have become entitled after the date of this notice under the terms of your agreement.

(2) Within five days following the mailing of the notice of default required by paragraph (1), the foreclosing creditor shall forward a copy thereof to the legal owner shown on the current registration card, if different than the foreclosing creditor, and to each junior lienholder shown on the current registration card, if different than the foreclosing creditor, and, effective July 1, 1985, to the department. The notice shall be forwarded to each party in the same manner as provided for mailing the original notice to the registered owner.

(3) In the event of default under the provisions of any security agreement relating to a loan or conditional sale contract which, according to its terms, gives the secured party the right to foreclose its security interest in a manufactured home, mobilehome, truck camper, or floating home, each registered owner and each junior lienholder having a security interest which is subordinate to the security interest of the foreclosing creditor shall have the right to cure the default by the methods and in the manner prescribed in the notice within 45 days after mailing of the notice to the registered owner required by paragraph (1).

(4) If the default is not cured within the time indicated on the notice required by paragraph (1), or if the property has been abandoned by the registered owner or voluntarily surrendered by the registered owner to the foreclosing creditor, the creditor may proceed to sell the property at private or public sale pursuant to the provisions of Section 9610 of the Commercial Code, except as provided in paragraph (5) and subdivision (c). The notice of sale required by Sections 9610, 9611, 9617, 9618, and 9624 of the Commercial Code shall not be mailed or delivered before expiration of the period for the right to cure the default, as stated in the notice required by paragraph (1), unless the property has been abandoned by the registered owner or voluntarily surrendered by the registered owner to the foreclosing creditor.

(5) Notwithstanding any contrary provisions of Sections 9610, 9611, 9615, 9617, 9618, and 9624 of the Commercial Code, the foreclosing creditor shall deposit or cause to be deposited in the United States mail, registered or certified with postage prepaid, an envelope containing the notice of sale addressed to each party to whom the notice of default was mailed pursuant to paragraph (2). The notice of sale shall be given at least 10 days before the date fixed for a public sale or on or after which any private sale is to be made.

(6) For purposes of this subdivision, a manufactured home, mobilehome, truck camper, or floating home shall be deemed abandoned if the foreclosing creditor gives written notice of its belief of abandonment to the registered owner as provided in this paragraph and the registered owner fails to give the foreclosing creditor written notice, prior to the appropriate date specified in the foreclosing creditor's notice, stating that the registered owner has not abandoned and does not intend to abandon the manufactured home, mobilehome, truck camper, or floating home and stating an address at which the registered owner may be served by certified mail with a summons in connection with any legal action which the foreclosing creditor may appropriately initiate. The foreclosing creditor may give a notice of belief of abandonment only where it reasonably believes that the registered owner has abandoned the manufactured home, mobilehome, truck camper, or floating home. The notice of belief of abandonment shall be personally delivered to the registered owner or sent by registered or certified mail, with postage prepaid, to the registered owner at his or her last known address and, if there is reason to believe that the notice sent to that address will not be received by the registered owner, to any other address, if any, known to the foreclosing creditor where the registered owner may reasonably be expected to receive the notice. The notice of belief of abandonment shall be in substantially the following form in at least 10–point type:

NOTICE OF BELIEF OF ABANDONMENT

To:_____
(names of all registered owners)

This notice is given pursuant to Section 18037.5 of the Health and Safety Code concerning your manufactured home, mobilehome, truck camper, or floating home located at

_____
(address of manufactured home, mobilehome, truck camper, or floating home as shown on current registration)

_____
(if the registered owner is not the person who is in default, substitute name of defaulting person(s)) are in default under the terms of the

_____
(identify security agreement or conditional sale contract by title or caption and date)
in that_____
(describe default)

This default gives the foreclosing creditor named below the right to sell your manufactured home, mobilehome, truck camper, or floating home which is registered with the Department of Housing and Community Development under

number(s)

_____

(give registration number(s))

unless the default is promptly cured. Unless the foreclosing creditor receives a written notice from you to the contrary by

_____

(insert a date not less than 15 days after this notice is served personally or, if mailed, not less than 18 days after this notice is deposited in the mail)

your manufactured home, mobilehome, truck camper, or floating home will be deemed abandoned, which means that the foreclosing creditor may sell your manufactured home, mobilehome, truck camper, or floating home sooner than would otherwise be permitted by law. The written notice you must send to the foreclosing creditor shall be sent to

_____

(address of foreclosing creditor)

and shall state both of the following:

1. Your intent not to abandon the manufactured home, mobilehome, truck camper, or floating home.
2. An address at which you may be served by certified mail with a summons in connection with any legal action which the foreclosing creditor may appropriately initiate.

_____

(name of foreclosing creditor)

_____

(signature of foreclosing creditor)

(b) In the event of default under the provisions of any security agreement relating to a loan or a conditional sale contract in which the collateral is a manufactured home, mobilehome, truck camper, or floating home subject to registration under this part which is inventory of a dealer or a commercial coach, the secured party may repossess and dispose of the collateral in accordance with the provisions of the security agreement or conditional sale contract and applicable law, including the provisions of Division 9 (commencing with Section 9101) of the Commercial Code. Upon repossession of a manufactured home, mobilehome, truck camper, or floating home subject to registration under this part which is inventory of a dealer or a commercial coach subject to registration under this part, the secured creditor shall prepare and forward to the department a notice of repossession on the form prescribed by the department.

(c) The proceeds of the sale of a manufactured home, mobilehome, commercial coach, truck camper, or floating home shall be applied, in the following order, to:

(1) The reasonable and necessary expenses incurred for preparing for and conducting the sale and, if the foreclosing creditor has obtained possession of the collateral prior to the disposition, the reasonable and necessary expenses for the retaking and holding of the collateral and to the extent provided for in the agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the foreclosing creditor in retaking the property from any person not a party to the credit contract.

(2) The satisfaction of the indebtedness secured by the security interest of the foreclosing creditor under which the disposition is made.

(3) The satisfaction of indebtedness secured by any subordinate liens or encumbrances on the property in the order of their priority as provided in Section 18105, if with respect to a junior creditor written notification of demand therefor is received before distribution of the proceeds is completed, and to the satisfaction of any subordinate attachment lien or execution lien pursuant to subdivision (b) of Section 701.040 of the Code of Civil Procedure if notice of the levy of attachment or execution is received before distribution of the proceeds is completed. If requested by the foreclosing creditor, the holder of a subordinate lien or encumbrance shall furnish reasonable proof of his or her interest, and unless it does so, the foreclosing creditor need not comply with its demand.

(4) The satisfaction of indebtedness secured by all senior liens or encumbrances in the order of their priority as provided in Section 18105, if with respect to a senior creditor written demand therefor is received by the foreclosing creditor before distribution of the proceeds is completed. If requested by the foreclosing creditor, the holder of a senior lien or encumbrance shall furnish reasonable proof of his or her interest, and unless he or she does so, the foreclosing creditor need not comply with his or her demand.

(5) To the registered owner within 45 days after the sale is conducted if a surplus remains.

(d) Unless automatically provided to the registered owner within 45 days after the sale of a manufactured home, mobilehome, truck camper, or floating home if a request for an accounting is made within one year of the sale, the foreclosing creditor shall provide to the registered owner a written accounting containing the gross sales proceeds and its allocation pursuant to subdivision (c). In the event any surplus is paid to the registered owner pursuant to paragraph (5) of subdivision (c), the foreclosing creditor shall furnish such an accounting whether or not requested by the registered owner.

§ 18038.7. Prohibition against deficiency judgments

No deficiency judgment shall lie in any event, after the sale of any manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration pursuant to this part, for failure of the purchaser to complete his or her sale contract given to the seller to secure payment of the balance of the purchase price of the manufactured home, mobilehome, commercial coach, truck camper, or floating home. This section shall not apply in the event there is

substantial damage to the manufactured home, mobilehome, commercial coach, truck camper, or floating home other than wear and tear from normal usage.

In addition, no deficiency judgment shall lie in any event under a deed of trust or mortgage or note on a floating home serving as a dwelling for not more than four families given to a lender to secure payment of a loan which was in fact used to pay for all or part of the purchase price of that dwelling occupied, entirely or in part, by the purchaser.

§ 18039. Prohibition against waiver of rights

No agreement entered into pursuant to this chapter shall contain any provision by which the buyer waives his or her rights under this chapter, and any waiver shall be deemed contrary to public policy and shall be void and unenforceable.

§ 18039.1. Law governing procedures for notice of default and sale

Notwithstanding any other provision of law to the contrary, if a manufactured home or mobilehome is affixed to a permanent foundation pursuant to Section 18551, or security for the manufactured home or mobilehome loan includes the real property it is affixed to or installed upon, procedures for notice of default and sale shall be governed by Chapter 2 (commencing with Section 2920) of Title 14 of the Civil Code and shall not be governed by the provisions of this chapter.

§ 18039.5. Applicability of chapter; Effect of other consumer sales statutes

(a) The provisions of this chapter, except Section 18037.5, shall not apply to any loan or credit sale secured by a manufactured home or mobilehome subject to registration under this part unless the loan or credit sale was made under circumstances which required disclosures under Regulation Z, as defined by Section 18036.5.

(b) In no respect shall the sale or financing of a manufactured home or mobilehome subject to this chapter and of any goods or services sold in conjunction with the sale of the manufactured home or mobilehome be subject to the Retail Installment Sales Act, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code or the Automobile Sales Finance Act, Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code.

Chapter 6 MULTIPLE LISTING BETWEEN DEALERS OF MANUFACTURED HOMES, MOBILEHOMES, OR COMMERCIAL COACHES

§ 18040. Solicitation of listings; Multiple listing arrangements

(a) With respect to the sale of any manufactured home, mobilehome, or commercial coach that has not been previously installed on a foundation system pursuant to Section 18551, a dealer may solicit or obtain listings, engage in the multiple listing only with other dealers, or engage in payments only to other dealers or groups of dealers, pursuant to cooperative brokering and referral arrangements or agreements on the sale of only a manufactured home, mobilehome, or commercial coach which has been titled by the department.

(b) With respect to the resale of any manufactured home or mobilehome that has not been previously installed on a foundation system pursuant to subdivision (a) of Section 18551, a dealer may solicit or obtain listings, engage in multiple listing, or engage in payments with other dealers, groups of dealers, or with real estate licensees licensed pursuant to Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code.

§ 18040.5. Suspension or revocation of dealer's license

The department, after notice and hearing, may suspend or revoke a dealer's license upon determining that the dealership has committed any of the acts or omissions specified in Section 18062.

Chapter 7 OCCUPATIONAL LICENSES

Article 1 General Requirements

§ 18045. Requirement of license or temporary permit

It shall be unlawful for any person to act as a licensee within this state without having first procured a license or temporary permit issued by the department pursuant to this chapter, or when a license or temporary permit has been canceled, suspended, revoked, invalidated, expired, or the terms and conditions of an agreement for a stipulated penalty entered into pursuant to Section 18064.5 have not been fulfilled.

§ 18045.5. Established place of business required for license; Requirements; Inspection

(a) The department shall not issue a manufacturer, distributor, or dealer license to any applicant therefor who does not have an established place of business.

(b) In the case of a dealer or distributor, the established place of business shall have an office located within the State of California. In the case of a manufacturer, the established place of business shall have a manufacturing area defined by department regulations situated on the same property. When a room or rooms in a hotel, roominghouse, apartment house building, or a part of any single–unit or multiple–unit dwelling house is used as an office or offices of an established place of business, the room or rooms shall be devoted exclusively to, and occupied for, the office or offices of the licensee, shall be located on the ground floor, and shall provide a direct entrance into the room or rooms from the exterior of the building.

(c) The established place of business shall be open for inspection of the premises, pertinent records, and manufactured homes, mobilehomes, or commercial coaches by any department representative during business hours. If records are kept at a location other than the principal dealer business location, that other location shall be open for inspection of the premises and pertinent records during normal business hours.

§ 18045.6. Notice of change of location or loss of franchise

(a)(1) If the manufacturer, distributor, or dealer changes the site or location of his or her established place of business, the manufacturer, distributor, or dealer shall immediately, upon making the change, so notify the department. If a manufacturer, distributor, or dealer for any reason whatsoever, ceases to be in possession of an established place of business from and on which he or she conducts the business for which the manufacturer, distributor, or dealer is licensed, he or she shall immediately notify the department and, upon demand by the department, shall deliver to the department the manufacturer's, distributor's, or dealer's license and all relevant records in his or her possession.

(2) The department may place a manufacturer, distributor, or dealer license on an inactive status upon application of the licensee. An inactive license shall remain valid for six months or for the remaining term of the original license, whichever is less.

(b) If the dealer changes to, or adds, another franchise for the sale of new manufactured homes, mobilehomes, or commercial coaches, or cancels, or, for any cause whatever, otherwise loses a franchise for the sale of new manufactured homes, mobilehomes, or commercial coaches, he or she shall immediately so notify the department.

(c) A dealer's established place of business shall have posted in a place conspicuous to the public the license issued by the department to the dealer and to each salesperson employed by the dealer.

(d)(1) Notwithstanding Section 18050 and this section, a dealer may display manufactured homes, mobilehomes, or commercial coaches at a fair, exposition, or similar exhibit for no more than 30 days. As used in this section, "mobilehome fair or exposition" means a display of manufactured homes, mobilehomes, or commercial coaches not limited to one dealer and not in a mobilehome park.

(2) New manufactured homes or mobilehomes, installed pursuant to Section 18613, may also be displayed and sold within a mobilehome park or mobilehome subdivision by dealers. A display home may be used and equipped only for the sale of the displayed home and shall not be used as an established place of business, unless licensed as an established place of business.

(3) Dealers and salespersons may negotiate listing agreements for the sale of a used manufactured home or mobilehome which has been titled by the department, and may negotiate and execute offers to purchase and purchase documents for the sale of a new or used manufactured home or mobilehome other than at the established place of business.

(e) All manufactured homes, mobilehomes, or commercial coaches displayed pursuant to subdivision (d) shall be identified by a sign or device providing information relating to the dealer's name and the location and address of the dealer's established place of business and any other information that is required by the department.

(f) The requirements for an office specified in subdivision (b) of Section 18045.5 shall not apply to a display location authorized by subdivision (d), unless licensed as an established place of business.

§ 18045.8. Issuance of temporary permit; Cancellation

(a) Notwithstanding Section 18045.5, for an office at a dealer's established place of business, the department may issue a temporary permit as provided in Section 18052.

(b) When a dealer's license applicant has satisfied all other requirements for a dealer's license, as provided in this part and the regulations adopted pursuant thereto, except for the office, and the applicant proposes to purchase a new manufactured home, mobilehome, or commercial coach for use as the required office, the temporary permit shall be canceled automatically if the dealer's license applicant does not purchase a new manufactured home, mobilehome, or commercial coach and establish it as the required office, or otherwise establish a complying office, within 60 days of the temporary permit issuance date.

§ 18046. "Agent"; "Seller"; Inspection and disclosure duty of dealer or salesperson; Transfer disclosure statement

(a) An "agent" for purposes of this section and Section 18025, means a dealer or salesperson licensed pursuant to this part, or a real estate broker or salesperson licensed pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code.

(b) A "seller" for the purposes of this section and Section 18025 means the lawful owner of the manufactured home or mobilehome offering the home for sale. For purposes of this section and Section 18025, the exemptions enumerated by Section 1102.2 of the Civil Code shall be applicable to the transfer of a manufactured home or mobilehome.

(c) The sale of used manufactured homes or mobilehomes by a real estate broker or salesperson licensed under Division 4 (commencing with Section 10000) of the Business and Professions Code shall be subject to Section 2079 of the Civil Code.

(d) It is the duty of a dealer or salesperson, licensed under this chapter, to a prospective buyer of a used manufactured home or mobilehome, subject to registration pursuant to this part, to conduct a reasonably competent and diligent visual inspection of the home offered for sale and to disclose to that prospective buyer all facts materially affecting the value or desirability of the home that an investigation would reveal, if that dealer or salesperson has a written contract with the seller to find or obtain a buyer or is a dealer or salesperson who acts in cooperation with others to find and obtain a buyer. Where a transfer disclosure statement is required pursuant to subdivision (b) of Section 1102 of the Civil Code, a dealer or salesperson shall discharge that duty by completing the agent's portion of the transfer disclosure statement that a seller prepares and delivers to a prospective buyer pursuant to subdivision (b) of Section 1102 of the Civil Code. If no transfer disclosure statement is required, but the transaction is not exempt under Section 1102.2 of the Civil Code, a dealer shall discharge that duty by completing and delivering to the prospective buyer an exact reproduction of Sections III, IV, and V of the transfer disclosure statement required pursuant to subdivision (b) of Section 1102 of the Civil Code.

§ 18046.1. Standard of care

The standard of care owed by a dealer to a purchaser under this part is the degree of care that a reasonably prudent dealer would exercise and is measured by the degree of knowledge through education, experience, and examination required to obtain a license under this chapter.

Article 2 Applications and Renewals

§ 18050. Form and contents; Investigation

(a) Every applicant for an occupational license shall make application to the department for a license containing a general distinguishing number.

(b) The applicant shall submit all information as may be reasonably required by the department in carrying out the provisions of this chapter, including, but not limited to, proof of successful completion within the previous six months of the appropriate department examination and proof of his or her status as a bona fide manufacturer, distributor, dealer, dealer branch, or salesperson.

(c) Every applicant shall submit an application to the department on the forms prescribed by the department. The applicant shall provide the department with information as to the applicant's character, honesty, integrity, and reputation, as the department may consider necessary. The department, by regulation, shall prescribe what information is required of the applicant for the purposes of this subdivision.

(d)(1) In conjunction with the license application, the applicant shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of state or federal convictions, and state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(2) Upon receipt of the fingerprint images and related information described in paragraph (1) from the applicant, the Department of Justice shall forward to the Federal Bureau of Investigation a request for federal summary criminal history information.

(3) Upon receipt of federal summary criminal history information from the Federal Bureau of Investigation, the Department of Justice shall review that information and compile and disseminate a response to the Department of Housing and Community Development pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The Department of Housing and Community Development shall request subsequent arrest notification service from the Department of Justice, as provided under Section 11105.2 of the Penal Code, for the applicant.

(5) The Department of Justice shall charge a fee sufficient to cover the cost of processing the requests describe in this subdivision.

(e) Upon receipt of a complete application for a license which is accompanied by the appropriate fee, the department shall, within 120 days, make a thorough investigation of the information contained in the application.

§ 18050.5. Refusal to issue license

The department may, for a reasonable cause shown, refuse to issue a license to an applicant when it determines any of the following:

(a) The applicant was previously the holder of a license, which license was revoked for cause and never reissued, or which license was suspended for cause and the terms of suspension have not been fulfilled.

(b) The applicant was previously a limited or general partner, stockholder, director, general manager, or officer of a partnership or corporation whose license was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled.

(c) If the applicant is a partnership or corporation, of which one or more of the limited or general partners, stockholders, directors or officers was previously the holder or a limited or general partner, stockholder, director or officer of a partnership or corporation whose license was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled, or by reason of the facts and circumstances touching the organization, control, and management of the partnership or corporation business the policy of the business will be directed, controlled, or managed by individuals, who, by reason of their conviction of violations of the provisions of this part, would be ineligible for a license and by licensing the corporation or partnership the purposes of this part would likely be defeated.

(d) The applicant, or one of the limited or general partners, if the applicant be a partnership, or one or more of the officers or directors of the corporation, if the corporation be the applicant, or one or more of the stockholders, if the policy of the business will be directed, controlled, or managed by that stockholder or stockholders, has ever been convicted of a felony or a crime involving moral turpitude, or has been held liable in a civil court action for any act or conduct that involved moral turpitude and is substantially related to the qualifications, functions, or duties of the licensed activity. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(e) The information contained in the application is incorrect.

(f) Upon investigation, the business history required by Section 18050 contains incomplete or incorrect information, or reflects substantial business irregularities.

(g) The decision of the department to cancel, suspend, or revoke a license has been entered, and the applicant was the licensee, or a copartner, officer, director, or stockholder of that licensee.

(h) The existence of any of the causes specified in Section 18058 as a cause to suspend or revoke the license issued to a licensee.

(i) An applicant for a dealer's license has failed to effectively endorse an authorization for disclosure of an account or accounts relating to the operation of the dealership, as provided for in Section 7473 of the Government Code.

(j) The applicant has outstanding an unsatisfied final judgment rendered in connection with an activity licensed under this part.

(k) The applicant or licensee has failed to pay over funds or property received in the course of employment to a dealer entitled thereto.

(l) The applicant has acted as a manufactured home, mobilehome, or commercial coach salesperson or engaged in this activity for, or on behalf of, more than a single person whose business does not have identical ownership and structure. The activity shall be for a licensed dealer. Nothing contained in this section shall be deemed to restrict the number of dealerships of which a person may be an owner, officer, or director, nor to preclude a manufactured home, mobilehome, or commercial coach salesperson from working at more than one location of a single dealer, if the business of the dealer has identical ownership and structure.

§ 18050.7. Education and experience requirements for dealer's license ***<Not applicable for CM exams>***

In addition to any other requirements imposed by this part or regulations of the department, the department shall not grant an initial manufactured home or mobilehome dealer's license to any applicant who has not satisfied all of the education and experience requirements contained in this section. If the applicant for a manufactured home or mobilehome dealer's license is a partnership, corporation, or other business entity, each person designated to participate in the direction, control, or management of the sales operation of the entity shall meet all of the education and experience requirements contained in this section prior to issuance of a manufactured home or mobilehome dealer's license by the department.

(a) The applicant either shall have held a valid manufactured home or mobilehome salesperson's license issued by the department for at least two years within the five–year period immediately preceding the application for an initial manufactured home or mobilehome dealer's license, or shall meet any of the following criteria:

(1) Has acquired a four–year degree from an accredited college or university.

(2) Has held a valid manufactured home or mobilehome salesperson's license issued by the department for one year in the past three years and acquired an associate of arts or associate of science degree from an accredited college.

(3) Has been the officer of the corporation, owner or partner of, or has held a management position relating to finance, marketing, administration, or general management with, a manufacturer of manufactured housing in any state for two years within the five years immediately preceding application for an initial manufactured home or mobilehome dealer's license.

(4) Holds a management position with a housing authority, redevelopment agency, or nonprofit housing corporation which is developing individual lots, a subdivision, or a park for the placement of manufactured homes or mobilehomes.

(5) Has been an escrow, title, or loan officer of a land title company, bank, savings and loan association, or mortgage company in a capacity directly related to financing or conveying title to manufactured housing for two years within the five years immediately preceding application for an initial manufactured home or mobilehome dealer's license.

(6) Has been a subdivider, developer, or contractor in any state for at least two years within the five years immediately preceding application for an initial manufactured home or mobilehome dealer's license, during which time the applicant developed or sold 10 lots or the equivalent.

(7) Has been the officer of a corporation, the owner or partner of a mobilehome park or mobilehome park management company in any state for at least two years within the five years immediately preceding the application for an initial manufactured home or mobilehome dealer's license.

(8) Has held a manufactured home or mobilehome dealer's license from a state other than California for at least four years within the five years immediately preceding the application for an initial manufactured home or mobilehome dealer's license, and has completed 24 hours of continuing education class in California, in addition to the preliminary education requirement of subdivision (b).

(9) Has previously held a valid manufactured home or mobilehome dealer's license issued by the department, or was a person designated to participate in the direction, control, or management of the sales operations of a partnership, corporation, or other business entity that previously held a valid manufactured home or mobilehome dealer's license issued by the department and the license has never been revoked for cause, and never reissued, or suspended for cause and the terms of suspension have not been fulfilled.

(10) Has any combination of the above experience that would provide at least two years of experience within the five years immediately preceding the application for an initial manufactured home or mobilehome dealer's license. The two years of experience shall not be concurrent.

(b) The applicant shall have met the applicable preliminary education requirements for the manufactured home or mobilehome dealer's license under paragraph (5) of subdivision (b) of Section 18056.2.

(c) The department may adopt regulations, as necessary, to implement this section.

§ 18051. Probationary licenses; Demand for hearing

(a) Except where the provisions of this part require the refusal to issue a license, the department may issue a probationary license subject to conditions to be observed by the licensee in the exercise of the privilege granted. The conditions to be attached to the exercise of the privilege shall not appear on the face of the probationary license, but shall, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department of the information contained therein.

(b) Within 60 days after issuance of a probationary license, the applicant may demand, in writing, a hearing before the director or his or her representative.

§ 18052. Temporary permits; Demand for hearing

(a) Pending the satisfaction of the department that the applicant meets the requirements under this article, it may issue a temporary permit to any person applying for a license for a period not to exceed 120 days while the department is completing its investigation and determination of all facts relative to the qualifications of the applicant to the license. The department may cancel a temporary permit when it determines or has reasonable cause to believe that the application is incorrect, fraudulent, or incomplete, or that the temporary permit was issued in error. The temporary permit shall be invalid immediately when canceled by the department or when the applicant's license has been issued or refused.

(b) Upon refusal of the department to issue a license to an applicant, the applicant may demand, in writing, a hearing before the director or his or her representative within 60 days after notice of refusal and receipt of a statement of issues.

§ 18052.5. Certificates of convenience

The department may issue a certificate of convenience to the executor, executrix, administrator, or administratrix of the estate of a deceased holder of a validly outstanding license issued under this part, or, if no executor, executrix, administrator, or administratrix has been appointed and until a certified copy of an order making the appointment is filed with the department, to the surviving spouse or another heir otherwise entitled to conduct the business of the deceased. The certificate shall permit that person to exercise the privileges granted by the license for a period of one year from and after the date of death. The department may issue necessary one–year renewals of that certificate pending, but not later than, disposal of the business and qualification of the vendee of the business or the surviving spouse, heir, or other persons for the license under the provisions of this part. The department may restrict or condition the certificate of convenience or the license and attach to the exercise of the privileges thereunder those terms and conditions as it determines are necessary for the protection of the public.

§ 18052.6. 90–day certificate on one–time–only basis

(a) Notwithstanding any of the provisions of this chapter, the department may, on a one–time–only basis, issue a 90–day certificate to an applicant for an original salesperson's license. The certificate shall permit that person to exercise the privileges granted by the license for a period not to exceed 90 days from the date of issuance. Any person, while acting under the authority of the 90–day certificate, shall not execute any documents, contracts, or listing agreements, or accept any cash or cash equivalent, for the sale or lease of a new or used manufactured home.

(b) Prior to the expiration of the 90–day certificate, the holder shall complete all other requirements prescribed under this chapter, in order to continue as a salesperson past the expiration date of the 90–day certificate.

(c) The department may restrict or condition the 90–day certificate, and attach to the exercise of the privileges thereunder, those terms and conditions as it determines are necessary for the protection of the public.

(d) The department may establish a fee to cover the costs for the issuance of the 90–day certificate.

(e) The department shall report to the Legislature the number of 90–day certificates issued and the name and address of the employing dealer of the salesperson holding the certificate during the year 1990.

§ 18052.7. Restrictions on employment of 90–day licensees

No dealer shall employ more than three salespersons licensed pursuant to a 90–day certificate at his or her established place of business at any one time. In the case where a dealer has more than one established place of business, the dealer may employ up to three salespersons licensed pursuant to a 90–day certificate at each place of business. If a dealer employs a salesperson licensed pursuant to a 90–day certificate, the dealer shall designate a responsible managing employee who shall directly supervise those salespersons at each established place of business at which they are employed. The dealer shall bear full legal responsibility for all actions of employed salespersons licensed pursuant to a 90–day certificate.

§ 18053. Reapplications

A person whose license has been revoked or whose application for a license has been denied shall not reapply for a license for a period of at least one year from the effective date of the decision revoking the license or denying the application, except, if the decision was entered under the authority of subdivision (a), (b), (g), or (j) of Section 18050.5 or subdivision (b) of Section 18060, a reapplication, accompanied by evidence satisfactory to the department that the grounds for that decision no longer exist, may be made earlier than that one–year period.

§ 18053.5. Examinations

(a) Except as otherwise provided in this section, every applicant for a manufactured home, mobilehome, or commercial coach dealer's or salesperson's license shall be required to take and successfully complete a written examination, prepared and administered by the department. The examination shall include, but not be limited to, subjects relating to manufactured homes, mobilehomes, and commercial coaches, laws relating to contracts for the sale of manufactured homes, mobilehomes, and commercial coaches, laws covering truth in lending, and departmental and warranty requirements.

(b) The department may administer an oral examination in lieu of the written examination required by subdivision (a) under the following conditions:

(1) To any person who applies for a manufactured home, mobilehome, or commercial coach salesperson's license.

(2) To any person who applies for a manufactured home, mobilehome, or commercial coach dealer's license if the person is not the sole owner of the dealership and there are other persons within the ownership structure who meet the requirements of subdivision (a).

(3) To any person with a physical handicap if the handicap makes the taking of a written examination

unreasonable.

(c) No person, who, on July 1, 1976, held a then valid salesperson's license issued pursuant to the Vehicle Code and who has, continuously, for the same employer, been a salesperson of manufactured homes, mobilehomes, or commercial coaches, shall be required to take the examination specified in subdivision (a).

(d) No person, who, on July 1, 1976, held a then valid salesperson's license issued pursuant to the Vehicle Code and who has continuously been a manufactured home, mobilehome, or commercial coach dealer, shall be required to take the examination specified in subdivision (a), regardless of whether the person subsequently makes an application to do business under a different name or form of business organization. However, a salesperson of manufactured homes, mobilehomes, or commercial coaches who makes an application for a manufactured home, mobilehome, or commercial coach dealer's license shall be required to take and successfully complete the examination specified in subdivision (a).

(e) If the applicant for a manufactured home, mobilehome, or commercial coach dealer's license is a corporation or partnership, only those persons who will participate in the direction, control, or management, or any combination thereof, of the sales operations of the business, or who act in the capacity of a manufactured home, mobilehome, or commercial coach salesperson, shall be required to take and successfully complete the examination specified in subdivision (a). However, if no officer or director of the corporation or a partner, or the partners thereof participates in the direction, control, or management, or any combination thereof, of the sales operations of the business, or acts in the capacity of a manufactured home, mobilehome, or commercial coach salesperson, the corporation or partnership shall designate and maintain a responsible managing employee who is a licensed manufactured home, mobilehome, or commercial coach salesperson and who shall be required to take, and successfully complete, the examination specified in subdivision (a) for a dealer's license before a dealer's license may be issued.

(f) Every person who applies to the department to take the examination required under this section for a dealer's or salesperson's license shall pay to the department a fee established by the department.

§ 18054. Issuance of licenses and other evidence of licensure

(a) The department, upon granting a license, shall issue to the applicant a license with a size and format established by the department containing at least the applicant's name and address, the general distinguishing number assigned to the applicant and expiration date. For salespersons, the license shall also state the name and address of the employing dealer. The department may issue other forms of identification to licensees.

(b) The department shall also furnish books and forms as it may determine necessary. All books, forms, and licenses shall remain the property of the department and may be taken up at any time for inspection.

(c) A licensee shall promptly obtain a replacement license when the original is either lost or mutilated, and, in the case of a salesperson, when changing his or her name, employment, or residence address.

(d) Whenever the department cancels, suspends, or revokes a license, the licensee or person in possession shall immediately return the license, documents, transportation decals, report of sales books, certificates, and other evidence of licensure to the department.

§ 18054.7. Expiration and renewal of licenses and decals

(a) Every occupational license issued to a manufacturer, distributor, dealer, or salesperson shall expire on the last day of the 24th month following the date of issuance of the temporary permit, pursuant to Section 18052.

(b) Every occupational license renewed by a manufacturer, distributor, dealer, or salesperson shall be for a term of 24 months.

(c) Applications to renew an occupational license held by a manufacturer, distributor, dealer, or salesperson shall be received by the department or postmarked during the month of expiration. An expired occupational license may be reinstated upon application for reinstatement to the department within 60 days of expiration. The

application for reinstatement shall be accompanied with the payment of all renewal fees and a reinstatement fee equal to 50 percent of the renewal fee.

(d) Holders of an expired occupational license shall discontinue all activities of a licensee until a new license or temporary permit is obtained from the department, except that an applicant for renewal may continue to operate with an expired occupational license, provided all other requirements of rules, regulations, and laws governing their activities are met, until the application for renewal is approved or denied.

§ 18055. License fees

(a) The department may require that fees shall be paid to the department for the issuance or renewal of a license to do business as a licensee. The fees shall reimburse the department for costs incurred in administration and enforcement of this chapter. The department may refuse to renew a license if a licensee has failed to pay any fees or penalties due the department pursuant to this part.

(b) Any person required to be licensed under this chapter who fails to make application for a license when required shall, in addition to the fees required pursuant to subdivision (a), pay a penalty of 50 percent of the license fee.

Article 2.5 Continuing Education

<This article is not applicable for CM exams>

§ 18056. Legislative determination; Adoption of regulations

(a) The Legislature has determined that it is in the public interest for consumer protection and service that all manufactured housing dealers and salespersons licensed under the provisions of this part comply with the continuing education requirements adopted by department regulations pursuant to this article. The provisions of this article shall not apply to those persons licensed only to sell commercial coaches.

(b) The department shall adopt regulations implementing this article as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

§ 18056.1. Solicitation of expert assistance and advice

In carrying out its duties under this article, the department shall take reasonable steps to solicit the assistance and advice of persons who are experts in the areas of mobilehome and manufactured housing and in education in the areas of mobilehome and manufactured housing, including the needs and benefits of continuing education as provided for in this article.

§ 18056.2. Number of continuing education hours; Regulations

(a) Any person licensed as a dealer or salesperson to sell manufactured homes or mobilehomes shall have completed approved educational courses, seminars, or conferences, or their equivalent, during the period preceding license renewal on the following basis:

(1) For the first license renewal period subsequent to issuance of the license: 24 hours.

(2) For the second license renewal period subsequent to issuance of the license: 12 hours.

(3) For the third and subsequent license renewal periods subsequent to the issuances of the license: six hours.

(b) The regulations shall prescribe all of the following:

(1) A basis and method of qualifying educational programs, including course content and topic requirements, and instructors, the certification of attendance at which, or challenging the course of which, will satisfy the requirements of this article.

(2) A procedure for evaluation of petitions based on a claim of equivalency with the requirements of subdivision (a), and a reasonable standard by which activity would be judged equivalent, including, but not limited to, instruction in manufactured housing educational programs, law, manufactured housing technical programs, or research.

(3) A system of control and reporting qualifying attendance.

(4) A statement of the conditions of exemption from the continuing education requirements established under this article, as well as a method of applying and qualifying for the exemption, for reason of health, military service, or other compelling cause.

(5) Criteria for the content, availability, and procedures for no less than six hours of preliminary education courses or programs which shall be attended and successfully concluded by applicants for new dealers' or salespersons' licenses before the applicants take the licensing examinations.

(c) In exercising the authority under this article, the department shall establish standards which will assure reasonable currency of knowledge as a basis for a level of manufactured housing practice which will provide a high level of consumer protection and service. The standards shall include, where qualified, generally accredited educational institutions, private vocational schools, correspondence institutions, educational programs and seminars of professional societies and organizations, other organized educational programs or technical subjects, or equivalent offerings.

§ 18056.3. Amendment or repeal of regulations

The department may amend or repeal any regulation adopted pursuant to this article in the same manner as provided for adoption of regulations, except that no amendment or repeal shall operate to deprive any licensee of the right to submit qualifying education completed pursuant to the amended or repealed regulation during his or her current license term, as a basis for license renewal.

§ 18056.4. Completion of requirements prior to issuance or renewal or license

On or after January 1, 1987, no dealer's or salesperson's license shall be issued or renewed unless the department finds that the applicant has completed the preliminary or continuing education required by this article. Any denial of license issuance or renewal is subject to Article 2 (commencing with Section 18050).

§ 18056.5. Grace period

When the department finds that the evidence submitted in good faith by an applicant for a renewal license does not in fact qualify, it may extend the license for 90 days to allow the applicant to submit additional evidence to comply with this article. When the renewal license is issued during a grace period, it shall expire at the regular time otherwise provided for in this part.

Article 3 Infractions and Penalties

§ 18058. Violations by licensees; Suspension or revocation of license

It is unlawful, and a violation of this part, if a person to whom a license is issued is any of the following:

(a) Not lawfully entitled thereto.

(b) Has violated any of the provisions of this part or of Section 18613 or 18551, or any rule, order, or regulation issued pursuant thereto.

(c) Has committed or omitted any of the acts or omissions set forth in Sections 18058.5 through 18063.5, inclusive.

The department, after notice and hearing, may suspend or revoke the license issued to a licensee upon determining that these acts or omissions occurred or are in existence.

§ 18058.1. Service of process

(a) Any manufacturer or dealer licensed under this part that has closed its place of business, or any salesperson licensed under this part no longer residing at the address last filed with the department, may be served with process issued pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code by registered mail at that place of business in the case of a manufacturer or dealer, or at the last address filed with the department in the case of a salesperson, unless the manufacturer, dealer, or salesperson has notified the department in writing of another address where service may be made.

(b) This section shall apply to any manufacturer, dealer, or salesperson who is licensed under this part or whose license is renewed under this part, on or after the effective date of this section.

§ 18058.5. License applications

With respect to applications, it is unlawful to file an application for the license thereafter issued using a false or fictitious name not registered with the proper authorities, or to knowingly make any false statement or to knowingly conceal any material fact in the application for the license.

§ 18059. Taxation, fees, title, and registration

With respect to taxation, fees, title, and registration, it is unlawful to do any of the following:

(a) Use a false or fictitious name, knowingly make any false statement, or knowingly conceal any material fact in any application for title or registration of a manufactured home, mobilehome, or commercial coach, or otherwise commit a fraud in that application.

(b) Fail to deliver to a transferee lawfully entitled thereto a properly endorsed title or registration.

(c) Violate any of the terms or provisions of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or rules and regulations adopted pursuant thereto or adopted pursuant to Section 18015 of this part.

§ 18059.5. Escrows and sales practices *<Not applicable for CM exams>*

With respect to escrows and sales practices, it is unlawful to do any of the following:

(a) Violate any of the terms or provisions of Chapter 5 (commencing with Section 18035), relating to purchase documents, receipts for deposit, escrow, and sales practices, or any rule, regulation, or order issued by the department pursuant thereto.

(b) Intentionally withhold or provide false information to an escrow company or to any person or firm holding or acquiring an ownership or security interest in the manufactured home or mobilehome being sold or purchased.

§ 18060. Business operations

With respect to business operations, it is unlawful to do any of the following:

(a) Make, or knowingly or negligently permit, any illegal use of any special permits, or report of sales books issued to or in favor of a licensee.

(b) Submit a check, draft, or money order to the department for any obligation or fee due the department which is thereafter dishonored or refused payment upon presentation.

(c) Fail to notify the department, within 10 days, of any change in the ownership or corporate structure of the licensee, or of the employment or termination of a mobilehome or commercial coach salesperson.

§ 18060.5. Business practices

With respect to business practices, it is unlawful to do any of the following:

(a) Knowingly purchase, sell, or otherwise acquire or dispose of a stolen manufactured home, mobilehome, or commercial modular.

(b) Violate any of the terms or provisions of regulations promulgated under the authority of Section 18015.

(c) Cause the state or any person to suffer any loss or damage by reason of any fraud or deceit practiced on them or fraudulent representations made to any person in the sale or purchase of a manufactured home, mobilehome, or commercial modular or parts or accessories thereof.

(d) Violate any of the terms and conditions of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code.

(e) Move a manufactured home, mobilehome, or commercial modular subject to registration pursuant to this part from a mobilehome park or other site of installation to another location, without obtaining from the legal owner, written consent for the move as prescribed in Section 18099.5.

(f) Include as an added cost to the selling price of a manufactured home, mobilehome, or commercial modular, an amount for licensing or transfer of title of the manufactured home, mobilehome, or commercial modular, which amount is not due to the state unless, prior to the sale, the amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of those fees. However, a dealer may collect from the second purchaser of a manufactured home, mobilehome, or commercial modular, a prorated fee based upon the number of months remaining in the

registration year for that manufactured home, mobilehome, or commercial modular, if the manufactured home, mobilehome, or commercial modular was previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this part and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the manufactured home, mobilehome, or commercial modular.

(g) Participate in the sale of a manufactured home, mobilehome, or commercial modular reported to the department pursuant to this part without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(h) Fail to exercise reasonable supervision over the activities of employees who negotiate or promote the sale of manufactured homes, mobilehomes, or commercial modulars.

(i) Display for sale, offer for sale, or sell, a manufactured home, mobilehome, or commercial modular, representing that manufactured home, mobilehome, or commercial modular to be of a year model different from the year model designated at the time of manufacture or first assembly as a completed manufactured home, mobilehome, or commercial modular.

(j) Directly or indirectly authorize or advise another licensee to change the year model of a manufactured home, mobilehome, or commercial modular in the inventory of the other licensee.

(k) Fail, at the time that the seller enters into a net listing agreement, to disclose in writing as part of the listing agreement in 12–point boldface type all of the following:

(1) That a buyer's offer may be in excess of the amount that the seller has agreed to accept as a purchase price in the listing agreement.

(2) That the dealer may retain any amount in excess of the amount the seller has agreed to as the purchase price in the listing agreement as the dealer's compensation or commission.

(3) That additional costs or payments involved in the sales transaction may be deducted or made from the amount the seller has agreed to accept as the purchase price in the listing agreement by the close of escrow.

(l) Fail, within three days after the date a buyer's written offer to purchase a mobilehome or manufactured home that is not a new mobilehome or manufactured home is accepted, but no less than 48 hours prior to the close of escrow or transfer of title to the mobilehome or manufactured home from the seller to the buyer, to disclose to the seller in a document, signed or initialed by the seller and the dealer, that is an addendum to the disclosure required in subdivision (k), the exact amount of the buyer's offer and the specific amounts of any commission. The dealer shall submit a copy of the disclosure required by subdivision (k) and this subdivision into escrow and maintain, at the dealer's place of business, a copy of that disclosure for three years from the date of sale. The escrow agent shall ensure that the disclosure deposited into escrow is executed and complete. However, nothing in this subdivision shall be construed to require the escrow agent to be responsible for determining the accuracy of any of the statements in that disclosure.

§ 18061. Advertising practices

With respect to advertising, it is unlawful:

(a) To make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or by any other manner or means whatsoever, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or to so make or disseminate or cause to be so disseminated any statement as part of a plan or scheme with the intent not to sell any manufactured home, mobilehome, or commercial coach or service so advertised at the price therein, or as so advertised.

(b) To advertise or offer for sale or exchange in any manner, any manufactured home, mobilehome, or commercial coach not actually for sale at the premises of the dealer or available to the dealer through a listing agreement executed by the seller or from a manufacturer or distributor at the time of the advertisement or offer. However, this subdivision does not apply to advertising or offering for sale or exchange any used manufactured home, used mobilehome, or used commercial coach where the advertising or offering for sale is not contrary to any terms of a contract between the seller of the manufactured home, mobilehome, or commercial coach and the owner of the mobilehome park, and which manufactured home, mobilehome, or commercial coach is either in place on a lot rented or leased for human habitation within an established mobilehome park, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized or its continued presence and use would be authorized for a total and uninterrupted period of at least one year.

(c) To fail, within 48 hours, in writing, to withdraw any advertisement of a manufactured home, mobilehome, or commercial coach that has been sold or withdrawn from sale.

(d) To advertise or represent a manufactured home, mobilehome, or commercial coach as a new manufactured home, mobilehome, or commercial coach if the manufactured home, mobilehome, or commercial coach has been previously installed as a model without also advertising that it was a model.

(e) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on his or her behalf, or at his or her established place of business, that no downpayment is required in connection with the sale of a manufactured home, mobilehome, or commercial coach when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the manufactured home, mobilehome, or commercial coach.

§ 18061.5. Other acts

It is unlawful to do any of the following:

(a) Willfully violate any law, or any rule or regulation adopted by the department, relating to manufactured homes, mobilehomes, or commercial coaches or the sale of manufactured homes, mobilehomes, or commercial coaches.

(b) Fail to comply within a reasonable time with any written order of the department or any law enforcement agency.

(c) Fail to meet the terms and conditions of a compromise agreement effected under the provisions of Section 18064.5.

(d) Cause or allow the existence of any of the conditions specified in Section 18050.5 as a cause for refusal to issue a license.

(e) Lend a license to any other person or knowingly permit the use thereof by another.

(f) Display or represent any license not issued to the person as being his or her license.

(g) Fail or refuse to surrender to the department, upon its lawful demand, any license or report of sales books, which is suspended, revoked, or canceled.

(h) Permit any unlawful use of a license or report of sales books, issued to a licensee.

(i) Photograph, photostat, duplicate, or in any way reproduce any license or facsimile thereof in such a manner that it could be mistaken for a valid license, or display or possess any photograph, photostat, duplicate, reproduction, or facsimile unless authorized by the provisions of this part.

(j) Accept or encourage sales arranged or negotiated by unlicensed persons or salespersons while not employed by the dealer. For the purposes of this section, employment by a dealer shall mean employment reported to the department pursuant to Section 18060.

§ 18061.6. Notice of other occupancy; year of manufacture

(a) Notwithstanding the prohibition in subdivision (d) of Section 18061 or any regulation to the contrary, a dealer may, alternatively, post in a prominent location immediately outside the primary entrance to a new manufactured home, mobilehome, or commercial modular a conspicuous notice that the unit was previously installed as a model, display unit, or used for other occupancy. Additionally, a similarly conspicuous and prominent notice, requiring a buyer's separate initials, shall be included in any purchase agreement for that unit.

(b) Notwithstanding Section 5050 of Title 25 of the California Code of Regulations, an advertisement of any new manufactured home, mobilehome, or commercial modular is not required to contain the year of manufacture of the unit provided the new unit is not more than three years old.

(c) Notwithstanding Section 5050 of Title 25 of the California Code of Regulations, an advertisement of any manufactured home, mobilehome, or commercial modular is not required to contain the model name of any unit if the model name is disclosed in a conspicuous and prominent notice, requiring the buyer's separate initials, in any purchase agreement for that unit.

§ 18062. Specified acts by dealers

It is unlawful for a dealer to do any of the following:

(a) Enter into a listing agreement that does not include a specified date upon which the agreement is to terminate.

(b) Claim or take any secret or undisclosed amount of compensation, commission, fee, or profit prior to, or at the time that a contractual agreement is signed whereby all parties involved, after negotiation, have come to terms. However, this section shall not be construed to require the disclosure of any exclusive financial arrangements agreed upon between the dealer and any financial institution with regard to financial arrangements applicable solely to them.

(c) Exercise any provision which allows the dealer an option to purchase the manufactured home, mobilehome, or commercial coach that is the subject of an agreement whereby a consumer authorizes or employs the dealer to arrange for its sale, purchase, or exchange, unless the dealer has, prior to exercising the option, revealed in writing to the consumer the full amount of the dealer's profit in exercising the option and obtained the written consent of the consumer approving the amount of the profit.

(d) Fail to disclose any liens or encumbrances of which the dealer had knowledge on a manufactured home, mobilehome, or commercial coach.

§ 18062.2. Additional acts by dealers

It is also unlawful for a dealer to do any of the following:

(a) Engage in the business for which the dealer is licensed without at all times maintaining an established place of business.

(b) Employ any person as a salesperson who is not licensed pursuant to this part, or whose license or 90–day certificate is not displayed on the premises of the dealer as provided in Section 18063.

(c) Permit the use of the dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of manufactured homes, mobilehomes, or commercial modulars, or to permit the use of the dealer's license, supplies, or books to operate a secondary location to be used by any other person, if the licensee has no financial or equitable interest or investment in the manufactured homes, mobilehomes, or commercial modulars sold by, or the business of, or secondary location used by, the person, or has no such interest or investment other than commissions, compensations, fees, or any other thing of value received for the use of the dealer's license, supplies, or books to engage in the sale of manufactured homes, mobilehomes, or commercial modulars.

(d) Advertise any specific manufactured home, mobilehome, or commercial modular for sale without identifying the manufactured home, mobilehome, or commercial modular by its serial number or by the number on its federal label or

insignia of approval issued by the department.

(e) Advertise the total price of a manufactured home, mobilehome, or commercial modular without including all costs to the purchaser at the time of delivery at the dealer's premises, except sales tax, title and registration fees, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed twenty dollars ($20).

(f) Exclude from the advertisement of a manufactured home, mobilehome, or commercial modular for sale information to the effect that there will be added to the advertised total price at the time of sale, charges for sales tax, title and registration fees, escrow fees, and any dealer documentary preparation charge.

(g) Represent the dealer documentary preparation charge as a governmental fee.

(h) Refuse to sell the manufactured home, mobilehome, or commercial modular to any person at the advertised total price for that manufactured home, mobilehome, or commercial modular, exclusive of sales tax, title fee, finance charges, and dealer documentary preparation charge, which charge shall not exceed twenty dollars ($20), while it remains unsold, unless the advertisement states the advertised total price is good only for a specified time and that time has elapsed.

(i) Not post the salesperson's license in a place conspicuous to the public on the premises where they are actually engaged in the selling of manufactured homes, mobilehomes, and commercial modulars for the employing dealer. The license shall be displayed continuously during their employment. If a salesperson's employment is terminated, the dealer shall return the license to the salesperson.

(j) Offer for sale, rent, or lease within this state a new manufactured home, mobilehome, or commercial modular whose manufacturer is not licensed under this part.

(k) To violate Section 798.71 or 798.74 of the Civil Code, or both.

(l) When the dealer is an owner or manager, or an agent of the owner or manager, of a mobilehome park and serves as the dealer for a manufactured home or mobilehome to be installed or sold in the park, to knowingly violate Section 798.72, 798.73, 798.73.5, 798.75.5, or 798.83 of the Civil Code.

§ 18062.5. Coercion of dealer by manufacturer or distributor

It is unlawful for any manufacturer or distributor to coerce or attempt to coerce any dealer in this state to do any of the following:

(a) Order or accept delivery of any manufactured home, mobilehome, or commercial coach, part or accessory thereof, appliance, equipment or any other commodity not required by law which shall not have been voluntarily ordered by the dealer.

(b) Order or accept delivery of any manufactured home, mobilehome, or commercial coach with special features, appliances, accessories or equipment not included in the list price of the manufactured home, mobilehome, or commercial coach as publicly advertised by the manufacturer or distributor.

(c) Order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever.

(d) Participate in an advertising campaign or contest, any promotional campaign, promotional materials, training materials, showroom or other display decorations or materials at the sole expense of the dealer.

(e) Enter into any agreement with the manufacturer or distributor or to do any other act prejudicial to the dealer by threatening to cancel a franchise or any contractual agreement existing between the dealer and manufacturer or distributor. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of the franchise or contractual agreement shall not constitute a violation of this section.

§ 18062.8. Unlawful acts of manufacturers or distributors

It is unlawful for any manufacturer or distributor licensed under this part to do any of the following:

(a) Refuse or fail to deliver, in reasonable quantities and within a reasonable time after receipt of an order from a dealer having a franchise for the retail sale of any new manufactured home, mobilehome, or commercial coach sold or distributed by the manufacturer or distributor, any new manufactured home, mobilehome, or commercial coach or parts or accessories to new manufactured homes, mobilehomes, or commercial coaches that are covered by the franchise, if the mobilehome or commercial coach, parts or accessories are publicly advertised as being available for delivery or actually being delivered. This subdivision is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer or distributor.

(b) Prevent or require or attempt to prevent or require, by contract or otherwise, any change in the capital structure of a dealership, if the dealer at all times meets any reasonable capital standards agreed to by the dealer and the manufacturer or distributor, and also provided that no change in capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor.

(c) Prevent or require, or attempt to prevent or require, a dealer to change the executive management of a dealership, other than the principal dealership operator or operators, if the franchise was granted the dealer in reliance upon the personal qualifications of that person or persons.

(d) Prevent or require, or attempt to prevent or require, by contract or otherwise, any dealer, or any officer, partner, or stockholder of any dealership, to participate in the sale or transfer of any part of the interest of any of them to any other person or persons. No dealer, officer, partner, or stockholder shall, however, have the right to sell, transfer, or assign the franchise, or any right thereunder, without the consent of the manufacturer or distributor if the consent is not unreasonably withheld.

(e) Prevent, or attempt to prevent, a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall be no transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, if the consent is not unreasonably withheld.

(f) Obtain money, goods, services, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and any other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the dealer.

(g) Require a dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel that would relieve any person from liability imposed by this part or to require any controversy between a dealer and a manufacturer or distributor to be referred to any person other than the department, if the referral would be binding on the dealer. This subdivision does not, however, prohibit arbitration before an independent arbitrator.

(h) Increase the prices of manufactured homes, mobilehomes, or commercial coaches that the dealer ordered for private retail consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer shall constitute evidence of each order. In the event of manufacturer price reductions, the amount of any reduction received by a dealer shall be passed on to the private retail consumer by the dealer if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions shall apply to all manufactured homes, mobilehomes, and commercial coaches in the dealer's inventory that were subject to the price reduction. A price difference applicable to new model or series manufactured homes, mobilehomes, or commercial coaches at the time of the introduction of new models or series shall not be considered a price increase or price decrease. Price changes caused by either of the following shall not be subject to this subdivision:

(1) The addition to a manufactured home, mobilehome, or commercial coach of required or optional equipment pursuant to state or federal law.

(2) Revaluation of the United States dollar, in the case of foreign–made manufactured homes, mobilehomes, or commercial coaches.

(i) Fail to pay to a dealer, within a reasonable time following receipt of a valid claim by a dealer thereof, any payment agreed to be made by the manufacturer or distributor to the dealer by reason of the fact that a new manufactured home, mobilehome, or commercial coach of a prior year model is in the dealer's inventory at the time of introduction of new model manufactured homes, mobilehomes, or commercial coaches. A manufacturer or distributor shall not authorize or enable any new model to be delivered by dealers at retail more than 30 days prior to the eligibility date of the model change allowance payment for prior year model manufactured homes, mobilehomes, or commercial coaches.

(j) Deny, to the surviving spouse or heirs designated by a deceased owner of a dealership, the opportunity to participate in the ownership of the dealership or successor dealership under a valid franchise for a reasonable time after the death of the owner.

(k) Offer any refunds or other types of inducements to any dealer or other person for the purchase of new manufactured homes, mobilehomes, or commercial coaches of a certain make and model to be sold to the state or any political subdivision of the state without making the same offer to all other dealers in the same make and model within the relevant market area.

(l) Employ a person as a distributor who has not been licensed pursuant to this chapter.

(m) Deny any dealer the right of free association with any other dealer for any lawful purpose.

(n) Compete with a dealer in the same make and model operating under an agreement or franchise from a manufacturer or distributor in the relevant market area. A manufacturer or distributor shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation that is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions.

(o) Unfairly discriminate among its franchisees with respect to warranty reimbursement or authority granted its franchisees to make warranty adjustments with retail customers.

(p) Sell manufactured homes, mobilehomes, or commercial coaches to persons not licensed under this part for resale, except as authorized pursuant to Section 18015.7 or 18062.9.

(q) Fail to exercise reasonable supervision over the activities of employees who negotiate or promote the sale of manufactured homes, mobilehomes, or commercial coaches.

§ 18062.9. Sale of manufactured home directly to licensed California general building contractor

<Not applicable for CM exams>

(a) A manufactured home manufacturer may sell manufactured homes, as defined in Section 18007, directly to a licensed California general building contractor, as described in Section 7057 of the Business and Professions Code, when all of the following conditions are met:

(1) The sale is for five or more manufactured homes in a calendar year.

(2) The manufactured homes are delivered directly to a building site and installed on a foundation system in accordance with Section 18551.

(3) The manufactured homes are installed within a single subdivision, as defined in Section 66424 of the Government Code, consisting of five or more parcels, and therefore require a tentative and final map pursuant to Section 66426 of the Government Code.

(b) A manufactured home manufacturer may sell manufactured homes, as defined in Section 18007, directly to a nonprofit corporation, as defined by Section 50091, that is also a Community Housing Development Organization, as defined in Section 92.2 of Title 24 of the Code of Federal Regulations, when all of the following conditions are met:

(1) The sale is for five or more manufactured homes in a calendar year.

(2) The manufactured homes are delivered directly to a site for installation by a dealer, as defined in Section

18002.6, or a contractor in accordance with Section 18551 or 18613.

(3) The manufactured homes are acquired and installed as part of a project financed by federal, state, or local government funds, and the homes will be sold or rented at affordable costs to low- and moderate-income households as established by the department for other affordable housing finance programs

§ 18063. Unlawful acts by salespersons

It is unlawful for a salesperson to do any of the following:

(a) At the time of employment, not deliver to his or her employing dealer his or her salesperson's license or 90–day certificate.

(b) Fail to report in writing to the department every change of residence within five days of the change.

(c) Act or attempt to act as a salesperson while not employed by a dealer. For purposes of this subdivision, "employment by a dealer" means employment reported to the department pursuant to subdivision (c) of Section 18060.

(d) To violate Section 798.71 or 798.74 of the Civil Code, or both.

(e) When the salesperson is an owner or manager, or an agent of the owner or manager, of a mobilehome park and serves as the salesperson for a manufactured home or mobilehome to be installed or sold in the park, to knowingly violate Section 798.72, 798.73, 798.73.5, 798.75.5, or 798.83 of the Civil Code.

§ 18064. Temporary suspension of license

The department may, pending a hearing, temporarily suspend the license issued to a licensee for a period not to exceed 30 days if the director finds that the action is required in the public interest. In any such case, a hearing shall be held and a decision thereon issued within 30 days after notice of the temporary suspension.

§ 18064.2. Cease and desist order by director; Hearing

(a) If the director determines through an investigation that a person has engaged or is engaging in an activity which is a violation of this part, or which is a violation of a regulation of the department adopted for the purpose of implementing this part, and if the director finds that the action is required in the public interest, he or she may direct the person to desist and refrain from that activity by issuance of an order specifying the nature of the activity and the factual and legal basis for his or her determination. The respondent to whom the order is directed shall immediately, upon receipt of the order, cease the activity described in the order.

(b) The respondent may, within 30 days after service of the order to desist and refrain, file a written request for a hearing to contest the order.

(c) If a written request for hearing is received within 30 days of the date of service of the order, a hearing shall be held. The hearing shall be commenced within 30 days after receipt of respondent's request unless the respondent agrees to a postponement. If the hearing is not held and a decision rendered by the director within 30 days after receipt of respondent's request for a hearing, or the date to which continued with respondent's consent, the order shall be deemed rescinded.

(d) If a person served with an order issued pursuant to this section fails to file a written request for a hearing within 30 days from the date of service of the order, the order shall be deemed a final order of the director and shall not be subject to review by any court or agency.

§ 18064.5. Compromise settlement and monetary penalty agreements

(a) The director may, following the filing of an accusation against a licensee under this part and prior to conducting a hearing, exercise an option, with the consent of the licensee, to enter into and adopt a stipulated penalty whereby the licensee agrees to accept the terms and conditions of the penalty without hearing or appeal by any party thereto.

(b) Except when the accusation alleges injury to, or fraud against, the public or the state, the director may, following the filing of an accusation against a licensee or prior to adopting any recommendation resulting from a hearing, exercise an option, with the consent of the licensee, to impose and require the payment of a monetary penalty of a minimum and maximum amount for each violation alleged and stipulated to by the licensee, as established by a schedule under regulations adopted by the department and costs of investigation and prosecution, without further hearing or appeal, and without any other form of penalty against the licensee which may otherwise have been imposed for the same offense or offenses had the matter proceeded to hearing or had the director adopted the decision of the hearing officer.

(c) If the accusation alleges injury to, or fraud against, an individual purchaser or potential purchaser, the director may enter into an agreement pursuant to subdivision (b), but such a compromise and settlement shall include, in addition to the monetary penalty set forth by regulation, compensation for the injury or fraud, including all costs of investigation and prosecution.

(d) Each compromise settlement agreement and each monetary penalty agreement entered into pursuant to this section shall be signed by the respondent licensee, the director, and the accuser, or by their authorized representatives, and filed with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation upon which the action was initiated if the compromise settlement agreement or monetary payment agreement is entered into before the hearing.

(e) Failure of the respondent to honor the terms and conditions of any agreement entered into under this section shall render the agreement null and void, and shall be cause for action pursuant to Section 18058 in the same manner as the department may have otherwise proceeded, notwithstanding the agreement.

(f) The amount of the penalty provided for in subdivision (b) shall not exceed five hundred dollars ($500) per violation and shall be based upon the nature of the violation and the seriousness of the violation against the purposes and provisions of this part.

§ 18065. Automatic cancellation of licenses or permits

The licenses or permits provided for in this part shall be automatically canceled upon any of the following events:

(a) The abandonment of the established place of business of the licensee or the change thereof without notice to the department as provided in this part.

(b) The voluntary or involuntary surrender for any cause by the licensee of the license. However, the surrender or cessation of business by the licensee, or the suspension of the corporate charter of the licensee by the state, shall not prevent the filing of an accusation for revocation or suspension of the surrendered license as provided in Section 18058 or the department's decision that the license should be suspended or revoked. Furthermore, this determination may be considered in granting or refusing to grant any subsequent license authorized by this part to the licensee, copartner, or any officer, director, or stockholder of the prior licensee.

(c) Notification that the person designated as licensee has changed.

(d) Suspension or cancellation of the corporate charter of the licensee by the state.

(e) Failure of a licensee to file an application for renewal for the license or permit before the date of expiration of the current license or permit.

(f) Submittal of a check, draft, or money order to the department for a license or license renewal fees due the department which is thereafter dishonored or refused payment upon presentation and which fees and penalty are not thereafter paid by cash, money order, or cashier's check prior to the expiration of the license.

§ 18065.5. Limited revocations or suspensions

The revocation or suspension of a license may be limited to one or more municipalities or counties or any other defined area, or may be revoked or suspended in a defined area only as to certain aspects of its business, or as to a specified licensee or licensees.

§ 18066. Filing of accusation

The suspension, expiration, or cancellation of a license provided for in this part shall not prevent the filing of an accusation for the revocation or suspension of the suspended, expired, or canceled license as provided in Section 18058, and the department's decision that the license should be suspended or revoked. This determination may be considered in granting or refusing to grant any subsequent license authorized by this part to the licensee.

§ 18066.5. Return of excess title fees

If a purchaser of a manufactured home, mobilehome, or commercial coach pays to the dealer an amount for transfer of title of the manufactured home, mobilehome, or commercial coach, which amount is in excess of the actual fees due for the transfer, or which amount is in excess of the amount which has been paid, prior to the sale, by the dealer to the state in order to avoid penalties that would have accrued because of late payment of the fees, the dealer shall return the excess amount to the purchaser, whether or not the purchaser requests the return of the excess amount.

Chapter 7.5 MANUFACTURED HOME RECOVERY FUND

<This chapter is not applicable for CM exams>

§ 18070. Legislative intent; Definitions; Use of funds; Investment of money in Fund; Continuous appropriation

(a) The Legislature finds and declares all of the following:

(1) The financial hardship endured by someone who is buying or selling a manufactured home for the purpose of using it for a primary residence is more profound than the hardship of someone who is selling or purchasing a manufactured home for investment purposes.

(2) It is, therefore, the intent of the Legislature in enacting this chapter that any claims for primary residences submitted, pursuant to this chapter, by a claimant for payment from the fund shall be given priority over claims submitted for investment purposes.

(3) The distinctions made in this chapter between claims made for personal residential purposes and claims made for investment purposes shall reflect the priorities set forth in this paragraph.

(4) The costs of seeking and obtaining civil judgments and related collection efforts to support claims for compensation often exceed the ability of claimants and the amounts received.

(5) The costs and efforts of public entities obtaining criminal or administrative restitution orders could provide further benefits if these orders could be used as the basis for compensation claims.

(b) The following definitions shall apply for the purposes of this chapter:

(1) "**Actual and direct loss**" includes the following:

(A) The amount of the actual and direct loss, interest at the statutory rate from the date of loss, plus court costs and reasonable attorney's fees incurred in pursuit of the judgment, not to exceed **25 percent** of the amount of the judgment, if the claim is based on a judgment obtained by a private attorney or an attorney employed by a nonprofit corporation, and not to exceed 35 percent of the amount of the judgment if the claim is based on a judgment obtained by an attorney employed by a public agency.

(B) The amount of the actual and direct loss, if the claim is not based on a judgment. However, the claimant may collect actual and reasonable costs incurred in pursuit of compensation including attorney's fees not exceeding **15 percent** of the amount of the claim and court costs, if any.

"Actual and direct loss" does not include any punitive damages or damages awarded for negligent or intentional infliction of emotional distress.

(2) "**Claimant**" does not include a person holding a lien on, or a person possessing a secondary interest in, a manufactured home.

(3) "**Conversion**" means the unlawful appropriation of the property of another.

(4) "**Judgment**" means any of the following:

(A) A final judgment in a court of competent jurisdiction, other than a court in another state, including, but not limited to, a criminal restitution order issued pursuant to subdivision (f) of Section 1202.4 of the Penal Code or Section 3663 of Title 18 of the United States Code.

(B) An order of the director, including an order for restitution, based on an accusation filed pursuant to Article 3 (commencing with Section 18058) of Chapter 7, after an opportunity for a hearing.

(5) "**Complaint**" means the facts of the underlying transaction upon which the criminal restitution order or administrative order is based.

(6) "**Judgment debtor**" means any defendant who is the subject of the criminal restitution order or civil judgment, any respondent who is the subject of an administrative accusation and order, or any person responsible for any violation upon which payment is made, as determined by the department.

(c) There is hereby created in the State Treasury the Manufactured Home Recovery Fund. The money in the fund shall be used only for the purposes of this chapter, including payment of the department's administrative costs incurred pursuant to this chapter. The department's costs may include any investigative costs incurred under this chapter, costs incurred to render a decision pursuant to Section 18070.3, and costs incurred in defending a decision on appeal.

(d) The moneys in the fund may be invested pursuant to Chapter 3 (commencing with Section 16430) of Part 2 of Division 4 of Title 2 of the Government Code. All income derived from investments of the fund shall be returned to the fund by the Treasurer as the income is earned.

(e) Notwithstanding Section 13340 of the Government Code, the moneys in the fund are hereby continuously appropriated to make the payments and distributions required by this chapter.

§ 18070.1. License fees

(a) On and after January 1, 1985, before a dealer's license is issued or renewed, each applicant shall pay a fee of two hundred fifty dollars ($250).

(b)(1) The fee required by subdivision (a) shall not be collected more than once. In addition, each dealer shall pay a fee of one hundred dollars ($100) for each additional business location operated by the dealer and for each new business location.

(2) In addition, before a salesperson's license is issued or renewed, each applicant shall pay a fee of twenty–five dollars ($25). This fee shall not be collected more than once.

(c) For each sale of a manufactured home reported to the department, a fee not to exceed ten dollars ($10) shall be collected by the department for deposit in the Manufactured Home Recovery Fund prior to the issuance of a new registration.

§ 18070.2. Time for collecting fees and making claims; Date of sale; Reduction of fees

(a) Fees for the establishment and operation of the Manufactured Home Recovery Fund shall be collected on or after January 1, 1985. Claims against the fund arising from sales which occur after January 1, 1985, may not be submitted to the department before January 1, 1986. For purposes of this section, the date of sale shall be either of the following:

(1) The date escrow closes for sales by dealers that are subject to Section 18035 or 18035.2.

(2) For all other sales, including sales by dealers in which escrow does not close, the date when the purchaser has paid the purchase price or, in lieu thereof, has signed a security agreement, option to purchase, or purchase contract and has taken physical possession or delivery of the manufactured home.

(b) Notwithstanding any other provision of law, whenever the balance in the Manufactured Home Recovery Fund exceeds ~~one~~ two million dollars ($~~1~~2,000,000*)* on January 1 of any year, the department may reduce the fee provided for in subdivision (c) of Section 18070.1. The department may again increase the fee up to a maximum of ten dollars ($10) whenever the balance in the fund falls below one million dollars ($1,000,000).

§ 18070.3. Filing of claims against fund; Limits on payments; Prerequisites; Time limitations; Other requirements; Satisfaction of judgment; Priority of claims; Provision of information to legislature upon request

(a) When any person (1) who has purchased a manufactured home for a personal or family residential or investment purpose or (2) who has sold a manufactured home for a personal or family residential or investment purpose, obtains a final judgment against any manufactured home manufacturer, manufactured home dealer or salesperson, or other seller or purchaser, and the judgment is based on the grounds of (1) failure to honor warranties or guarantees, (2) fraud or willful misrepresentation related to any financial provision, (3) fraud or willful misrepresentation of the kind or quality of the product sold or purchased, (4) conversion, (5) any willful violation of any other provision of this part, including the provisions regulating escrow accounts, or regulations adopted pursuant to this part, or (6) violation of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code, resulting in an actual and direct loss directly arising out of any transaction that occurs on or after January 1, 1985, the person, upon termination of all proceedings, including appeals, may file a claim with the department for an order directing payment out of the fund for the amount of actual and direct loss in the transaction.

(b) If any person either purchases a manufactured home used for a personal or family residential or investment purpose from, or sells a manufactured home used for a personal or family residential or investment purpose to, a person or entity who is or has been the subject of a bankruptcy proceeding, the person may file a claim with the department for an order directing payment out of the fund for the actual and direct loss in the transaction based on

(1) the failure to honor warranties or guarantees,

(2) fraud or willful misrepresentation related to any financial provision,

(3) fraud or willful misrepresentation of the kind or quality of product purchased or sold,

(4) conversion,

(5) willful violation of any other provision in this part, including the provisions regulating escrow accounts, or

(6) violation of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code, resulting in an actual and direct loss directly arising out of any transaction that occurs on or after January 1, 1985.

(c)(1) The total amount of the claim shall not exceed the amount of actual and direct loss that remains unreimbursed from any source.

(2) The maximum payment ordered under this section, with respect to any one sales transaction on a new or used manufactured home, shall be the amount of the actual and direct loss, as determined by the department based on information in the possession of the department and information provided by the claimant or claimants. In no event shall the actual payment relating to a single transaction exceed seventy-five thousand dollars ($75,000).

(3) Notwithstanding any other provision of this chapter, a person who purchases or sells a manufactured home for an investment purpose may receive payment from the fund for that purpose only once. A person who has received payment from the fund for the purchase or sale of a manufactured home for an investment purpose shall henceforth be ineligible to make a claim under this chapter, either as a natural person or as a member of a partnership, as an officer or director of a corporation, as a member of a marital community, or in any other capacity.

(d) Prior to payment of any claim against the fund, the claimant or claimants shall have first:

(1) **If the claim is based on a final judgment**, diligently pursued collection efforts against all the assets of the judgment debtor, or presented evidence satisfactory to the department that the debtor is judgment proof, or demonstrated evidence satisfactory to the department that the costs of collection are likely to be in excess of the amounts that could be collected. This evidence may include, but is not limited to, a description of the searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets liable to be sold or applied to the satisfaction of the judgment, an itemized valuation of the assets discovered, and the results of actions by the claimant to have assets applied to satisfy the judgment.

(2) **If the claim is not based on a final judgment**, presented evidence satisfactory to the department of either of the following:

(A) That the person or entity is or has been the subject of bankruptcy proceedings and, for purposes of any civil litigation or claims in bankruptcy proceedings, has assigned to the department any interest in the actual and direct loss described in subdivision (c) in the amount that the claimant or claimants recover from the fund.

(B) That the claimant's claim is consistent with this chapter and the claimant had presented evidence satisfactory to the department that the debtor is judgment proof, or demonstrated evidence satisfactory to the department that the costs of collection are likely to be in excess of the amounts that could be collected. This evidence may include, but not be

limited to, a description of searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets eligible to be sold or applied to the satisfaction of the judgment, an itemized valuation of the assets discovered, and the results of actions by the claimant to have the assets applied to satisfaction of the judgment.

(3) **If the claim is based upon a violation of a provision within a warranty** provided pursuant to Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code, demonstrated evidence satisfactory to the department that the claimant has been denied full compensation or correction under the warranty after the claimant has attempted to exercise his or her rights pursuant to the warranty.

(e) A claim against the fund shall be filed with the department within the following time periods:

(1) If the claim is based on a final judgment, within two years from the date of the judgment.

(2) If the claim is not based on a final judgment, within two years from the termination of bankruptcy proceedings or two years from the date of sale as determined by subdivision (a) of Section 18070.2, or within two years of discovery of the violations causing actual and direct losses pursuant to this article but no longer than five years after the date of sale as determined by subdivision (a) of Section 18070.2, whichever event occurs later.

(f) When any person files a claim for an order directing payment from the fund, the claimant shall mail, by first-class mail, a copy of that claim to the last known address of the judgment debtor. The department shall conduct a review of the application and other pertinent information in its possession, and it may issue an order directing payment out of the fund as provided in subdivisions (a) to (e), inclusive, subject to the limitations of subdivisions (a) to (e), inclusive, if the claimant or claimants show all of the following:

(1) That he or she is not a spouse of the judgment debtor, the bankrupt licensee, or a person representing the spouse.

(2) That he or she is making an application within the time specified in subdivision (e).

(3) That the claimant has satisfied the applicable requirements of subdivision (d).

(4) That, if the claimant is a seller of a manufactured home used by the seller for personal, family, or household purposes, the claimant made a good faith effort to adequately secure the debt resulting from the sale of the manufactured home and with respect to which the claim is made. For purposes of this paragraph, a good faith effort to secure the debt may be demonstrated by, but shall not be limited to, providing the department with a promissory note signed by the debtor and which, pursuant to the terms thereof, is secured by collateral with a reasonable value at least equal to the debt evidenced by the promissory note.

(g) Upon an order of the department directing that payment be made out of the fund, the Controller is authorized to draw a warrant for the payment of the amount of the claim approved by the department pursuant to this section.

(h) In dispersing moneys from the fund, the department is authorized to give priority to claimants who have attempted to purchase or sell a manufactured home for a personal or family residential purpose.

(i) All claims to the fund that are received on or after January 1, 1993, shall be processed, and a determination made, within one year of submission of a properly completed application.

(j) The department, upon request by a Member of the Legislature, shall provide the following information: the number of claims to the fund, number of claims processed and decided within one year of their application date and submission of a properly completed application, the amount of fund money paid to claimants, and the amount of fund money allocated for the department's costs.

§ 18070.4. Liability of judgment debtor for repayment

The judgment debtor shall be liable for repayment in full for the amount arising from claims against the debtor which are paid from the fund, with interest at the prevailing prime rate. A discharge in bankruptcy shall not relieve a person from the disabilities and penalties of this section.

§ 18070.5. Subrogation rights

When the department has caused payment to be made from the fund to any person, the department shall be subrogated to the rights of that person.

§ 18070.6. Administrative actions

(a) To the extent that department personnel and resources are available, in any administrative action brought by the department pursuant to Article 3 (commencing with Section 18058) of Chapter 7, the department shall make reasonable efforts to plead and prove facts and allegations and request findings and conclusions necessary to support an order of restitution that may be deemed a final judgment.

(b) A person for whose benefit an order of restitution or other financial award has been granted by the director pursuant to this section may waive his or her rights to any additional compensation from the fund arising out of a transaction and submit a claim based on that administrative order to the fund after demonstrating efforts to collect pursuant to subdivision (d) of Section 18070.3.

(c) An order for restitution by the director pursuant to this section shall not exceed the amount of restitution ordered or approved by an administrative law judge in an administrative action brought by the department.

§ 18070.7. Application of amendments to specified transactions

The amendments to this chapter by the act adding additional grounds or procedures for recovery from the fund shall apply to any transaction for which the statute of limitation established by subdivision (e) of Section 18070.3 has not expired on January 1, 2004.

Chapter 8 REGISTRATION AND TITLING OF MANUFACTURED HOMES, MOBILEHOMES, AND COMMERCIAL COACHES

Article 1 Application and Scope

§ 18075. Regulations; Schedule of fees

(a) Except as provided in Section 18075.7, all manufactured homes, mobilehomes, commercial coaches, truck campers, and floating homes shall be subject to the provisions of this code for the purposes of titling and registration.

(b) The department may adopt and amend, as necessary, regulations to implement, interpret, and make specific the provisions of this chapter. The department shall provide for an orderly and economical transfer of registrations and titles for manufactured homes, mobilehomes, commercial coaches, and floating homes previously issued by the Department of Motor Vehicles to those issued by the department. Any registration, title, or decal issued by the Department of Motor Vehicles shall be valid until renewed, replaced, transferred, suspended, or revoked.

(c) The department may, but shall not be required to, establish a schedule of fees to pay the costs of work related to administration and enforcement of this chapter, except where the fees are expressly stated herein.

§ 18075.5. Exceptions to registration requirements

Manufactured homes, mobilehomes, commercial coaches, and floating homes sold or used within this state shall be subject to annual registration with the department and payment of registration fees prescribed by Section 18114 except as follows:

(a) Manufactured homes, mobilehomes, and floating homes subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code, and not installed on foundation systems pursuant to subdivision (a) of Section 18551, shall be subject to registration and payment of fees and penalties prescribed by Section 18114 at the time of original registration with the department, and upon subsequent sale, resale, or transfer of title. For purposes of this section, a transfer of title includes, but is not limited to, any change, addition, or deletion of one or more registered owners, legal owners, or junior lienholders.

(b) Manufactured homes, mobilehomes, and commercial coaches installed or to be installed on foundation systems pursuant to subdivision (a) of Section 18551 shall be exempt from registration so long as they remain affixed to the foundation system. In the event that the manufactured home, mobilehome, or commercial coach, is removed from a foundation system for any purpose other than dismantling or reinstallation on a foundation system, it shall be immediately subject to registration with the department.

(c) Except as otherwise provided in subdivisions (d) and (e), registration of a manufactured home, mobilehome, or commercial coach previously registered in another state is due 20 days after the date of entry into California and is delinquent if application is not made and any fees due are not paid within 40 days after that date of entry.

(d) Any member of the armed forces, whether a resident or nonresident, shall also be entitled to exemption from registration with respect to a manufactured home or mobilehome owned by the person upon which there is displayed a valid registration issued for the manufactured home or mobilehome by the owner's home state of residence or by a foreign jurisdiction where the owner was regularly assigned and stationed for duty by competent military orders at the time the registration was issued. Competent military orders shall not include military orders for leave, for temporary duty, nor for any other assignment of any nature requiring the owner's presence outside the foreign jurisdiction where the owner was regularly assigned and stationed for duty.

(e) Any person who enters California for the purpose of establishing or reestablishing residence or accepting gainful employment following his or her discharge from the armed forces of this country may occupy a manufactured home or mobilehome owned by that person at the time of his or her discharge and registered to him or her in a foreign jurisdiction where his or her military orders required his or her presence without registering the manufactured home or mobilehome in this state until the expiration of the registration period current at the time of his or her discharge and entrance into California.

(f) Any new and previously unregistered, unoccupied manufactured home, mobilehome, or commercial coach which is part of an inventory held for sale by a manufacturer or dealer in the course of business.

The department may adopt regulations for exempting additional classes of manufactured homes, mobilehomes, and commercial coaches from registration under a temporary or one–trip permit system which permits the lawful transportation and use of manufactured homes, mobilehomes, and commercial coaches not otherwise subject to registration.

(g) Floating homes, which are subject to local property taxation, as prescribed by Section 229 of the Revenue and Taxation Code, shall be subject to registration at the time of sale and upon any subsequent sale, resale, or transfer of title. Floating homes are subject to the fees prescribed by subdivision (c) of Section 18114 upon registration or reregistration.

§ 18075.55. Registration of and title to floating homes; "Floating home" ***<Not applicable for CM or MH exams>***

(a) Floating homes subject to real property taxation pursuant to Section 229 of the Revenue and Taxation Code shall be subject to registration and titling by the department only at the time of sale, resale, or transfer of title.

(b) Ownership registration and title to a floating home may be held by two or more co–owners in the manner specified in Sections 18080 and 18081.

(c) Upon receipt of a registration card, every registered owner shall maintain the card or a copy thereof with the floating home for which it is issued.

(d) "Floating home," as used in this section, means a floating structure which is all of the following:

(1) It is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling.

(2) It has no mode of power of its own.

(3) It is dependent for utilities upon a continuous utility linkage to a source originating on shore.

(4) It has a permanent continuous hookup to a shoreside sewage system.

This section does not affect existing law regarding residential use of tide and submerged lands.

Added Stats 1985 ch 1467 § 5, effective October 2, 1985.

§ 18075.6. Registration of mobilehome, manufactured home, or commercial coach used as office

Unless installed on a foundation system pursuant to Section 18551, any manufactured home, mobilehome, or commercial coach used as an office at a manufacturer's, distributor's, or dealer's established place of business is subject to registration by the department and shall be reported pursuant to Section 18080.5.

§ 18075.7. Registration of truck camper *<Not applicable for CM or MH exams>*

On and after January 1, 1986, every truck camper may, at the owner's request, be registered with the department at the time of sale, resale, or transfer of title. The department shall issue certificates of title and registration cards for any truck camper registered under this part.

Any truck camper permanently attached to a vehicle and registered as a "house car" under the Vehicle Code is exempt under this part.

§ 18076. Government owned manufactured homes, mobilehomes, commercial coaches, and truck campers

(a) Manufactured homes, mobilehomes, commercial coaches, or truck campers owned or leased by the United States, by any foreign government, by a consul or other official representative or any foreign government, by the state, by a political subdivision of the state, or by any city, county, or city and county, or public corporation shall be subject to registration under this code by the person having custody thereof, but shall not be subject to the registration fees specified in this code or the Revenue and Taxation Code, and that person shall display upon the manufactured home, mobilehome, commercial coach, or truck camper a decal bearing distinguishing marks or symbols which shall be furnished by the department free of charge.

(b) Any manufactured home, mobilehome, or commercial coach purchased by a city, county, city and county, or any other public agency pursuant to the exception established in Section 18015.7 shall be subject to registration as specified in Section 18085, but shall not be subject to the registration fees specified in this code or the Revenue and Taxation Code. Application for registration shall be made to the department within 20 days from the date the transaction is completed. For purposes of this section, a transaction shall be deemed completed when the purchaser has signed a purchase contract or security agreement or paid any purchase price and has taken physical possession or delivery of the manufactured home, mobilehome, or commercial coach.

§ 18076.5. Administration of licensing and taxation

Commencing July 1, 1981, the department shall administer the annual licensing and taxation of all manufactured homes and mobilehomes not subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code and not installed on a foundation system pursuant to Section 18551, and all commercial coaches.

§ 18077. Deposit of license fees in State Treasury *<Not applicable for CM or MH exams>*

All manufactured home, mobilehome, or commercial coach license fees collected by the department pursuant to Section 18115 shall be deposited in the State Treasury to the credit of the General Fund.

§ 18077.5. Reports to county auditors of situs addresses *<Not applicable for CM or MH exams>*

On or after the first day of January and the first day of July of each year, the department shall report to the auditor of each county the address at which each manufactured home, mobilehome, or commercial coach has situs within the county on which license fees under this article have been paid to the department during the six–month period immediately preceding January 1st and July 1st, respectively, and the amount paid on each manufactured home, mobilehome, or commercial coach.

At the time the department reports to the county auditors, it shall also report to the Controller the information described in the preceding paragraph, or a summary thereof, for each of the counties.

§ 18079. Property tax postponement programs *<not applicable for CM or MH exams>*

The department shall implement property tax postponement programs on behalf of eligible mobilehome owners, as provided by law.

Article 2 General Definitions and Requirements

§ 18080. Co-ownership

Ownership registration and title to a manufactured home, mobilehome, commercial coach, or truck camper, or floating home subject to registration may be held by two or more coowners as follows:

(a) A manufactured home, mobilehome, commercial coach, truck camper, or floating home may be registered in the names of two or more persons as joint tenants. Upon the death of a joint tenant, the interest of the decedent shall pass to the survivor or survivors. The signature of each joint tenant or survivor or survivors, as the case may be, shall be required to transfer or encumber the title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(b) A manufactured home, mobilehome, commercial coach, truck camper, or floating home may be registered in the names of two or more persons as tenants in common. If the names of the tenants in common are separated by the word "and", each tenant in common may transfer his or her individual interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home without the signature of the other tenant or tenants in common. However, the signature of each tenant in common shall be required to transfer full interest in the title to a new registered

owner. If the names of the tenants in common are separated by the word “or”, any one of the tenants in common may transfer full interest in the title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home to a new registered owner without the signature of the other tenant or tenants in common. The signature of each tenant in common is required in all cases to encumber the title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(c) A manufactured home, mobilehome, commercial coach, truck camper, or floating home may be registered as community property in the names of a husband and wife. The signature of each spouse shall be required to transfer or encumber the title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(d) All manufactured homes, mobilehomes, commercial coaches, truck campers, and floating homes registered, on or before January 1, 1985, in the names of two or more persons as tenants in common, as provided in subdivision (b), shall be considered to be the same as if the names of the tenants in common were separated by the word “or,” as provided in subdivision (b).

§ 18080.1. Name on registration

The registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home may be held in the name of a company, an estate, a trust, a conservatorship, a guardianship, or an individual owner’s name, as follows:

(a) In the case of an individual owner, the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall be registered in the true name of the individual owner only. Complimentary or professional titles may be added to the true name only if the individual is commonly addressed by that title.

(b) In the case of a guardianship or conservatorship, the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall be registered in the name of the person or persons designated as the conservators or guardians, as evidenced by documentation of that status deemed adequate by the department. The name shall be followed by the word “guardian” or “conservator,” whichever is appropriate. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, truck camper, or floating home so registered shall require the signatures of all designated conservators or guardians.

(c) In the case of a trust, the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall be registered in the name of the trust as evidenced by documentation of that status deemed adequate by the department. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, truck camper, or floating home so registered shall require the signature or signatures of the authorized trustee or trustees designated in the trust.

(d) In the case of a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered in the name of a company, the application for registration shall be countersigned by an officer or authorized agent of the company. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, truck camper, or floating home so registered shall require the signature of an officer or authorized agent of the company.

(e) In the case of a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered to an estate, the application for registration shall be signed by the appointed executor or administrator of the estate as evidenced by documentation of that status deemed adequate by the department. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, truck camper, or floating home so registered shall require the signature of the appointed executor or administrator.

§ 18080.2. Ownership and title in beneficiary form

(a) Ownership registration and title to a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration may be held in beneficiary form that includes a direction to transfer ownership of the manufactured home, mobilehome, commercial coach, truck camper, or floating home to a designated beneficiary on death of the owner if both of the following requirements are satisfied:

(1) Only one owner is designated.

(2) Only one TOD beneficiary is designated.

(b) Ownership registration and title issued in beneficiary form shall include, after the name of the owner, the words “transfer on death to” or the abbreviation “TOD” followed by the name of the beneficiary.

(c) During the lifetime of the owner, the signature or consent of the beneficiary is not required for any transaction relating to the manufactured home, mobilehome, commercial coach, truck camper, or floating home for which ownership registration and title in beneficiary form has been issued.

(d) The fee for transfer of title of a mobilehome to a TOD beneficiary is twenty–five dollars ($25).

(e) The fee for registering ownership of a manufactured home, mobilehome, commercial coach, truck camper, or floating home in beneficiary form is twenty–five dollars ($25).

§ 18080.3. Registration as single or separate unit

(a) For the purposes of registration of manufactured homes and mobilehomes pursuant to this chapter, a manufactured home or mobilehome shall include as a single unit with one registration, two or more sections that are manufactured, fabricated, or altered for use as a single manufactured home or mobilehome.

(b) Each transportable section of a commercial coach shall be registered and titled separately.

§ 18080.4. Registration cards

(a) Every registered owner, upon receipt of a registration card, shall maintain the card or a copy thereof with the manufactured home, mobilehome, commercial coach, truck camper, or floating home for which it is issued.

(b) This section does not apply when a registration card is necessarily removed from the manufactured home, mobilehome, commercial coach, truck camper, or floating home for the purpose of application for renewal, amendment, or transfer of registration.

§ 18080.5. Report of sale, lease, or rental; Fees and penalties; Notice of transfer; Completion of transaction

(a) A numbered report of sale, lease, or rental form issued by the department shall be submitted each time the following transactions occur by or through a dealer:

(1) Whenever a manufactured home, mobilehome, or commercial coach previously registered pursuant to this part is sold, leased with an option to buy, or otherwise transferred.

(2) Whenever a manufactured home, mobilehome, or commercial coach not previously registered in this state is sold, rented, leased, leased with an option to buy, or otherwise transferred.

(b) The numbered report of sale, lease, or rental forms shall be used and distributed in accordance with the following terms and conditions:

(1) A copy of the form shall be delivered to the purchaser.

(2) All fees and penalties due for the transaction that were required to be reported with the report of sale, lease, or rental form shall be paid to the department within 10 calendar days from the date the transaction is completed, as specified by subdivision (e). Penalties due for noncompliance with this paragraph shall be paid by the dealer. The dealer shall not charge the consumer for those penalties.

(3) Notice of the registration or transfer of a manufactured home or mobilehome shall be reported pursuant to subdivision (d).

(4) The original report of sale, lease, or rental form, together with all required documents to report the transaction or make application to register or transfer a manufactured home, mobilehome, or commercial coach, shall be forwarded to the department. Any application shall be submitted within 10 calendar days from the date the transaction was required to be reported, as defined by subdivision (e).

(c) A manufactured home, mobilehome, or commercial coach displaying a copy of the report of sale, lease, or rental may be occupied without registration decals or registration card until the registration decals and registration card are received by the purchaser.

(d) In addition to the other requirements of this section, every dealer upon transferring by sale, lease, or otherwise any manufactured home or mobile-home shall, not later than the 10th calendar day thereafter, not counting the date of sale, give written notice of the transfer to the assessor of the county where the manufactured home or mobilehome is to be installed. The written notice shall be upon forms provided by the department containing any information that the department may require, after consultation with the assessors. Filing of a copy of the notice with the assessor in accordance with this section shall be in lieu of filing a change of ownership statement pursuant to Sections 480 and 482 of the Revenue and Taxation Code.

(e) Except for transactions subject to Section 18035.26, for purposes of this section, a transaction by or through a dealer shall be deemed completed and consummated and any fees and the required report of sale, lease, or rental is due when any of the following occurs:

(1) The purchaser of any commercial coach has signed a purchase contract or security agreement or paid any purchase price, the lessee of a new commercial coach has signed a lease agreement or lease with an option to buy or paid any purchase price, or the lessee of a used commercial coach has either signed a lease with an option to buy or paid any purchase price, and the purchaser or lessee has taken physical possession or delivery of the commercial coach.

(2) For sales subject to Section 18035, when all the amounts other than escrow fees and amounts for uninstalled or undelivered accessories are disbursed from the escrow account.

(3) For sales subject to Section 18035.2, when the installation is complete and a certificate of occupancy is issued.

§ 18080.7. Documents to be forwarded to department; Perfection of security interest; Permanent title record

(a) Each person acquiring or retaining a security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part, unless the collateral is inventory, shall forward or cause to be forwarded to the department the application for original registration contemplated by Section 18085 with respect to a security interest acquired or retained at or before original registration, or the certificate of title or current registration card with appropriate insertions and signatures as respectively contemplated by Section 18100.5 with respect to a security interest acquired or retained at a time subsequent to original registration, together with the filing fee prescribed by department regulations.

(b) A security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part, unless the collateral is inventory, is perfected when it has attached as contemplated by subdivision (a) and by subdivision (a) of Section 9203 of the Commercial Code and when the department has received the items required by subdivision (a), whichever occurs later, except as otherwise provided by Section 9313 of the Commercial Code. The department may adopt regulations authorizing its acceptance of a statement of lien by means of electronic facsimile. If the department adopts these regulations, a security interest may also be perfected when it has attached and when the department has received the electronic facsimile, whichever occurs later, subject to the receipt by the department of the items required by subdivision (a), other than the fee, within 10 days of the date of its receipt of the electronic facsimile, provided that the fee required by subdivision (a) is paid in a timely fashion pursuant to these regulations.

(c) Except as otherwise provided in subdivision (b) of Section 18100.5, upon receipt of the items required by subdivision (a), the department shall establish or amend the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home to reflect the interest of the secured party as of that date or, if within the preceding 1 0–day period the department has received an electronic facsimile of the statement of lien, as of the date of

receipt of the electronic facsimile, provided that the fee required by subdivision (a) is paid in a timely fashion and the department actually receives the statement of lien within 10 days of its receipt of the electronic facsimile.

(d) Upon establishing or amending the permanent title record, the department shall issue to the registered owner a current registration card indicating the interest of the secured party and shall forward a copy of that registration card to all persons holding a record security interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(e) Except as otherwise provided in subdivision (b) of Section 18100.5, the department shall not refuse to establish or amend the permanent title record to indicate a security interest which is authorized by law to be recorded and which would otherwise satisfy statutory requirements for departmental documentation and recordation on the basis of lack of knowledge as to the attachment of the security interest prior to its receipt of the statement of lien or an electronic facsimile thereof.

(f) The department shall designate the holder of a perfected security interest as either the legal owner or a junior lienholder as provided in this article, Article 3 (commencing with Section 18085), or Article 4 (commencing with Section 18098), as applicable.

(g) The failure of a secured party to perfect a security interest for which there has been attachment shall not impair or affect in any way its enforceability against the registered owner or debtor with respect to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(h) Except as otherwise provided in this part, a security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration with the department is governed by Division 9 (commencing with Section 9101) of the Commercial Code.

§ 18080.9. Lien for unpaid rent against mobilehome owner by owner of park ***<Not applicable for CM exams>***

(a) An owner of a mobilehome park who obtains a final money judgment for unpaid rent against the registered owner of a manufactured home or mobilehome registered with the department may, subject to subdivision (b), perfect a lien against the manufactured home or mobilehome pursuant to Section 18080.7 by filing a form prescribed by the department. The priority of the lien shall be determined in accordance with Article 3 (commencing with Section 18085) and Article 4 (commencing with Section 18098). For purposes of a sale conducted pursuant to Section 18037.5, an owner of a mobilehome park filing a lien pursuant to this section shall be treated as a junior lienholder.

(b) Notwithstanding any other provision of law, the department shall accept, for the purposes of the perfection of a lien pursuant to this section, a certified copy of either the final money judgment or an abstract of the final money judgment in lieu of the certificate of title, registration card, or signatures otherwise required by subdivision (a) of Section 18080.7.

(c) Upon satisfaction of the final money judgment, a lien perfected pursuant to this section shall be released in accordance with Section 18100.5.

(d) A lien created pursuant to this section shall not be subject to execution pursuant to Chapter 3 (commencing with Section 699.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure or in any other manner.

(e) If the final money judgment for unpaid rent against a registered owner covers any portion of the period for which a legal owner or junior lienholder is required to pay past due obligations of the registered owner pursuant to Section 798.56a of the Civil Code, the amount of the lien created by this section shall be reduced by the amount required to be paid by the legal owner or junior lienholder pursuant to Section 798.56a of the Civil Code.

(f) A surrender of ownership interest by the registered owner of a mobilehome or manufactured home to the legal owner shall operate as a matter of law to divest the registered owner of any claim to possession or title to the mobilehome or manufactured home and shall be effective upon acceptance of that surrender by the legal owner. Any judgment lien filed pursuant to this section on a mobilehome or manufactured home that is thereafter surrendered to the legal owner shall be extinguished by any of the following:

(1) If the proceeds of the sale of the surrendered mobilehome or manufactured home by the legal owner to a third party after the surrender is effective are not sufficient to satisfy the amount due to the legal owner by the registered owner under a security agreement, promissory note, or other debt instrument secured by the mobilehome or manufactured home.

(2) If the proceeds of the sale of the surrendered mobilehome or manufactured home by the legal owner to a third party after the surrender is effective are sufficient to satisfy the amount due the legal owner by the registered owner under a security agreement, promissory note, or other debt instrument secured by the mobilehome or manufactured home, but there are no surplus funds available for payment to the junior lienholder.

(3) Upon payment of any surplus proceeds owed to the junior lienholder if the proceeds of the sale of the surrendered mobilehome or manufactured home by the legal owner to a third party after the surrender is effective exceed the amount due to the legal owner from the registered owner under the security agreement, promissory note, or other debt instrument secured by the mobilehome or manufactured home.

(g) The completion of a foreclosure on a mobilehome or manufactured home pursuant to Section 18037.5 shall divest the registered owner of title to the mobilehome or manufactured home by operation of law. The foreclosure shall (A) make any judgment lien created pursuant to this section invalid and unenforceable, and (B) extinguish and bar any levy upon a judgment lien perfected pursuant to this section. Except to the extent that surplus proceeds from the foreclosure sale were paid to the judgment creditor under the judgment lien perfected pursuant to this section, nothing in this subdivision shall be deemed to extinguish, satisfy, or reduce in any way the final money judgment owed by the former registered owner for unpaid rent.

(h) If the money judgment has been satisfied and the judgment creditor fails without just cause to comply with Section 18100.5 within 20 days from the date the judgment creditor's lien is satisfied, the judgment creditor is liable for all damages

sustained by reason of that failure and shall also forfeit one hundred dollars ($100) to the person who sustained those damages. In any action to enforce this provision, the court shall award reasonable attorney's fees to the prevailing party. Where the prevailing party is someone other than the judgment creditor, the court shall order the department to remove the lien from the manufactured home or mobilehome record. A copy of the court order may be submitted to the department as evidence that the judgment creditor's lien has been satisfied.

§ 18081. Disclosure of registration and title information

(a) Any person may request, and the department shall furnish, information regarding the current registration and title status of a manufactured home, mobilehome, commercial coach, truck camper, or floating home. The department shall provide forms for these requests, shall establish a standard format for providing the information, and may charge fees to pay the cost of furnishing this information.

(b) Upon receipt of a properly executed request for information and the payment of prescribed fees, the department shall provide the information within five working days by first–class mail to the address indicated on the request. The department may adopt procedures for providing the information by electronic facsimile in addition to mailing that information.

(c) Notwithstanding subdivisions (a) and (b), the home address of the registered owner appearing in the information on current registration and title status maintained by the department is confidential if the owner requests confidentiality of that information, and shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.

(d) The owner requesting confidentiality of his or her home address shall provide the department with a mailing address which is not confidential, which will be open to public inspection, and which may be used for mailings by the department. The owner requesting confidentiality shall declare to the department, under penalty of perjury, that the address provided is a valid, existing and accurate mailing address and shall consent to receive service of process pursuant to subdivision (b) of Section 415.20 and subdivision (a) of Section 415.30 and Section 416.90 of the Code of Civil Procedure at the address.

§ 18081.3. Bulk information regarding registration and title status for statistical or commercial purposes ***<Not applicable for CM or MH exams>***

(a) Notwithstanding the provisions of Section 18081 or any other provision of law, the department may, for statistical or commercial purposes and upon payment of fees prescribed by the department, provide bulk information regarding the registration and title status of manufactured homes, mobilehomes, commercial coaches, truck campers, and floating homes.

(b) For the purpose of this section, bulk information includes all or part of the information maintained by the department in its registration and title master file data base, except the name or names of the registered owner of the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

§ 18081.5. Reports to county assessors of changes in ownership ***<Not applicable for CM exams>***

The transferee of a manufactured home, mobilehome, or floating home subject to local property taxation shall report the change in owner ship information to the assessor in the county where the manufactured home, mobilehome, or floating home is sited, as provided in Article 2.5 (commencing with Section 480) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, unless it is reported pursuant to subdivision (d) of Section 18080.5.

§ 18084.7. Applicability of registration and titling requirements and taxes

Manufactured homes, mobilehomes, and commercial coaches shall not be subject to registration or titling under this part or to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code prior to the original registration of the manufactured home, mobilehome, or commercial coach. Upon original registration and issuance of title, whether in the name of a consumer, a dealership, or some other party, the manufactured home, mobilehome, or commercial coach thereafter is subject to all registration and titling requirements of this part and to the provisions of Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code.

Article 3 Applications for Original Registration and Title

§ 18085. Form and contents

(a) Application for the original registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home required to be registered under this part shall be made to the department upon the appropriate forms approved by the department, and shall be accompanied by the filing fee prescribed by the department. If the application is for the original registration of a manufactured home, mobilehome, or commercial coach, or of a truck camper manufactured on or after January 1, 1986, the application shall include the original manufacturer's certificate of origin in the form prescribed by Sections 18093 and 18093.5. If the original certificate of origin is not in existence, a duplicate thereof shall be obtained from the manufacturer and submitted with the application for original registration. Any duplicate copy shall be conspicuously marked by the manufacturer as a duplicate copy.

(b) The application shall include, but not be limited to, all of the following:

(1) The true name and mailing address of the registered owner, the legal owner, if any, and junior lienholders, if any.

(2) The name of the county in which the registered owner resides.

(3) The situs address of the manufactured home, mobilehome, or commercial coach, or the residence address of a truck camper owner, or floating home owner to include the county of residence.

(4) A description of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, including all of the following:

(A) The manufacturer's name and identification number.

(B) The date of manufacture.

(C) The serial number or numbers.

(D) The federal label number or numbers affixed pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.) or department insignia number or numbers affixed pursuant to Section 18026.

(E) The date first sold or leased to a purchaser or lessee for purposes other than resale.

(F) Any other information as may be reasonably required by the department to enable it to determine whether the manufactured home, mobilehome, commercial coach, truck camper, or floating home is lawfully entitled to registration.

(c) If the application is for a floating home or a truck camper for which no certificate of origin has been issued pursuant to Section 18093.5, other evidence of ownership may be accepted at the sole discretion of the department in lieu of the manufacturer's certificate of origin.

§ 18085.5. Required presence within state

The department shall not accept an application for the original registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home unless the manufactured home, mobilehome, commercial coach, truck camper, or floating home at the time of application is within the state or unless the provisions of this part have been complied with.

§ 18086. Acceptance of application for home, coach, or camper not within state

The department may accept an application for registration of a manufactured home, mobilehome, commercial coach, or truck camper which is not within the state, but which is to be registered to a resident of this state, at the time all documents and fees, as determined by the department in accordance with the provisions of this chapter, are submitted to the department. Any fees submitted pursuant to this section shall not be subject to refund based upon the fact that the manufactured home, mobilehome, commercial coach, or truck camper is not and has not been within this state.

§ 18086.5. Posting of bond in absence of evidence of ownership

(a) In the absence of the regularly required supporting evidence of ownership and upon application for registration or transfer of a manufactured home, mobilehome, commercial coach, truck camper, or floating home, the department may accept an undertaking or bond which shall be conditioned to protect the department and all officers and employees thereof and any subsequent purchaser of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, any person acquiring a lien or security interest thereon, or the successor in interest of that purchaser or that person against any loss or damage on account of any defect in or undisclosed claim upon the right, title, and interest of the applicant or other person in and to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(b) Any interested person shall have a right of action to recover on any bond or undertaking for any breach of the conditions for which the bond was deposited, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. In the event the manufactured home, mobilehome, commercial coach, truck camper, or floating home is no longer subject to registration in this state and the currently valid certificate of title is surrendered to the department, the bond or undertaking shall be returned and surrendered at the end of three years or, prior thereto, at the discretion of the department.

§ 18087. Previous out–of–state registrations

Upon application for registration of a manufactured home, mobilehome, commercial coach, or truck camper previously registered outside this state, the application shall be certified by the applicant and shall state that the manufactured home, mobilehome, commercial coach, or truck camper previously has been registered outside this state, the time and place of the last registration of the manufactured home, mobilehome, commercial coach, or truck camper outside this state, the name and address of the governmental officer, agency, or authority making the registration, and any further information relative to its previous registration as may reasonably be required by the department, including the time and place of original registration, if known, and if different from the last foreign registration.

§ 18087.5. Surrender of out–of–state license plates

(a) The applicant for registration under this part of a manufactured home, mobilehome, commercial coach, or truck camper previously registered outside this state shall surrender to the department all unexpired license plates, seals, certificates, or other evidence of foreign registration which are in the applicant's possession or under the applicant's control. The department may require a certification from the jurisdiction of last registry when the applicant fails to surrender the last issued unexpired license plates.

(b) Upon application made at the time of their surrender to the department and upon payment of a fee of three dollars ($3), the department shall return the unexpired license plates to the official in charge of the registration of manufactured homes, mobilehomes, commercial coaches, or truck campers in the state of issue of the license plates.

§ 18088. Grant of full faith and credit to out–of–state certificates of title

(a) Upon application for registration of a manufactured home, mobilehome, commercial coach, or truck camper previously registered outside this state, the department shall grant full faith and credit to the currently valid certificate of title describing the manufactured home, mobilehome, commercial coach, or truck camper, the ownership thereof, and any liens

thereon, issued by the state in which the vehicle was last registered, except there shall be a notation upon the certificate of title of any and all liens and encumbrances other than those dependent upon possession.

(b) In the absence of knowledge by the department that any certificate of title issued by another state is forged, fraudulent, or void, the acceptance thereof by the department shall be a sufficient determination of the genuineness and regularity of the certificate and of the truth of the recitals therein, and no liability shall be incurred by any officer or employee of the department by reason of so accepting a certificate of title.

§ 18088.5. Out–of–state certificates of title showing liens or encumbrances

If a certificate of title issued by another state shows any lien or encumbrance upon the manufactured home, mobilehome, commercial coach, or truck camper therein described, the department, upon registering the manufactured home, mobilehome, commercial coach, or truck camper in this state and upon issuing a certificate of title, shall include therein the name of the legal owner and lienholders, if any, unless documents submitted with the foreign certificates of title establish that the lien or encumbrance has been fully satisfied.

§ 18089. Withholding California certificate of title

In the event application is made in this state for registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home and the department is not satisfied as to the ownership of the manufactured home, mobilehome, commercial coach, truck camper, or floating home or the existence of foreign liens thereon, then the department may register the manufactured home, mobilehome, commercial coach, truck camper, or floating home and issue a registration card with distinctive markings, but shall withhold issuance of a California certificate of title, unless the applicant presents documents sufficient to reasonably satisfy the department of the applicant's ownership of the manufactured home, mobilehome, commercial coach, truck camper, or floating home and the absence of any liens thereon or posts a bond pursuant to subdivision (a) of Section 18086.5.

§ 18089.5. Return of documents upon refusal to grant application

In the event the department refuses to grant an application for registration in this state of a manufactured home, mobilehome, commercial coach, truck camper, or floating home previously registered in another state, the department shall immediately return to the applicant all documents submitted by the applicant with the application.

§ 18090. Notice of application to state of last registration

The department shall forthwith mail a notice of the filing of any application for registration of a manufactured home, mobilehome, commercial coach, or truck camper previously registered outside this state upon written request of the governmental officer, agency, or authority which made the last registration of the manufactured home, mobilehome, commercial coach, or truck camper outside this state. The notice shall contain the same data as required on the application filed with the department. This section shall not apply to manufactured homes, mobilehomes, commercial coaches, or truck campers last registered in a foreign province or country.

§ 18090.5. Establishment of permanent title record; Certificate of title; Registration card

(a) Except as otherwise provided in Section 18089, the department, upon the original registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home, shall establish a permanent title record for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and shall issue a certificate of title to the legal owner and a registration card to the registered owner.

(b) The department shall designate on the permanent title record as the legal owner the holder, if any, of the perfected security interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home. If there is more than one perfected security interest, the holder of the security interest designated in the application for the original registration as the legal owner shall be the legal owner.

(c) The department shall designate on the permanent title record as junior lienholders those holders, if any, of perfected security interests in the manufactured home, mobilehome, commercial coach, truck camper, or floating home other than the legal owner. If there is more than one junior lienholder, they shall be listed on the permanent title record in the same order as is designated in the application for the original registration. A copy of the registration card shall be sent to each junior lienholder and the creditor identified on the manufacturer's certificate of origin.

(d) If an application for registration specifies more than one secured creditor and the department is unable to determine from the application which creditor is to be the legal owner, or the seniority order in which junior lienholders are to be designated, the department shall so notify the applicant for registration and all secured creditors and shall withhold registration or transfer of registration until the department receives the designation.

(e) The certificate of title and the registration card issued pursuant to this section shall show the name and address of all registered owners, the legal owner, if any, and all junior lienholders, if any, with the junior lienholders listed in the same order as designated on the permanent title record.

§ 18090.6. Electronic transmittal of certificate of title

The department may, in lieu of delivery by first–class mail, electronically transmit or receive, or both, a certificate of title pursuant to this part when the department determines that the electronic transmittal or receipt of a certificate of title is economically and technologically feasible and the appropriate state control agencies approve this determination. In making the determination that it is technologically feasible to electronically transmit and receive a certificate of title, the department shall ensure that the system for electronic transmittal and receipt is reasonably safe and secure against fraud and intrusion by unauthorized persons.

§ 18090.7. Electronic programs to facilitate improved business practices

(a) In order to continue improving the quality of products and services to its customers in the registration and titling

of personal property within its authority, the department, pursuant to Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, may establish electronic programs to facilitate improved business practices between the department and qualified private industry partners. The programs may include, but are not limited to, programs for the electronic processing of ownership and title documents for manufactured homes, mobilehomes, commercial coaches, truck campers, and floating homes, and the payment of related fees.

(b) The director may establish, by regulation, the maximum amount of a fee that a qualified private industry partner may charge its customers to provide the services authorized under subdivision (a).

(c) The department may establish, by regulation, a transaction fee that it may charge a qualified private industry partner to pay the costs for the information and services that the department provides to the partner in support of the processing and payment programs authorized under subdivision (a). The transaction fee may not exceed the amount necessary to cover the costs incurred by the department in carrying out this section and Section 18090.6. The transaction fee may be passed to the customer by the private industry partner, but in no event shall the total charge to a customer exceed the amount established by the director under subdivision (b).

(d) As used in this section, “qualified private industry partner” includes the following entities engaged in the business, or an associated business, of the purchase, sale, or transfer of manufactured homes, mobilehomes, commercial coaches, truck campers, or floating homes: financial institutions, electronic data processing vendors, information technology contractors, and escrow and title companies.

§ 18091. Contents of certificate of title

The certificate of title issued by the department shall contain, but not be limited to, all of the following:

(a) Information substantially similar to that required on the registration application as provided in Section 18085.

(b) Provision for transfer of the title or interest of a registered owner, legal owner, or junior lienholder, as applicable.

(c) Provision for application for transfer of registration by the transferee.

(d) A statement to the effect that the certificate of title may not reflect all liens filed with the department against the title and that current title status may be confirmed through the department.

§ 18091.5. Contents of registration card

The registration card for a manufactured home, mobilehome, commercial coach, truck camper, or floating home shall contain all of the following:

(a) The date issued.

(b) The information required by Section 18085 in the application for registration.

(c) The registration number assigned to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(d) The date of expiration, where applicable.

(e) Any other information as the department prescribes by regulation.

The department may modify the form, arrangement, and information appearing on the registration card and may provide for standardization and abbreviations whenever the efficiency of the department will be promoted thereby, except that general delivery or post office boxes shall not be permitted as the address of the registered owner unless there is no other address.

§ 18092. Registration decals

(a) Every manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration shall be issued a registration decal. The design of the decal shall be determined by the director and the decal shall be issued by the department. The decal shall be at least 21/2 inches high and 21/2 inches wide.

(b) The decals shall be applied to the outside of the mobilehome or commercial coach in a location within 15 inches of the lower front right–hand side which is clearly visible and these decals shall be maintained in a condition so as to be clearly legible. The decals shall be applied to the lower rear left–hand side of the truck camper.

For a floating home, the decal shall be applied in an area six inches from the main entry door on the side opposite the hinged side of the door at a point not less than two feet from either the top or bottom of the door and on the outside surface.

(c) The director, after consultation with county assessors, shall prescribe a registration decal for manufactured homes and mobilehomes subject to registration which clearly indicates, by color or otherwise, whether or not the manufactured home or mobilehome is subject to annual registration with the department or is subject to local property taxation.

§ 18092.5. Refusal of registration, renewal, or transfer

The department may refuse registration or the renewal or transfer of registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home in the following instances:

(a) If the department is not satisfied that the applicant is entitled thereto under this part.

(b) If the applicant has failed to furnish the department with information required in the application or reasonable additional information required by the department.

§ 18092.7. Tax clearance certificates *<Not applicable for CM exams>*

(a) The department shall withhold the registration or transfer of registration of any manufactured home, mobilehome, or floating home which is subject to local property taxation, other than a new manufactured home, mobilehome, or floating home for which application is being made for an original registration, until the applicant presents a tax clearance certificate or a conditional tax clearance certificate issued pursuant to Section 2189.8 or 5832 of the

Revenue and Taxation Code by the tax collector of the county where the manufactured home, mobilehome, or floating home is located. Any conditional tax clearance certificate presented shall indicate that the tax liability has been satisfied pursuant to paragraph (3) of subdivision (m) of Section 18035.

(b) In lieu of the tax clearance certificate or conditional tax clearance certificate required by subdivision (a), the department may accept a certification signed by the escrow officer under penalty of perjury that the tax collector of the county where the manufactured home is located has failed to respond to the written demand for a conditional tax clearance certificate as prescribed by subdivision (1) of Section 18035.

§ 18093. Certificates of origin

(a) At the time of release of a new manufactured home, mobilehome, or commercial coach to any person, the manufacturer shall prepare a certificate of origin, in quadruplicate, on numbered forms prepared by the department which shall contain all of the following:

(1) The name and address of the manufacturer or fabricator.

(2) The manufacturer's identification number.

(3) The trade name of the manufactured home, mobilehome, or commercial coach.

(4) The model name or number of the manufactured home, mobilehome, or commercial coach.

(5) The shipping weight of the unit or separate sections of the unit in the case of multisection manufactured homes, mobilehomes, or commercial coaches.

(6) The length and width of the unit or separate sections of the unit in the case of multisection manufactured homes, mobilehomes, or commercial coaches.

(7) The serial number of the unit or separate sections of the unit in the case of multisection manufactured homes, mobilehomes, or commercial coaches.

(8) The date of manufacture.

(9) The United States Department of Housing and Urban Development label number or department insignia number affixed to the unit or separate sections of the unit in the case of multisection manufactured homes, mobilehomes, or commercial coaches, as applicable.

(10) The date that the ownership was transferred from the manufacturer or fabricator and to whom the ownership is transferred.

(11) A certification of facts signed by a responsible agent of the manufacturer or fabricator.

(12) The name and business address of any person known to the manufacturer or fabricator who, as to the purchaser, has a purchase money security interest in the manufactured home, mobilehome, commercial coach, or truck camper as contemplated by Section 9103 of the Commercial Code.

(13) Any other information as the department may reasonably require.

(b) The manufacturer or fabricator shall forward the original and duplicate copies of the certificate of origin by first–class mail as follows:

(1) The original shall be forwarded to the purchase money creditor unless there is none in which event the original shall be forwarded to the purchaser.

(2) The first copy shall be forwarded to the department at the address printed on the form.

(3) The second copy shall accompany the manufactured home, mobilehome, or commercial coach to its destination.

(4) The third copy shall be retained by the manufacturer or fabricator for its permanent records.

(c) The department may establish regulations for the distribution, maintenance, accessibility, and surrender of certificates of origin required by this section.

§ 18093.5. Certificate of origin for truck camper *<Not applicable for CM or MH exams>*

The manufacturer of a truck camper, the owner or purchaser of which chooses to register it pursuant to Section 18075.7, shall prepare a certificate of origin containing all of the information required by Section 18093 and provide the purchaser with an original copy.

Article 4 Amendments, Transfers, and Transactions

§ 18098. Notification of change of address

(a) Whenever any person, after making application for the registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home required to be registered under this part, or after obtaining registration or being recorded on the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home registration as registered owner, legal owner, or junior lienholder, moves or acquires a new permanent address, that person shall, within 10 days thereafter, notify the department of both the old and new address.

(b) No penalty shall arise from the failure of any person to notify the department pursuant to this section.

(c) Neither the department nor any person shall be subject to any civil liability with respect to any notification required by statute or regulation to be mailed to a registered owner at his or her address if sent as required by law to the address last reported to the department as required by subdivision (a).

(d) Any registered owner who notifies the department pursuant to subdivision (a) shall mark out the former address shown on the face of the registration card issued for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and indelibly write or type the new address on the face of the card adjacent to the former address and shall initial this change.

§ 18099. Notification of new situs address of commercial coach ***<Not applicable for MH exams>***

Any registered owner of a commercial coach required to be registered under this part who moves, permits to be moved, or causes to be moved, the commercial coach from the situs location indicated on the registration card shall notify the department within 10 days thereafter of both the old and new address of situs. The registered owner shall mark out the situs address shown on the card and indelibly write or type the new situs address on the registration card and shall initial this change.

§ 18099.5. Consent to change of situs ***<Not applicable for CM exams>***

(a) Except as otherwise provided in subdivision (b), no person shall move, permit to be moved, or cause to be moved, any manufactured home, mobilehome, or floating home from the situs indicated on the registration card, without first obtaining the written consent of the legal owner and of each junior lienholder, if any. The written consent shall be obtained on forms approved by the department. In the event that there is no legal owner and no junior lienholder, the registered owner shall complete the written consent form. The original copy of each written consent form shall accompany the manufactured home, mobilehome, or floating home to its new situs in lieu of a registration card.

If the person proposing to move a manufactured home, mobilehome, or floating home required to be registered under this part shall have requested the consent required by subdivision (a) delivered to a secured party or mailed to such person by certified mail, return receipt requested, and the secured party has within 30 days neither given nor withheld its consent, the person proposing to move the manufactured home, mobilehome, or floating home shall notify the department on a form approved by the department of such event and a copy of such form shall accompany the manufactured home, mobilehome, or floating home to its new situs.

§ 18100. Amended registration cards ***<Not applicable for CM exams>***

Any registered owner, legal owner, or junior lienholder who moves, permits to be moved, or causes to be moved, a manufactured home, mobilehome, or floating home subject to registration under this part shall apply to the department within 10 days therefrom for an amended registration card upon forms provided by the department and with fees for an amended registration card as prescribed by the department. The application shall include, but not be limited to, all of the following:

(a) A copy of the written consent form required by Section 18099.5.

(b) Any information which the department may require relating to the new situs location.

(c) The current registration card.

In the event that the new situs location cannot be determined at the time of application, the application shall so indicate and the department shall hold the application in suspense until this information is received. The applicant or the applicant's agent shall, immediately upon determining a new situs address where the manufactured home, mobilehome, or floating home is to be installed for occupancy, notify the department of the new situs address.

Upon receipt of the completed application the department shall issue an amended registration card for the manufactured home, mobilehome, or floating home to the registered owner.

§ 18100.5. Notification of transfer of title or interest, satisfaction of obligation, or taking of security interest; Transfer of registration

(a) If the title or interest of a registered owner, legal owner, junior lienholder in a manufactured home, mobilehome, commercial coach, or truck camper, or floating home for which an original registration under this part has been obtained is transferred to another person, or, if all outstanding secured obligations previously held by a legal owner registered on the original or a subsequent registration or by a junior lienholder are satisfied and the person no longer has any obligation to extend credit, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, truck camper, or floating home, or, if a security interest is taken in a manufactured home, mobilehome, commercial coach, truck camper, or floating home after the permanent title record has been established, the department shall be notified within 20 days and shall act as follows:

(1) If the title or interest of a registered owner or legal owner is being transferred, the transferor and the transferee of the title or interest shall execute in the manner prescribed by the department the certificate of title for the manufactured home, mobilehome, commercial coach, truck camper, or floating home. If the transfer is made by a registered owner and the transferee is to assume the underlying indebtedness secured by the manufactured home, mobilehome, commercial coach, truck camper, or floating home and owed to a legal owner, the legal owner shall state on the certificate of title that legal title and interest are to be retained. The certificate of title along with all other supporting documents shall be forwarded to the department with appropriate fees. The department shall appropriately amend the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, forward a new certificate of title reflecting the change to the permanent title record to the legal owner by first–class mail, and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record. If there is no legal owner, the new certificate of title and amended registration card shall be forwarded to the registered owner.

(2) If the interest of a junior lienholder is being transferred, the transferor and the transferee shall execute in a manner prescribed by the department the registration card, and the card so executed shall be forwarded to the department with appropriate fees. The department shall appropriately amend the permanent title record and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record.

(3) If a creditor acquires a security interest in a manufactured home, mobilehome, commercial coach, truck

camper, or floating home after the permanent title record has been established, the department shall amend the permanent title record to reflect the interest as that of a legal owner or as that of a junior lienholder, as appropriate. If the permanent title record already reflects the interest of one or more junior lienholders, the creditor then perfecting its interest pursuant to this section shall be designated as the most junior lienholder.

(4) If a legal owner no longer holds an outstanding obligation or a commitment to make advances, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, or truck camper, or floating home, the legal owner shall indicate its release of lien by appropriately signing the certificate of title for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and forward the certificate of title to the department with appropriate fees. The department shall appropriately amend the permanent title record for the manufactured home, mobilehome, commercial coach, truck camper, or floating home, deliver a new certificate of title reflecting the change to the permanent title record to the new legal owner, if any, by first–class mail, and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the registration card. For purposes of this paragraph, the following person shall be designated as the new legal owner:

(A) The junior lienholder, if any.

(B) If there is more than one junior lienholder, the junior lienholder whose statement of lien was designated as the most senior junior lienholder on the permanent title record shall be the legal owner.

(5) If a junior lienholder no longer holds an outstanding obligation or a commitment to make advances, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, truck camper, or floating home, the junior lienholder shall forward the properly executed and released junior lienholder registration card to the department with appropriate fees. The department shall appropriately amend the permanent title record for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record.

(b)(1) Notwithstanding subdivision (d) of this section and subdivisions (c) and (e) of Section 18080.7, for the 120– day period beginning upon the receipt by the department of the notice of escrow and appropriate fee provided by paragraph (2) of subdivision (d) of Section 18035, or until the escrow is canceled or until the escrow closes and the resulting transfers of ownership interests and transfers or creation of legal owner and junior lienholder interests are acknowledged by the department as amendments to the permanent title record of the manufactured home, mobilehome, truck camper, or floating home, whichever is earlier, the department, except at its sole discretion, shall impose a moratorium on all of the following:

(A) On any other amendments to the permanent title record of the manufactured home, mobilehome, truck camper, or floating home for the purpose of transferring any ownership interest or transferring or creating any security interest in the manufactured home or mobilehome.

(B) On issuing any duplicate, substitute, or new certificate of title, registration card, or copy of a registration card regarding the manufactured home, mobilehome, or floating home.

(C) On subsequent notices of escrow openings.

(2) The department shall, upon receipt of the notice of escrow and the appropriate fee, forward to the escrow agent an acknowledgment of receipt and a true and correct copy of the permanent title record as of the commencement of the period of moratorium.

(c) If a secured party fails to comply with the provisions of subdivision (a) relating to releases of lien and the secured party thereafter receives a written demand from the registered owner that the secured party release its lien, the secured party shall be liable to the registered owner for all actual damages suffered by the registered owner by reason of the failure to release the lien unless the secured party, within 20 days of receipt of the demand, complies with the requirements of subdivision (a), except where the secured party has reasonable cause for noncompliance.

(d) Whenever the title or interest of the registered owner or legal owner in or to a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered under this part passes to another in a manner other than by voluntary transfer, the new registered owner or legal owner may obtain a transfer of registration upon application therefor and upon presentation of the last certificate of title, if available, and current registration card, if available, issued for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and any instruments or documents of authority or certified copies thereof as may be required by the department, or required by law, to evidence or effect the transfer of title or interest in that case. The department, when satisfied of the genuineness and regularity of the transfer, shall amend the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, issue a new current registration card and certificate of title, and forward copies of the current registration card to all junior lienholders.

(e) The department shall not transfer registration until the applicant complies with the requirements of Section 18092.7.

§ 18101. Conditions precedent to transfer of title

No transfer of the title of a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered under this code shall be effective until the transferor has made proper endorsement and delivery of the certificate of title and delivery of the registration card to the transferee as provided in this code.

§ 18101.5. Dealers as transferees

When the transferee of a manufactured home, mobilehome, commercial coach, or truck camper is a dealer who holds it for resale and moves it upon the highways under transportation decals, the dealer is not required to make application for transfer, but upon transferring his or her title or interest to another person, he or she shall comply with this chapter.

§ 18102. Transfer of registration to surviving heir or beneficiary

(a) If 40 days have elapsed since the death of a registered or legal owner of a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered under this part, without the decedent leaving other property necessitating probate, and irrespective of the value of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, the following person or persons may secure a transfer of registration of the title or interest of the decedent:

(1) The sole person or all of the persons who succeeded to the property of the decedent under Sections 6401 and 6402 of the Probate Code, unless the manufactured home, mobilehome, commercial coach, truck camper, or floating home is, by will, otherwise bequeathed.

(2) The sole beneficiary or all of the beneficiaries who succeeded to the manufactured home, mobilehome, commercial coach, truck camper, or floating home under the will of the decedent, where the manufactured home, mobilehome, commercial coach, truck camper, or floating home is, by will, so bequeathed.

(b) The person authorized by subdivision (a) may secure a transfer of registration of the title or interest of the decedent upon presenting to the department all of the following:

(1) The appropriate certificate of title and registration card, if available.

(2) A certificate of the heir or beneficiary under penalty of perjury containing the following statements:

(A) The date and place of the decedent's death.

(B) The decedent left no other property necessitating probate and no probate proceeding is now being or has been conducted in this state for the decedent's estate.

(C) The declarant is entitled to the manufactured home, mobilehome, commercial coach, truck camper, or floating home either (i) as the sole person or all of the persons who succeeded to the property of the decedent under Sections 6401 and 6402 of the Probate Code if the decedent left no will or (ii) as the beneficiary or beneficiaries under the decedent's last will if the decedent left a will, and no one has a right to the decedent's manufactured home, mobilehome, commercial coach, truck camper, or floating home that is superior to that of the declarant.

(D) There are no unsecured creditors of the decedent or, if there are, the unsecured creditors of the decedent have been paid in full or their claims have been otherwise discharged.

(3) If required by the department, a certificate of the death of the decedent.

(4) If required by the department, the names and addresses of any other heirs or beneficiaries.

(c) If the department is presented with the documents specified in paragraphs (1) and (2) of subdivision (b), no liability shall be incurred by the department or any officer or employee of the department by reason of the transfer of registration of the manufactured home, mobilehome, commercial coach, truck camper, or floating home pursuant to this section. The department or officer or employee of the department may rely in good faith on the statements in the certificate specified in paragraph (2) of subdivision (b) and has no duty to inquire into the truth of any statement in the certificate. The person who secures the transfer of the manufactured home, mobilehome, commercial coach, truck camper, or floating home pursuant to this section is subject to the provisions of Sections 13109 to 13113, inclusive, of the Probate Code to the same extent as a person to whom transfer of property is made under Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code.

§ 18102.2. Transfer of ownership to beneficiary; Revocation

(a) On death of the owner of a manufactured home, mobilehome, commercial coach, truck camper, or floating home owned in beneficiary form, the manufactured home, mobilehome, commercial coach, truck camper, or floating home belongs to the surviving beneficiary, if any. If there is no surviving beneficiary, the manufactured home, mobilehome, commercial coach, truck camper, or floating home belongs to the estate of the deceased owner.

(b) Ownership registration and title issued in beneficiary form may be revoked or the beneficiary changed at any time before the death of the owner by either of the following methods:

(1) By sale of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, with proper assignment and delivery of the certificate of title to another person.

(2) By application for a change in registered owner without designation of a beneficiary or with the designation of a different beneficiary.

(c) Except as provided in subdivision (b), designation of a beneficiary in ownership registration and title issued in beneficiary form may not be changed or revoked by will, by any other instrument, by a change of circumstances, or otherwise.

(d) The beneficiary's interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home at death of the owner is subject to any contract of sale, assignment, or security interest to which the owner was subject during his or her lifetime.

(e) The surviving beneficiary may secure a transfer of ownership for the manufactured home, mobilehome, commercial coach, truck camper, or floating home upon presenting to the department all of the following:

(1) The appropriate certificate of title.

(2) A certificate under penalty of perjury stating the date and place of the death of the owner and that the declarant is entitled to the manufactured home, mobilehome, commercial coach, truck camper, or floating home as the designated beneficiary.

(3) If required by the department, a certificate of the death of the owner.

(f) After the death of the owner, the surviving beneficiary may transfer his or her interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home to another person without securing transfer of ownership into his or her own name by appropriately signing the certificate of title for the manufactured home,

mobilehome, commercial coach, truck camper, or floating home and delivering the document to the transferee for forwarding to the department with appropriate fees. The transferee may secure a transfer of ownership for the manufactured home, mobilehome, commercial coach, truck camper, or floating home, upon presenting to the department (1) the certificate of title signed by the beneficiary, (2) the certificate described in paragraph (2) of subdivision (e) executed by the beneficiary under penalty of perjury; and (3) if required by the department, a certificate of death of the owner.

(g) A transfer at death pursuant to this section is effective by reason of this section and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(h) A transfer at death pursuant to this section is subject to Section 9653 of the Probate Code.

(i) If there is no surviving beneficiary, the person or persons described in Section 18102 may secure transfer of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, as provided in that section.

(j) The department may prescribe forms for use pursuant to this section.

§ 18102.3. Protection from liability

(a) If the department makes a transfer pursuant to Section 18102.2, the department is discharged from all liability, whether or not the transfer is consistent with the beneficial ownership of the manufactured home, mobilehome, commercial coach, truck camper, or floating home transferred.

(b) The protection provided by subdivision (a) does not extend to a transfer made after the department has been served with a court order restraining the transfer. No other notice or information shown to have been available to the department shall affect its right to the protection afforded by subdivision (a).

(c) The protection provided by this section has no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(d) The protection provided by this section is in addition to, and not exclusive of, any other protection provided to the department by any other provision of law.

§ 18102.5. Transfer of registration when documents of title are unavailable

If application is made to the department for a transfer of registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home to a new registered or legal owner and if the applicant is unable to present the certificate of title or registration card issued for the manufactured home, mobilehome, commercial coach, truck camper, or floating home because it is lost or otherwise not available, the department may receive the application and investigate the circumstances of the case and may require the filing of certifications or other information. When the department is satisfied that the applicant is entitled to a transfer of registration, the department may transfer the registration of the manufactured home, mobilehome, commercial coach, truck camper, or floating home and issue a new certificate of title and registration card to the person or persons found to be entitled thereto.

§ 18103. Transfer of registration while renewal application is pending

Whenever application is made to the department for a transfer of registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home to a new registered or legal owner and the applicant is unable to present the registration card issued for the manufactured home, mobilehome, commercial coach, truck camper, or floating home because it is in the possession of the department upon an application for renewal of registration, the department may transfer the registration of the manufactured home, mobilehome, commercial coach, truck camper, or floating home upon production of the properly endorsed certificate of title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home and a temporary receipt, on a form prescribed by the department containing any information that the department deems necessary, including, but not limited to, the registration decal number assigned to the manufactured home, mobilehome, commercial coach, truck camper, or floating home and the serial number of the manufactured home, mobilehome, commercial coach, truck camper, or floating home and accompanied by the amount of fees for renewal of the registration.

§ 18105. Priority of security interests

(a) Except as otherwise provided in subdivision (e) or (g), the security interest of the legal owner has priority over conflicting security interests of junior lienholders and holders of security interests perfected pursuant to Sections 9306 and 9313 of the Commercial Code and of unperfected security interests in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part and its proceeds.

(b) Except as otherwise provided in subdivision (e) or (g), the security interest of a junior lienholder has priority over conflicting security interests of holders of security interests perfected pursuant to Section 9313 of the Commercial Code and of unperfected security interests in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part and its proceeds. Conflicting security interests of junior lienholders rank in the order designated on the permanent title record maintained by the department.

(c) Except as otherwise provided in subdivision (e) or (g), a security interest perfected pursuant to Section 9313 of the Commercial Code has priority over conflicting unperfected security interests in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part and its proceeds.

(d) Except as otherwise provided in subdivision (e) or (g), conflicting unperfected security interests in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part and its proceeds rank according to priority in time of attachment.

(e)(1) Except as otherwise provided in subdivision (g), the security interest of any secured party shall not have priority over any security interest of a party having a subordinate security interest by virtue of the preceding provisions of this section to the extent that the otherwise senior secured obligation was incurred subsequent to receipt by that creditor of actual or constructive notice of the existence of the otherwise junior security interest unless the obligation arose pursuant to the terms of a security agreement for the purpose of preserving the collateral or protecting the interest of the senior secured party therein or unless the otherwise senior secured obligation was incurred under a binding agreement that the credit would be extended by that creditor.

(2) For purposes of this subdivision receipt of a copy of the registration certificate which reflects the existence of a security interest shall constitute constructive notice of the existence of the security interest. In interpreting the provisions of this subdivision but for no other purposes, it is the intent of the Legislature that the priorities among conflicting security interests be determined in accordance with the rules of law applicable to priority as to interests in real property.

(f) Except as otherwise provided in subdivision (g), the security interest of the legal owner or a junior lienholder has priority over a conflicting security interest of a holder of a perfected security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part which is inventory, including the proceeds of the inventory. The rules of priority regarding conflicting security interests of holders of a perfected security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part which is inventory and of holders of security interests perfected pursuant to Sections 9306 and 9313 of the Commercial Code or unperfected security interests in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part shall be governed by Sections 9322, 9323, 9324, and 9325 of the Commercial Code.

(g) If the holders of two or more of the several security interests shall otherwise agree among themselves, the relative priorities among the holders of security interests who have so agreed shall be determined according to this agreement.

§ 18105.5. Assignment of title or interest by legal owner or junior lienholder

A legal owner or junior lienholder may assign title or interest to a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part without the consent, and without affecting the interest of the registered owner or other lienholders.

§ 18106. Priority of rights of lien creditors and persons with security interests

(a) As used in this section, “lien creditor” means a creditor who has acquired a lien on a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part by attachment, levy, or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition, or a receiver in equity from the time of appointment, as contemplated by Section 9102 of the Commercial Code.

(b) Except as provided in subdivision (c), an unperfected security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part is subordinate to the rights of a person who becomes a lien creditor before the security interest is perfected.

(c) If a security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home becomes perfected as contemplated by subdivision (a) of Section 18080.7, the security interest is senior to the rights of a lien creditor which arise between the time the security interest attaches and the time of perfection.

(d) A person who becomes a lien creditor while a security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home is perfected by any of the means contemplated by subdivision (b) of Section 18080.7 takes subject to the perfected security interest only to the extent that it secures advances either made before that person becomes a lien creditor or made thereafter which would otherwise be senior to a competing security interest as provided in subdivision (e) of Section 18105.

Article 5 Renewals and Replacements

§ 18108. Replacement of registration cards and decals

If any registration card or registration decal is stolen, lost, mutilated, or illegible, the registered owner of the manufactured home, mobilehome, commercial coach, truck camper, or floating home for which it was issued, as shown by the records of the department, shall immediately make application for, and may, upon the applicant furnishing information satisfactory to the department and paying the required fees, obtain a duplicate, substitute, or new registration under a new registration number, as determined by the department.

§ 18108.5. Replacement of certificates of title

If any certificate of title is stolen, lost, mutilated, or illegible, the legal owner of the manufactured home, mobilehome, commercial coach, truck camper, or floating home for which it was issued, as shown by the records of the department, shall immediately make application for, and may, upon payment of required fees and the applicant furnishing information satisfactory to the department, obtain a duplicate certificate of title.

§ 18109. Expiration and renewal of registration cards

Except as otherwise provided in this part, every registration card for a manufactured home, mobilehome, or commercial coach subject to annual registration shall expire at midnight on the expiration date indicated on the registration card and shall be renewed prior to that expiration. The department, upon presentation by the registered owner of the registration card or potential registration card last issued and receipt of the proper renewal fees, shall renew the

registration of a manufactured home, mobilehome, or commercial coach.

§ 18109.5. Renewal of certificates of title

Certificates of title shall not be required to be renewed annually, but shall remain valid until a new or amended certificate of title is issued upon a transfer of any interest of the registered owner or legal owner shown thereon.

§ 18110. Application for transfer to provide duplicate certificate of title

When the required certificate of title is stolen, lost, mutilated, or illegible, application for transfer may be made upon a form provided by the department for a duplicate certificate of ownership. The transferor shall sign and address the application, as appropriate, and file it together with the proper fees for duplicate certificate of ownership and transfer.

Article 6 Fees and Taxes

§ 18114. Registration fees

(a) A registration fee of twenty-three dollars ($23) shall be due and payable to the department at the time of original registration or renewal of registration for each transportable section of a manufactured home, mobilehome, or commercial coach that is subject to annual renewal.

(b) For a manufactured home, mobilehome, or truck camper that is not subject to annual renewal, the registration fee of twenty-three dollars ($23) shall be due for each transportable section at the time of original registration and upon application for each subsequent change, addition, or deletion of registered owners, legal owners, or junior lienholders and shall be in addition to any other fees that may be required by the application.

(c) A registration fee of forty-two dollars ($42) shall be charged for each original application for registration of a floating home and for each subsequent application to record a change, addition, or deletion of registered owners, legal owners, or junior lienholders of a floating home. This fee shall be in addition to any other fees that may be required by the application.

(d) A registration fee is delinquent if not paid in accordance with the following:

(1) On or before the expiration date of the previous registration year for all annual renewals.

(2) Ten days after the date the transaction is complete, as defined in subdivision (e) of Section 18080.5, for all transactions by or through a dealer whenever a manufactured home, mobilehome, or commercial coach is sold, rented, leased, leased with an option to buy, or otherwise transferred, except that for registration fees due because of annual renewal, the fee is delinquent after the expiration date of the previous registration year.

(3) Except for dealer transactions, 20 days after the registration fee became due for original registration required by subdivision (a), and for registration fees required by subdivisions (b) and (c).

(e) A penalty of three dollars ($3) shall be added for each registration fee that is delinquent. No penalty is due if the application and required registration fees were placed in the United States mail before midnight on the day before the fee became delinquent, as evidenced by postmark or affidavit by the applicant.

§ 18114.1. Additional annual fee; Exemption for transportable sections ***<Not applicable for CM exams>***

(a) In addition to the annual registration fee required by Section 18114, an annual fee of five dollars ($5) shall be paid to the department at the time of registration or renewal for each transportable section of a manufactured home or mobilehome registered pursuant to this part. All revenues derived from this fee shall be deposited in the Mobilehome Park Purchase Fund provided for in Chapter 11 (commencing with Section 50780) of Part 2 of Division 31.

(b) Any transportable section of a manufactured home or mobilehome registered pursuant to this part and located on a private parcel owned by the registered owner of the manufactured home or mobilehome shall be exempt from the fee imposed by subdivision (a), if the owner provides documentation or a written statement, signed under penalty of perjury, which establishes to the satisfaction of the department that the manufactured home or mobilehome is located on a private parcel owned by the registered owner of the manufactured home or mobilehome.

(c) Pursuant to subdivision (b), upon renewal of registration in 1989, or thereafter, once the registered owner provides documentation or a written statement to the department to establish the exemption, the department shall not require the owner to establish the exemption in each subsequent year upon renewal, unless the department receives evidence that the manufactured home or mobilehome is no longer located on a private parcel owned by the registered owner of the home. Renewal forms for registered owners of manufactured homes or mobilehomes who have established the exemption shall not reflect or include the fee required pursuant to subdivision (a).

§ 18114.5. Payment of registration fees by transferees

When renewal fee penalties have not accrued with respect to a manufactured home, mobilehome, or commercial coach subject to this chapter and the manufactured home, mobilehome, or commercial coach is transferred, the transferee shall have a period of 20 days from the date of the transfer to pay any registration fees which become due without payment of any penalties that would otherwise be required.

§ 18115. Vehicle license fees

Commencing July 1, 1981, the vehicle license fee levied pursuant to Section 10751 of the Revenue and Taxation Code on manufactured homes and mobilehomes not subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code, or commercial coaches, shall be paid to the department. The annual amount of the fee shall be a sum equal to 2 percent, and on and after January 1, 2005, 0.65 percent, of the market value of the manufactured home, mobilehome, or commercial coach. The market value shall be determined by the department upon the basis of the original sales price of the manufactured home, mobilehome, or commercial coach when first sold to a consumer as a new manufactured home, mobilehome, or commercial coach. The annual amount of the fee

charged to the owner of a manufactured home or mobilehome subject to a license fee which replaces a manufactured home or mobilehome destroyed, on or after January 1, 1982, as the result of a disaster declared by the Governor, and which meets the requirements of Chapter 2.6 (commencing with Section 172) of Part 1 of Division 1 of the Revenue and Taxation Code, shall be determined in accordance with Section 172.1 of the Revenue and Taxation Code. In the event any manufactured home, mobilehome, or commercial coach subject to this article is modified or added to at a cost of two hundred dollars ($200), or more, a copy of the building permit required for these modifications shall be entered in the permanent record of the manufactured home, mobilehome, or commercial coach and the department shall classify or reclassify the manufactured home, mobilehome, or commercial coach in its proper class as provided in Section 18115.5. These provisions shall not apply in the event that the modifications are necessary to enable a handicapped person to enter and use the manufactured home, mobilehome, or commercial coach.

§ 18115.5. Classification plan; Determination of market value

(a) For the purposes of this article, a classification plan is established consisting of the following classes: a class from no dollar ($0) to and including forty–nine dollars and ninety–nine cents ($49.99); a class from fifty dollars ($50) to and including one hundred ninety–nine dollars and ninety–nine cents ($199.99); and thereafter a series of classes successively set up in brackets having a spread of two hundred dollars ($200), consisting of a number of classes as will permit classification of all manufactured homes, mobilehomes, or commercial coaches.

(b) The market value of a manufactured home, mobilehome, or commercial coach subject to this article for each registration year of its life, shall be a percentage of that sum, determined as follows:

Registration year	Percentage
First	85
Second	70
Third	55
Fourth	45
Fifth	40
Sixth	35
Seventh	30
Eighth	25
Ninth	24
10th	23
11th	22
12th	21
13th	20
14th	19
15th	18
16th	17
17th	16
18th each succeeding year	15

It is the intent of this section that the market value of any manufactured home, mobilehome, or commercial coach subject to this article shall be the same in each registration year of its life as it would be if determined pursuant to Sections 10752.1, 10753, 10753.2, 10753.3, and 10753.4 of the Revenue and Taxation Code.

§ 18116. Payment of license fees; Late fees

(a) A license fee is due and payable each year for renewal of registration, on or before midnight of the expiration date assigned by the department and noted on the registration card for all manufactured homes, mobilehomes, and commercial coaches which are not subject to local property taxation or otherwise exempt. The license fee is due and payable to the department in accordance with the following applicable time periods:

(1) As of the original date of sale, rental, or lease of a new commercial coach.

(2) Twenty days after the date of entry into California of a commercial coach previously registered in another state.

(3) Twenty days after the date of entry into California of a manufactured home or mobilehome sold as new prior to July 1, 1980, and previously registered in another state.

(b) License fees due for original registration of a new commercial coach are delinquent if not deposited with the department within 10 days of the original date of sale, rental, or lease. License fees due for renewal of registration for a manufactured home, mobilehome, or commercial coach are delinquent if not paid on or before midnight of the expiration date assigned by the department and noted on the registration card that was last issued. License fees due for a manufactured home, mobilehome, or commercial coach previously registered in another state are delinquent if not paid within 40 days after the date of entry into California. A penalty equal to 20 percent of the license fee due shall be added to any license fee due if it is allowed to become delinquent for a period of from 1 through 119 days. No penalty is due if the application and required license fees were placed in the United States mail before midnight on the day before the fees became delinquent, as evidenced by postmark or affidavit by the applicant.

(c) An added penalty of fifty dollars ($50) per transportable section shall be collected along with any other license fee and penalty due if the license fee for renewal of registration for a manufactured home or mobilehome is allowed to become delinquent for 120 days or more.

(d) An added penalty of two hundred dollars ($200) for each commercial coach shall be added to any license fee and penalty due if the license fee due for an original registration or for each subsequent renewal of registration is allowed to

become delinquent for 120 days or more.

(e) It is the intent of the Legislature that license fees levied on manufactured homes, mobilehomes, or commercial coaches subject to this part shall not be altered or increased from the rates and levels of license fees established prior to January 1, 1981.

§ 18116.1. Liens

(a) Nonpayment of the fees and penalties provided for in Sections 18114, 18114.1, and 18115, and in subdivisions (a), (b), (c), and (d) of Section 18116 that are due on a mobilehome, manufactured home, commercial coach, truck camper, or floating home shall constitute a lien in favor of the State of California in the amount owing.

(b) Notwithstanding any other provision of law, the lien provided for in subdivision (a) shall include all fees and penalties due and unpaid beginning with the fees for original registration that became delinquent for 120 days or more and continue to accrue to include all fees and penalties that subsequently become due and remain unpaid.

(c) Until the amount of a lien provided for in subdivision (a) or (b) is paid to the department, the department shall not do either of the following:

(1) Amend the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home which is the subject of the lien for the purpose of transferring any ownership interest or transferring or creating any security interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(2) Issue any duplicate, substitute, or new certificate of title, registration card, or copy of a registration card with respect to the manufactured home, mobilehome, commercial coach, truck camper, or floating home which is the subject of the lien.

§ 18116.2. Unsatisfied liens; Seizure; Notice; Proceeds of sale

(a) If the lien in favor of the State of California in the amount owing as provided by Section 18116.1 is against a commercial coach, and that lien has not been satisfied for a period of one year from the date the commercial coach became subject to the lien, the department may collect the amount of the lien on the commercial coach plus costs not to exceed four hundred fifty dollars ($450) by appropriate civil action or by seizure and sale of the commercial coach and its contents on which the lien has been placed or by seizure and sale of any other commercial coach owned by the owner of the commercial coach on which the lien has been placed.

(b) At least 10 days before the seizure, notice of the lien and of the intent to seize and sell the commercial coach and its contents shall be given by the department to the registered owner and legal owners, and any other persons known to be claiming an interest in the commercial coach or its contents, by registered mail addressed to those persons at the last known address appearing on the department's records.

(c) Any person receiving the notice of the lien and the intent to seize and sell the commercial coach and its contents may request a hearing to contest the existence or the amount of the lien. If no hearing is requested, the commercial coach and its contents shall be seized and sold.

(d) If a hearing is requested, a 10–day notice shall be given of the time and place of the hearing, which shall be held within the county of residence of the person requesting the hearing or of the registered owner. The hearing shall be conducted by a referee, who shall submit findings and recommendations to the director of the department or the director's authorized representative, who shall decide the matter. The decision shall be effective on notice thereof to the interested parties.

(e) At any time before seizure or sale, any registered owner, legal owner or person claiming an interest in the commercial coach or its contents may pay the department the amount of the lien, plus costs. In that event, the seizure and sale shall not be held and the commercial coach and its contents, if seized, shall be returned by the department to the person entitled to its possession. This payment shall not constitute a waiver of the right to a hearing.

(f) When the department or an authorized agent has reasonable cause to believe that the lien may be jeopardized within the 10–day notice of intent period, the commercial coach and its contents may be seized without prior notice to the registered owner or legal owner, upon obtaining authorization for the seizure from the director of the department or the director's authorized representative. In those cases, a notice of the lien and the intent to sell the commercial coach and its contents shall be given by the department to the registered and legal owners and anyone known to be claiming an interest in the commercial coach or its contents, within 48 hours after seizure, excluding Saturdays, Sundays and the holidays specified in Section 6700 of the Government Code. Any hearing to contest the lien and the seizure shall be requested within 10 days of the date that notice was placed in the United States mail.

(g) When a lien exists against one or more commercial coaches owned by the same person, persons, or company, the department may seize and sell a sufficient number of commercial coaches to satisfy the lien plus costs, in accordance with subdivision (a).

(h) Any state, municipality, or county law enforcement agency may assist with the seizure and impounding of the commercial coach.

(i) The department shall make a physical inventory of all the contents of a commercial coach that has been seized within 24 hours of the time of seizure. Copies of the inventory of contents shall be made available to any one rightfully entitled to that information.

(j) After deducting from the proceeds of sale, any amount due to satisfy the lien in favor of the state and the cost of the seizure and sale, any excess proceeds of sale shall be deposited in a special account. The registered owner, legal owner, or anyone claiming an interest in the mobilehome or its contents may file a claim to share in the excess proceeds of sale within one year from the date of sale. If any excess proceeds of sale remain in this special account after one year from

the date of sale that money shall be transferred to the Mobilehome–Manufactured Home Revolving Fund.

§ 18116.5. Exemptions from use tax ***<Not applicable for CM exams>***

Used manufactured homes, used mobilehomes, and used floating homes subject to local property taxation are exempt from the payment of use tax upon resale or transfer as provided in Section 6379 of the Revenue and Taxation Code.

§ 18117. Payment of use tax for manufactured homes, mobilehomes, and commercial coaches previously registered out–of–state

An application for registration under this part of a manufactured home, mobilehome, or commercial coach previously registered outside of this state shall be accompanied by payment of the amount required to be paid under Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code with respect to the use of the manufactured home, mobilehome, or commercial coach by the applicant.

§ 18117.5. Transfer fee delinquencies

The transfer fee is delinquent if not paid within 20 days of receipt by the transferee of a properly executed certificate of title for the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

§ 18118. Payment of renewal fees in conjunction with registration transaction

Whenever any application for a change, addition, or deletion of the registered owner's name or names is filed with the department during the 60 days immediately preceding the expiration date of the current registration of a manufactured home, mobilehome, or commercial coach, subject to annual renewal of registration, the application shall be accompanied by the full renewal fees for the ensuing registration year in addition to any other fees that may be due and payable.

§ 18119. Delinquent license fee; Notice; Listing; Transfer

(a) If the license fee has not been paid on or before the 60th day following the date on which the fee became delinquent, the department shall mail a notice to the registered owner, legal owner and each junior lienholder shown on the permanent title record as of that date, containing the following information:

(1) That the license fee is delinquent.

(2) That the manufactured home or mobilehome will become subject to a penalty of fifty dollars ($50) per transportable unit pursuant to subdivision (b) of Section 18116, if the fees and penalties are not paid on or before the 120th day after the date of delinquency.

(b) On or before the last day of each calendar month, the department shall furnish a listing of new registrations and transfers of title to manufactured homes and mobilehomes subject to local property taxation under Section 5801 of the Revenue and Taxation Code, and of all voluntary transfers to local property taxation, as provided in subdivision (c), to the county assessor of the county in which the manufactured home or mobilehome is sited.

(c) The department shall transfer a manufactured home or mobilehome which is subject to vehicle license fee to local property taxation upon a request for the transfer, as prescribed by the department, executed by the registered owner, legal owner, and each junior lienholder. Transfer pursuant to this subdivision shall be final. Persons obtaining such a transfer thereby waive all entitlement to petition for reinstatement to the vehicle license fee, and are not entitled to the refund of any vehicle registration fees or vehicle license fees paid which apply to the period between the date of voluntary transfer and the expiration of the registration period for which the fees were paid.

Article 7 Penalties

§ 18122. Suspension, revocation, or cancellation of certificate of title; Notice

Except as it may affect a security interest properly perfected other than pursuant to Section 9313 of the Commercial Code, the department may suspend, revoke, or cancel any certificate of title valid on its face for any violation of the provisions of this chapter relating to certificates of title. The department shall notify all persons or entities with perfected security interests at the time that such an action is taken.

§ 18122.5. Unlawful acts with respect to transfer of registration

It is unlawful for any person to fail or neglect properly to endorse, date, and deliver the certificate of title and, when having possession, to fail to deliver the registration card to a transferee who is lawfully entitled to a transfer of registration. Except when the certificate of title is demanded in writing by a purchaser, a manufactured home, mobilehome, or commercial coach dealer licensed, as provided by this part, shall satisfy the delivery requirement of this section by submitting appropriate documents and fees to the department for transfer of registration in accordance with this part and rules and regulations promulgated thereunder.

§ 18123. Payment of use tax and penalty

(a) The department shall withhold the registration or the transfer of registration of any manufactured home, mobilehome, commercial coach, or truck camper sold at retail to any applicant by any person, other than a manufactured home, mobilehome, commercial coach, or truck camper manufacturer or dealer holding a license and certificate issued as provided for by this part, until the applicant pays to the department the use tax measured by the sales price of the manufactured home, mobilehome, commercial coach, or truck camper as required by the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), together with penalty, if any, unless the State Board of Equalization finds that no use tax is due. If the applicant so desires, he or she may pay the use tax and penalty, if any, to the department so as to secure immediate action upon his or her application for registration or

transfer of registration, and thereafter he or she may apply through the department to the State Board of Equalization under the provisions of the Sales and Use Tax Law for a refund of the amount so paid.

(b) The department shall transmit to the State Board of Equalization all collections of use tax and penalty made under this section. This transmittal shall be made at least monthly, accompanied by a schedule, in the form the department and board may prescribe.

(c) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section. The reimbursement shall be effected under agreement between the agencies, approved by the Department of Finance.

(d) In computing any use tax or penalty thereon under the provisions of this section, a fraction of a dollar shall be disregarded, unless it exceeds fifty cents ($0.50), in which case it shall be treated as the next higher full dollar. Computation of any penalty shall be made from the tax after the same has been computed as provided in this section. Any tax or penalty in the amount of one dollar ($1) or less shall be one dollar ($1). Payment of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as the requirements are applicable to the use of manufactured homes, mobilehomes, commercial coaches, or truck campers to which this section relates.

§ 18123.5. Violations by dealers

(a) A dealer who violates paragraph (1), (2), or (3) of subdivision (b) of Section 18080.5 shall pay to the department an administrative service fee of five dollars ($5) for each violation.

(b) A dealer who violates paragraph (4) of subdivision (b) of Section 18080.5, when selling, leasing, or renting a manufactured home, mobilehome, or commercial coach, shall pay to the department an administrative service fee as follows:

(1) If the application is submitted after 10 calendar days but within 20 calendar days from the date of sale, lease, or rental; ten dollars ($10).

(2) If the application is submitted after 20 calendar days but within 30 calendar days from the date of sale, lease, or rental; twenty dollars ($20).

(3) If the application is submitted after 30 calendar days but within 60 calendar days from the date of sale, lease, or rental; forty dollars ($40).

(4) If the application is submitted after 60 calendar days from the date of sale, lease, or rental; two hundred dollars ($200).

(c) Each violation of subdivision (b) of Section 18080.5 shall be, in addition to the obligation to pay the administrative service fee, a separate cause for discipline pursuant to Section 18058.

(d) Nonpayment of an administrative service fee within 10 days after written demand from the department shall be a separate cause for discipline pursuant to Section 18058.

§ 18124. Seizure of documents of title or decals

The department, the Department of the California Highway Patrol, or any regularly employed and salaried police officer or deputy sheriff, or any reserve police officer or reserve deputy sheriff, may take possession of any certificate, card, permit, transportation decal, or registration decal issued under this part which has expired, been revoked, canceled, or suspended; which is fictitious, or which has been unlawfully or erroneously issued or affixed.

This section shall not be applicable to any insignia issued pursuant to Section 18026 or to any manufactured home or mobilehome label issued pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.).

Any document or decal seized shall be expeditiously delivered to the department with a brief written explanation of the circumstances.

§ 18124.5. Fraudulent acts with respect to documents of title

Every person who, with intent to defraud, alters, forges, counterfeits, or falsifies any certificate of title, registration card, certificate, registration decal, or permit provided for by this part or any comparable certificate of title, registration card, certificate, decal, insignia, or label, with intent to represent it as issued by the department or who alters, forges, counterfeits, or falsifies with fraudulent intent any endorsement of transfer on a certificate of title, or who with fraudulent intent displays or causes or permits to be displayed or has in his or her possession any blank, incomplete, canceled, suspended, revoked, altered, forged, counterfeit, or false certificate of title, registration card, certificate, registration decal, or permit or who utters, publishes, passes, or attempts to pass, as true and genuine, any of the above–named false, altered, forged, or counterfeited matters knowing it to be false, altered, forged, or counterfeited with intent to prejudice, damage, or defraud any person, or who, with fraudulent intent, provides false information regarding an allegedly lost, stolen, damaged, or otherwise unavailable certificate of ownership, certificate of title, registration card, or statement of lien, is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison or in the county jail for not more than one year.

Chapter 9 MOBILEHOME OMBUDSMAN

§ 18150. Legislative findings and declarations *<Not applicable for CM exams>*

The Legislature finds and declares that increasing numbers of Californians live in manufactured homes and mobilehomes and that most of those manufactured home and mobilehome owners reside in mobilehome parks. Because of the growing number of problems and complaints dealing with various aspects of living in manufactured homes and mobilehomes, it is necessary to designate a Mobilehome Ombudsman within the Department of Housing and Community Development to better provide assistance to the public in handling and coordinating the resolution to those problems and

complaints.

§ 18151. Establishment of position; Powers and duties ***<Not applicable for CM exams>***

(a) The position of mobilehome ombudsman is hereby established in the Department of Housing and Community Development.

(b) Except as provided in subdivision (c), the ombudsman shall provide assistance in taking complaints, and helping to resolve and coordinate the resolution of those complaints, from the public relating to manufactured homes and mobilehomes, including, but not limited to, problems of titling and registration, installation, warranties, financing, other than financing by a supervised financial organization, as defined in Section 1801.6 of the Civil Code, sales, inspection of homes and parks, mobilehome accessories and improvements, and problems relating to the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code).

(c) The ombudsman shall not arbitrate, mediate, negotiate, or provide legal advice on mobilehome park rent disputes, lease or rental agreements, or disputes arising from lease or rental agreements, but may provide information on these issues.

(d) The ombudsman shall refer any alleged violations of law or regulations within the Department of Housing and Community Development's jurisdiction to the Division of Codes and Standards within the Department of Housing and Community Development.

§ 18152. Designation of deputy director

The Governor shall designate a deputy director in the Department of Housing and Community Development to serve as the Mobilehome Ombudsman.

§ 18153. Procedures to address complaints

The Mobilehome Ombudsman shall establish procedures to deal with complaints, including the publication of complaint forms and written materials which shall be made available to the public informing them of the functions of the Mobilehome Ombudsman and providing information on manufactured homes and mobilehomes. The ombudsman shall work with, and coordinate his or her efforts with, other divisions and sections of the department and with other agencies of state and local government.

Mobilehome Parks Act

<Excerpts>

California Health and Safety Code

http://www.leginfo.ca.gov/calaw.html

TABLE OF CHAPTER CONTENTS

MOBILEHOME PARKS ACT

HEALTH AND SAFETY CODE
Division 13 HOUSING
Part 2.1 MOBILEHOME PARKS ACT
Chapter 5 REGULATIONS
Article 1 GENERAL PROVISIONS

§ 18550. Unlawful use 75
§ 18550.5. Removal of towbar, wheels, wheel hubs, or axles; Manufacturer's delivery without same 75
§ 18551. Foundation systems; Installation as fixture or improvement; Installation as chattel 75
§ 18551.1. Placement of manufactured homes and mobilehomes on foundation systems 77
§ 18552. Building standards; Regulations for accessory buildings or structures; Installation above 4,000 feet; Snow roof load 77
§ 18555. Application for voluntary conversion to fixture and improvement; Escrow account; Tax clearance certificate; Recording of application; Cancellation of registration; Notice of removal 77
§ 18604. Insignia of approval for renting or leasing; Recreational vehicle in special occupancy park 79

Article 2 Mobilehome and Special Occupancy Park Lots

§ 18610.5. Creation, movement, or alteration of lot lines; Application for alteration permit; Fee; Submission to local planning agency 79
§ 18611. Affixing factory–built housing, mobilehomes, or manufactured homes on foundation systems in mobilehome parks 80
§ 18613. Permit required for installation of manufactured home or mobilehome; Inspection; Notice of defects; Fees 80
§ 18613.1. Extent of requirements 81
§ 18613.2. Copy of permit 81
§ 18613.3. Dimensioned plot plan of lot 81
§ 18613.4. Further requirements for installation or reinstallation 81
§ 18613.7. Permit for installation of bracing devices 82

Chapter 7 PENALTIES

§ 18700. Misdemeanors; Suspension or revocation of permit 82

HEALTH AND SAFETY CODE

Division 13 HOUSING
Part 2.1 MOBILEHOME PARKS ACT

Chapter 5 REGULATIONS
Article 1 GENERAL PROVISIONS

§ 18550. Unlawful use ***<Not applicable for CM exams>***

It is unlawful for any person to use or cause, or permit to be used for occupancy, any of the following manufactured homes or mobilehomes wherever the manufactured homes or mobilehomes are located, or recreational vehicles located in mobilehome parks:

(a) Any manufactured home, mobilehome, or recreational vehicle supplied with fuel, gas, water, electricity, or sewage connections, unless the connections and installations conform to regulations of the department.

(b) Any manufactured home, mobilehome, or recreational vehicle that is permanently attached with underpinning or foundation to the ground, except for a manufactured home or mobilehome bearing a department insignia or federal label, that is installed in accordance with this part.

(c) Any manufactured home or mobilehome that does not conform to the registration requirements of the department.

(d) Any manufactured home, mobilehome, or recreational vehicle in an unsafe or unsanitary condition.

(e) Any manufactured home, mobilehome, or recreational vehicle that is structurally unsound and does not protect its occupants against the elements.

§ 18550.5. Removal of towbar, wheels, wheel hubs, or axles; Manufacturer's delivery without same ***<Not applicable for CM exams>***

(a) An owner of a manufactured home or mobilehome may remove or cause to be removed the towbar, wheels, wheel hubs, or axles from a manufactured home or mobilehome.

(b) A dealer may remove the towbar, wheels, wheel hubs, or axles from a manufactured home or mobilehome only if such act is in accordance with the purchase document and subdivision (a) of Section 18035.3.

(c) A manufacturer may deliver a manufactured home or mobilehome to a dealer without the towbar, wheels, wheel hubs, or axles or may remove or cause those items to be removed if the manufacturer complies with the provisions of Section 18032.

§ 18551. Foundation systems; Installation as fixture or improvement; Installation as chattel

The department shall establish regulations for manufactured home, mobilehome, and commercial modular foundation systems that shall be applicable throughout the state. When established, these regulations supersede any ordinance enacted by any city, county, or city and county applicable to manufactured home, mobilehome, and commercial modular foundation systems. The department may approve alternate foundation systems to those provided by regulation where the department is satisfied of equivalent performance. The department shall document approval of alternate systems by its stamp of approval on the plans and specifications for the alternate foundation system. A manufactured home, mobilehome, or commercial modular may be installed on a foundation system as either a fixture or improvement to the real property, in accordance with subdivision (a), or a manufactured home or mobilehome may be installed on a foundation system as a chattel, in accordance with subdivision (b).

(a) Installation of a manufactured home, mobile home, or commercial modular as a fixture or improvement to the real property shall comply with all of the following:

(1) Prior to installation of a manufactured home, mobilehome, or commercial modular on a foundation system, the manufactured home, mobilehome, or commercial modular owner or a licensed contractor shall obtain a building permit from the appropriate enforcement agency. To obtain a permit, the owner or contractor shall provide the following:

(A) Written evidence acceptable to the enforcement agency that the manufactured home, mobilehome, or commercial modular owner owns, holds title to, or is purchasing the real property where the mobilehome is to be installed on a foundation system. A lease held by the manufactured home, mobilehome, or commercial modular owner, that is transferable, for the exclusive use of the real property where the manufactured home, mobilehome, or commercial modular is to be installed, shall be deemed to comply with this paragraph if the lease is for a term of 35 years or more, or if less than 35 years, for a term mutually agreed upon by the lessor and lessee, and the term of the lease is not revocable at the discretion of the lessor except for cause, as described in subdivisions 2 to 5, inclusive, of Section 1161 of the Code of Civil Procedure.

(B) Written evidence acceptable to the enforcement agency that the registered owner owns the manufactured home, mobilehome, or commercial modular free of any liens or encumbrances or, in the event that the legal owner is not the registered owner, or liens and encumbrances exist on the manufactured home, mobilehome, or commercial modular, written evidence provided by the legal owner and any lienors or encumbrancers that the legal owner, lienor, or encumbrancer consents to the attachment of the manufactured home, mobilehome, or commercial modular upon the discharge of any personal lien, that may be conditioned upon the satisfaction by the registered owner of the obligation secured by the lien.

(C) Plans and specifications required by department regulations or a department–approved alternate for the manufactured home, mobilehome, or commercial modular foundation system.

(D) The manufactured home, mobilehome, or commercial modular manufacturer's installation instructions, or plans and specifications signed by a California licensed architect or engineer covering the installation of an individual manufactured home, mobilehome, or commercial modular in the absence of the manufactured home, mobilehome, or commercial modular manufacturer's instructions.

(E) Building permit fees established by ordinance or regulation of the appropriate enforcement agency.

(F) A fee payable to the department in the amount of eleven dollars ($11) for each transportable section of the manufactured home, mobilehome, or commercial modular that shall be transmitted to the department at the time the certificate of occupancy is issued with a copy of the building permit and any other information concerning the manufactured home, mobilehome, or commercial *modular* which the department may prescribe on forms provided by the department.

(2)(A) On the same day that the certificate of occupancy for the manufactured home, mobilehome, or commercial modular is issued by the appropriate enforcement agency, the enforcement agency shall record with the county recorder of the county where the real property is situated, that the manufactured home, mobilehome, or commercial *modular* has been installed upon, a document naming the owner of the real property, describing the real property with certainty, and stating that a manufactured home, mobilehome, or commercial modular has been affixed to that real property by installation on a foundation system pursuant to this subdivision.

(B) When recorded, the document referred to in subparagraph (A) shall be indexed by the county recorder to the named owner and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

(C) Fees received by the department pursuant to subparagraph (F) of paragraph (1) shall be deposited in the Mobilehome–Manufactured Home Revolving Fund established under subdivision (a) of Section 18016.5.

(3) The department shall adopt regulations providing for the cancellation of registration of a manufactured home, mobilehome, or commercial coach that is permanently attached to the ground on a foundation system pursuant to subdivision (a). The regulations shall provide for the surrender to the department of the certificate of title and other indicia of registration. For the purposes of this subdivision, permanent affixation to a foundation system shall be deemed to have occurred on the day a certificate of occupancy is issued to the manufactured home, mobilehome, or commercial coach owner and the document referred to in subparagraph (A) of paragraph (2) is recorded. Cancellation shall be effective as of that date and the department shall enter the cancellation on its records upon receipt of a copy of the certificate of occupancy. This subdivision shall not be construed to affect the application of existing laws, or the department's regulations or procedures with regard to the cancellation of registration, except as to the requirement therefor and the effective date thereof.

(4) Once installed on a foundation system in compliance with this subdivision, a manufactured home, mobilehome, or commercial modular shall be deemed a fixture and a real property improvement to the real property to which it is affixed. Physical removal of the manufactured home, mobilehome, or commercial modular shall thereafter be prohibited without the consent of all persons or entities who, at the time of removal, have title to any estate or interest in the real property to which the manufactured home, mobilehome, or commercial modular is affixed.

(5) For the purposes of this subdivision:

(A) "Physical removal" shall include, without limitation, the unattaching of the manufactured home, mobilehome, or commercial modular from the foundation system, except for temporary purposes of repair or improvement thereto.

(B) Consent to removal shall not be required from the owners of rights–of–way or easements or the owners of subsurface rights or interests in or to minerals, including, but not limited to, oil, gas, or other hydrocarbon substances.

(6) At least 30 days prior to a legal removal of the manufactured home, mobilehome, or commercial modular from the foundation system and transportation away from the real property to which it was formerly affixed, the manufactured home, mobilehome, or commercial modular owner shall notify the department and the county assessor of the intended removal of the manufactured home, mobilehome, or commercial modular. The department shall require written evidence that the necessary consents have been obtained pursuant to this section and shall require application for either a transportation permit or manufactured home, mobilehome, or commercial modular registration, as the department may decide is appropriate to the circumstances. Immediately upon removal, as defined in this section, the manufactured home, mobilehome, or commercial modular shall be deemed to have become personal property and subject to all laws governing the same as applicable to a manufactured home, mobilehome, or commercial modular.

(b) The installation of a manufactured home or a mobilehome on a foundation system as chattel shall be in accordance with Section 18613 and shall be deemed to meet or exceed the requirements of Section 18613.4. This subdivision shall not be construed to affect the application of sales and use or property taxes. No provisions of this subdivision are intended, nor shall they be construed, to affect the ownership interest of any owner of a manufactured home or mobilehome.

(c) Once installed on a foundation system, a manufactured home, mobilehome, or commercial modular shall be subject to state enforced health and safety standards for manufactured homes, mobilehomes, or commercial modulars enforced pursuant to Section 18020.

(d) No local agency shall require that any manufactured home, mobilehome, or commercial coach currently on private property be placed on a foundation system.

(e) No local agency shall require that any manufactured home or mobilehome located in a mobilehome park be placed on a foundation system.

(f) No local agency shall require, as a condition for the approval of the conversion of a rental mobilehome park to a resident–owned park, including, but not limited to, a subdivision, cooperative, or condominium for mobilehomes, that

any manufactured home or mobilehome located there be placed on a foundation system. This subdivision shall only apply to the conversion of a rental mobilehome park that has been operated as a rental mobilehome park for a minimum period of five years.

§ 18551.1. Placement of manufactured homes and mobilehomes on foundation systems
<Not applicable for CM exams>

(a) Any mobilehome park, constructed on or after January 1, 1982, may be constructed in a manner that will enable manufactured homes, mobilehomes, and multiunit manufactured housing sited in the park to be placed upon a foundation system, and manufactured homes, mobilehomes, and multiunit manufactured housing sited in the park may be placed upon foundation systems, subject to the requirements of Section 18551.

(b) Notwithstanding subdivision (a), any manufactured home, mobilehome, or multiunit manufactured housing originally sited on or after January 1, 1985, in a mobilehome park constructed prior to January 1, 1982, may be placed upon a foundation system, subject to the requirements of Section 18551.

(c) Notwithstanding subdivisions (a) and (b), any manufactured home, mobilehome, or multiunit manufactured housing sited in a mobilehome park which is converted, or in the process of being converted, to resident ownership on or after January 1, 1992, may be placed on a foundation system, subject to the requirements of Section 18551, and with the approval of the ownership of the park.

(d) With respect to any manufactured home, mobilehome, or multiunit manufactured home sited in a mobilehome park under subdivision (a), (b), or (c), no single structure shall exceed two stories in height.

(e) Notwithstanding subdivisions (a) and (b), the installation of a manufactured home, mobilehome, or multiunit manufactured housing within a mobilehome park pursuant to Section 18551 shall be subject to prior written approval by the ownership of the mobilehome park.

(f) The number of dwelling units per structure for any manufactured home or mobilehome consisting of two or more dwelling units, or multiunit manufactured housing, sited in a mobilehome park on or after January 1, 2003, shall conform to a zone designation or conditional use permit that currently applies to the park or an amended or new zone designation or conditional use permit that is additionally granted to the park.

§ 18552. Building standards; Regulations for accessory buildings or structures; Installation above 4,000 feet; Snow roof load ***<Not applicable for CM exams>***

(a) The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, and the department shall adopt other regulations for manufactured home or mobilehome accessory buildings or structures. The regulations adopted by the department shall provide for the construction, location, and use of manufactured home or mobilehome accessory buildings or structures to protect the health and safety of the occupants and the public, and shall be enforced by the appropriate enforcement agency.

(b) A manufactured home or accessory building or structure may be installed in a mobilehome park above 4,000 feet in elevation at the option of the owner of the home and after approval by the park operator only if the installation is consistent with one of the following:

(1) If the manufactured home or accessory building or structure does not have the capacity to resist the minimum snow loads as established for residential buildings by local ordinance, the manufactured home or accessory building or structure must have the capacity to resist a roof live load of at least 60 pounds per square foot and may only be installed in a mobilehome park that has and is operating an approved snow roof load maintenance program, as defined by the department. The installation shall comply with all other applicable requirements of this part and the regulations adopted pursuant to this part and shall be approved by the enforcement agency. The approval of the snow roof load maintenance program shall be identified on the permit to operate.

(2) If the manufactured home or accessory building or structure does not have the capacity to resist the minimum snow loads established by local ordinance for residential buildings, the manufactured home or accessory building or structure may only be installed if it is protected by a ramada designed to resist the minimum snow loads established by local ordinance and constructed pursuant to this part and regulations adopted pursuant to this part. The plans and specifications for the construction of the ramada and the installation of the home shall be approved by the enforcement agency.

(3) If a manufactured home or accessory building or structure has the capacity to resist the minimum snow loads established by local ordinance for residential buildings, an approved snow roof load maintenance program or ramada is not required for that home or accessory building or structure.

(c) Before installing a manufactured home or accessory building or structure pursuant to paragraph (1) of subdivision (b), the operator of a park shall request and obtain approval from the enforcement agency for its existing or proposed snow roof load maintenance program. The enforcement agency's approval shall be based on relevant factors identified in the regulations of the department and shall include, but not be limited to, the types of maintenance to be used to control or remove snow accumulation and the capacity and capability of personnel and equipment proposed to satisfactorily perform the snow roof load maintenance program. The request for approval shall specify the type of maintenance to be used to control snow accumulation and shall demonstrate the capacity and capability of necessary personnel or its equivalent to satisfactorily perform the snow roof load maintenance program.

§ 18555. Application for voluntary conversion to fixture and improvement; Escrow account; Tax clearance certificate; Recording of application; Cancellation of registration; Notice of removal
<Not applicable for CM exams>

(a) Notwithstanding any other provision of law, the registered owner of a manufactured home or mobilehome in a

mobilehome park, converted or proposed to be converted to a resident–owned subdivision, cooperative, condominium, or nonprofit corporation formed pursuant to Section 11010.8 of the Business and Professions Code, may, if the registered owner is also a participant in the resident ownership, apply for voluntary conversion of the manufactured home or mobilehome to a fixture and improvement to the underlying real property without compliance with subdivision (a) of Section 18551.

(b) The resident ownership or proposed resident ownership of a mobilehome park converted or proposed to be converted to a resident–owned subdivision, cooperative, condominium, or nonprofit corporation formed pursuant to Section 11010.8 of the Business and Professions Code, shall, on behalf of registered owners of manufactured homes and mobilehomes making application pursuant to subdivision (a), establish with an escrow agent an escrow account. All of the following shall be deposited into the escrow account:

(1) A copy of the registered owner's application, on a form, provided by the department, that shall be substantially similar to forms presently used to record the installation of manufactured homes and mobilehomes on foundation systems pursuant to subdivision (a) of Section 18551. In addition, by signature of an authorized representative, the form shall contain provisions for certification by the resident ownership of the mobilehome park converted or proposed to be converted to a subdivision, cooperative, or condominium that the applicant is a participant in the resident–ownership.

(2) The certificate of title, the current registration card, decals, and other indicia of registration of the manufactured home or mobilehome.

(3) In the absence of a certificate of title for the manufactured home or mobilehome, written evidence from lienholders on record with the department that the lienholders consent to conversion of the manufactured home or mobilehome to a fixture and improvement to the underlying real property upon the discharge of any personal lien, that may be conditioned upon the satisfaction by the registered owner of the obligation secured by the lien.

(4) A fee payable to the department in the amount of twenty–two dollars ($22), for each transportable section of the manufactured home or mobilehome, that shall be transmitted to the department upon close of escrow with a copy of the form recorded with the county recorder's office pursuant to paragraph (2) of subdivision (c). Fees received by the department pursuant to this section shall be deposited in the Mobilehome–Manufactured Home Revolving Fund established under subdivision (a) of Section 18016.5 for administration of Part 2 (commencing with Section 18000).

(5) Escrow instructions describing the terms and conditions of compliance with this section, the requirements of the department, and other applicable terms and conditions.

(c) If the manufactured home or mobilehome is subject to local property taxation, and subject to registration under Part 2 (commencing with Section 18000), the escrow officer shall forward to the tax collector of the county where the used manufactured home or mobilehome is located, a written demand for a tax clearance certificate if no liability exists, or a conditional tax clearance certificate if a tax liability exists, to be provided on a form prescribed by the Controller. The conditional tax clearance certificate shall state the amount of the tax liability due, if any, and the final date that amount may be paid out of the proceeds of escrow before a further tax liability may be incurred.

(1) Within five working days of receipt of the written demand for a conditional tax clearance certificate or a tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or a tax clearance certificate showing that no tax liability exists to the requesting escrow officer. In the event the tax clearance certificate's or conditional tax clearance certificate's final due date expires within 30 days of the date of issuance, an additional conditional tax clearance certificate or a tax clearance certificate shall be completed that has a final due date of at least 30 days beyond the date of issuance.

(2) If the tax collector to whom the written demand for a tax clearance certificate or a conditional tax clearance certificate was made fails to comply with that demand within 30 days from the date the demand was mailed, the escrow officer may close the escrow and submit a statement of facts certifying that the written demand was made on the tax collector and the tax collector failed to comply with that written demand within 30 days. This statement of facts shall be accepted by the department and all other parties to the conversion in lieu of a conditional tax clearance certificate or a tax clearance certificate, as prescribed by subdivision (a) of Section 18092.7, and the conversion of the manufactured home or mobilehome to a fixture and improvement to the underlying real property may be completed.

(3) The escrow officer may satisfy the terms of the conditional tax clearance certificate by paying the amount of tax liability shown on the form by the tax collector out of the proceeds of escrow on or before the date indicated on the form and by certifying in the space provided on the form that all terms and conditions of the conditional tax clearance certificate have been complied with.

(d)(1) On the same or following day that the escrow required by subdivision (b) is closed, the escrow agent shall record, or cause to be recorded, with the county recorder of the county where the converted manufactured home or mobilehome is situated, the form prescribed by paragraph (1) of subdivision (b) stating that the manufactured home or mobilehome has been converted to a fixture and improvement to the underlying real property pursuant to this section.

(2) When recorded, the form referred to in paragraph (1) of subdivision (b) shall be indexed by the county recorder to the named owner of the converted manufactured home or mobilehome, and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

(e) The department shall cancel the registration of a manufactured home or mobilehome converted to a fixture and improvement to the underlying real property pursuant to this section. For the purposes of this subdivision, conversion of the manufactured home to a fixture and improvement to the underlying real property shall be deemed to have occurred on the day a form referred to in paragraph (1) of subdivision (b) is recorded. Cancellation shall be effective as of that date, and the department shall enter the cancellation on its records upon receipt of a copy of the form recorded pursuant to paragraph (1) of subdivision (c), the certificate of title, the current registration card, other indicia of registration, and fees prescribed

by this section. This subdivision shall not be construed to affect the application of existing laws, or the department's regulations or procedures with regard to the cancellation of registration, except as to the requirement therefor and the effective date thereof.

(f) Once the form referred to in paragraph (1) of subdivision (b) has been recorded, a manufactured home or mobilehome shall be deemed a fixture and improvement to the underlying real property described with certainty on the form. Physical removal of the manufactured home or mobilehome from the real property where it has become a fixture and improvement pursuant to this section shall thereafter be prohibited without the consent of all persons or entities who, at the time of removal, have title to any estate or interest in the real property where the manufactured home or mobilehome has become a fixture and improvement.

(g) For the purposes of this section:

(1) "Physical removal" shall include, without limitation, the manufactured home, mobilehome, or any transportable section thereof, from the real property where it has become a fixture and improvement.

(2) Consent to removal shall not be required from the owners of rights–of–way or easements or the owners of subsurface rights or interests in or to minerals, including, but not limited to, oil, gas, or other hydrocarbon substances.

(h) At least 30 days prior to a legal removal of the manufactured home or mobilehome from the real property where it has become a fixture and improvement and transportation away from the real property, the manufactured home or mobilehome owner shall notify the department and the county assessor of the intended removal of the manufactured home or mobilehome. The department shall require written evidence that the necessary consents have been obtained pursuant to this section, and shall require application for either a transportation permit or manufactured home or mobilehome registration, as the department may decide is appropriate to the circumstances. Immediately upon removal, as defined in this section, the manufactured home or mobilehome shall be deemed to have become personal property and subject to all laws governing the same as applicable to a manufactured home or mobilehome.

(i) Notwithstanding any other provision of law, any manufactured home or mobilehome not installed on a foundation system pursuant to subdivision (a) of Section 18551 or converted to a fixture and improvement to real property as prescribed by this section shall not be deemed a fixture or improvement to the real property. This subdivision shall not be construed to affect the application of sales and use or property taxes.

(j) Once converted to a fixture and improvement to real property, a manufactured home or mobilehome shall be subject to state–enforced health and safety standards for manufactured homes or mobilehomes enforced pursuant to Section 18020.

(k) No local agency shall require, as a condition for the approval of the conversion of a rental mobilehome park to a resident–owned park, including, but not limited to, a subdivision, cooperative, condominium, or nonprofit corporation formed pursuant to Section 11010.8 of the Business and Professions Code for manufactured homes or mobilehomes, that any manufactured home or mobilehome located there be converted to a fixture and improvement to the underlying real property.

(l) The department is authorized to adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code in order to implement the purposes of this section.

§ 18604. Insignia of approval for renting or leasing; Recreational vehicle in special occupancy park ***<Not applicable for CM exams>***

(a) No manufactured home, mobilehome, or recreational vehicle within a park shall be rented or leased unless it bears a label, an insignia, or an insignia of approval required by Section 18026 or 18027.3, or a federal label issued pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.).

(b) A recreational vehicle that does not bear a label, an insignia, or an insignia of approval, as required by subdivision (f) or (g) of Section 18027.3, may not occupy any lot in a special occupancy park unless the vehicle owner provides reasonable proof of compliance with ANSI Standard No. A119.2 or A119.5. A department label or insignia shall constitute one form of reasonable proof of compliance with ANSI standards. This subdivision does not apply to a recreational vehicle occupying a lot in a special occupancy park on December 31, 1998, unless the vehicle is moved to a different special occupancy park on or after January 1, 1999.

Article 2 Mobilehome and Special Occupancy Park Lots

§ 18610.5. Creation, movement, or alteration of lot lines; Application for alteration permit; Fee; Submission to local planning agency ***<Not applicable for CM exams>***

(a) Park lot lines shall not be created, moved, shifted, or altered without a permit issued to the park owner or operator by the enforcement agency and the written authorization of the registered owner or owners of the mobilehome or manufactured home, if any, located on the lot or lots on which the lot line will be created, moved, shifted, or altered.

(b) No park lot line shall be created, moved, shifted, or altered, if the action will place the mobilehome owner, as defined by Section 18400.4, of a mobilehome or manufactured home located on a lot in violation of any separation or space requirements under this part or under any administrative regulation.

(c) The park owner or operator shall submit a written application for the lot line alteration permit to the enforcement agency. The application shall include a list of the names and addresses of the registered owners of mobilehomes or manufactured homes located on the lot or lots that would be altered by the proposed lot line change and the written authorization of the registered owners. The enforcement agency may require, as part of the application for the permit, that a mobilehome park owner or operator submit to the enforcement agency documents needed to demonstrate

compliance with this section, including, but not limited to, a detailed plot plan showing the dimensions of each lot altered by the creation, movement, shifting, or alteration of the lot lines. If submission of a plot plan is required, the mobilehome park owner or operator shall provide a copy of the plot plan to the registered owners of mobilehomes or manufactured homes located on each lot that would be altered by the proposed lot line change and provide the enforcement agency, as part of the application, with proof of delivery by first–class postage prepaid of the copy of the plot plan to the affected registered owners.

(d) The department may adopt a fee, by regulation, payable by the applicant, for the permit authorized by this section.

(e) If the department is the enforcement agency and the application proposes to reduce or increase the total number of lots available for occupation, the applicant shall submit a copy of that application and any information required by subdivision (c) to the local planning agency of the jurisdiction where the park is located.

§ 18611. Affixing factory–built housing, mobilehomes, or manufactured homes on foundation systems in mobilehome parks ***<Not applicable for CM exams>***

(a) Factory–built housing bearing an insignia of approval pursuant to Section 19980, manufactured homes as defined in Section 18007, mobilehomes as defined in Section 18008, or multiunit manufactured housing as defined in Section 18008.7 may be affixed to a foundation system within a mobilehome park, if the installation conforms to the rules of the mobilehome park, the installation is approved pursuant to Section 19992, or in the case of manufactured homes, mobilehomes, or multiunit manufactured housing the installation is in accordance with Section 18551, and no single structure exceeds two stories in height. Any factory–built housing, manufactured homes, mobilehomes, or multiunit manufactured housing included in a mobilehome park pursuant to this section shall be located on lots especially designated for that purpose in accordance with the rules of the mobilehome park.

(b) This section applies only to mobilehome parks (1) where the permit to construct the park is issued on or after January 1, 1982, and (2) that are additionally granted a zone designation or conditional use permit that authorizes permanent occupancies of the type and to the extent established pursuant to this section.

(c) Nothing in this section shall be construed to create an exemption from the requirements of Division 2 (commencing with Section 66410) of Title 7 of the Government Code.

§ 18613. Permit required for installation of manufactured home or mobilehome; Inspection; Notice of defects; Fees ***<Not applicable for CM exams>***

(a)(1) A permit shall be obtained from the enforcement agency each time a manufactured home or mobilehome is to be located, installed, or reinstalled, on any site for the purpose of human habitation or occupancy as a dwelling.

(2) For purposes of this section, the terms “located,” “installed,” and “reinstalled” include alteration, modification, or replacement of the mobilehome stabilizing devices, load–bearing supports, or both.

(b) The contractor engaged to install the manufactured home or mobilehome shall obtain the permit, except when the owner of the manufactured home or mobilehome proposes to perform the installation. When a contractor applies for a permit to install a manufactured home or mobilehome, he or she shall display a valid contractor’s license. The contractor shall complete the installation of the manufactured home or mobilehome in accordance with the regulations adopted by the department within the time limitations which shall be established by regulations of the department. The time limitations shall allow contractors a reasonable amount of time within which to complete manufactured home or mobilehome installations.

(c) If inspection of the manufactured home or mobilehome installation by the enforcement agency determines that the manufactured home or mobilehome cannot be approved for occupancy due to defective material, systems, workmanship, or equipment of the manufactured home or mobilehome, the contractor shall be allowed a reasonable amount of time, as determined by regulations of the department, to complete the installation after the defects in the manufactured home or mobilehome have been corrected.

(d) The enforcement agency shall immediately notify the department whenever any manufactured home or mobilehome cannot be approved for occupancy due to defects of the manufactured home or mobilehome. The report of notification shall indicate health and safety defects and, in the case of new manufactured homes or mobilehomes, substantial defects of materials and workmanship. For purposes of this section, “substantial defects of materials and workmanship” means defects objectively manifested by broken, ripped, cracked, stained, or missing parts or components and shall not include alleged defects concerning color combinations or grade of materials used. If the manufactured home or mobilehome fails the installation inspection because of conditions which do not endanger the health or safety of the occupant, the owner may occupy the manufactured home or mobilehome. If, however, the installation fails inspection due to immediate hazards to the health or safety of the occupant, as determined by the enforcement agency, the manufactured home or mobilehome shall not be occupied.

(e) Except as provided in Section 18930, the department shall adopt regulations for the installations and regulations which specify a standard form required to be used statewide by enforcement agencies as a certificate of occupancy or statement of installation acceptance. The department shall transmit a copy of the standard form to all enforcement agencies. An enforcement agency shall not be required to use the standard forms until their existing stock of forms for this purpose is depleted. The regulations adopted by the department pursuant to this section shall establish the requirements which the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this section. In adopting building regulations or adopting other regulations pursuant to this section, the department shall consider reassembly of the manufactured home or mobilehome, stabilizing devices and load–bearing supports, and utility connections and connectors.

(f) The department shall establish a schedule of fees for the permits required by this section commensurate with the cost of the enforcement of this section and the regulations adopted pursuant to this section. Where a city, county, or city and county is responsible for the enforcement, the city, county, or city and county may establish a schedule of fees not to exceed the actual cost of enforcement and not to exceed those fees established by the department where the department is the enforcement agency. Permit fees and reinspection fees shall be paid to the enforcement agency by the permittee.

(g) This section does not apply to recreational vehicles or commercial coaches.

§ 18613.1. Extent of requirements *<Not applicable for CM exams>*

The requirements for any installation of a manufactured home or mobilehome shall not exceed the requirements set forth in Sections 18613 and 18613.4.

§ 18613.2. Copy of permit *<Not applicable for CM exams>*

When the enforcement agency issues an installation permit for a new manufactured home or mobilehome, beginning on July 1, 1980, a copy of such permit shall be delivered to the county or city assessor having jurisdiction where the manufactured home or mobilehome is to be sited.

§ 18613.3. Dimensioned plot plan of lot *<Not applicable for CM exams>*

An application for a permit for initial installation of a manufactured home or mobilehome shall be accompanied by a dimensioned plot plan of the lot on which the manufactured home or mobilehome will be installed. The park owner or operator shall sign the plot plan to certify that the dimensions of the lot are correct if the manufactured home or mobilehome is to be located in a park. The applicant shall provide a copy of the plot plan to the manufactured home or mobilehome owner, if the applicant is a contractor, and to the park owner or operator, if the manufactured home or mobilehome is to be located in a park.

§ 18613.4. Further requirements for installation or reinstallation *<Not applicable for CM exams>*

(a) All manufactured homes or mobilehomes, when initially installed or subsequently reinstalled on a different lot pursuant to Section 18613, shall be installed to resist, in conjunction with vertical loads, either forces from horizontal wind pressures of 15 pounds per square foot or the design wind load of the home, whichever is greater.

(b) For the purposes of complying with subdivision (a), all manufactured homes or mobilehomes with manufacturer's installation instructions that include requirements for tiedowns shall be installed in accordance with all of the following:

(1) The manufacturer's installation instructions.

(2) If not included in the manufacturer's installation instructions, a minimum of four additional tiedowns per section shall be installed to resist the same wind forces in the longitudinal direction of the manufactured home or mobilehome as the total of those forces required to be resisted in the transverse direction. No portion of the tiedown extending beyond the vertical plane of an exterior wall of the manufactured home or mobilehome shall be above the ground.

(3) When used, concrete or steel piers shall have mechanical connections to the home and their footing that resist separation of the supports from the home and the footing. Mechanical connections shall not require modifications to the manufactured home or mobilehome.

(c) For the purposes of complying with subdivision (a), when no manufacturer's installation instructions are available that include requirements for tiedowns, the manufactured home or mobilehome shall be installed in accordance with both of the following:

(1) Department regulations, which shall include requirements for tiedowns meeting the standards in subdivision (a).

(2) The requirements specified in paragraphs (2) and (3) of subdivision (b).

(d) For the purposes of complying with subdivision (a), all manufactured homes or mobilehomes may be installed or reinstalled in accordance with plans and specifications signed by a licensed architect or engineer that meet the requirements of this section.

(e) Manufactured homes or mobilehomes installed before the effective date of the act that added this section that do not meet the standards in subdivision (a) and need to be reinstalled due to damage caused by wind or seismic forces shall be reinstalled to meet the requirements of subdivision (a) and paragraphs (2) and (3) of subdivision (b), if federal funds are available for grants or direct payment of the additional installation costs.

(f) Nothing in this section prohibits the use of alternative materials, installation methods, devices, et cetera, as permitted in Section 18305, as long as the forces specified in subdivision (a) and in paragraph (2) of subdivision (b) are resisted.

(g) The department shall adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code in order to implement the purposes of this section.

(h) The department shall develop standards for mechanical connections for concrete block supports that connect the blocks to the manufactured homes or mobilehomes and their footing and resist the separation of the supports from the home and the footing. By the adoption of the act that adds this subdivision, it is not the intent of the Legislature that the concrete blocks used as vertical supports be required to be mechanically attached to the manufactured homes or mobilehomes and their footings.

(i) This section shall not apply to the installation of any manufactured home or mobilehome for which escrow has been opened in accordance with Section 18035 prior to the operative date of the act that adds this section.

(j) This section shall become operative 60 days after the date that the act that adds this section is chaptered.

§ 18613.7. Permit for installation of bracing devices

(a) A permit shall be obtained by the installer from the enforcement agency each time an earthquake resistant bracing system is installed, replaced, or altered on any manufactured home or mobilehome. The enforcement agency shall inspect the installation of these bracing systems to ensure compliance with the regulations adopted by the department.

(b) The department shall adopt regulations governing the installation of earthquake resistant bracing systems. The enforcement agency shall adopt a fee schedule which shall not exceed the costs of the issuance of the permit and inspection required by this section.

Chapter 7 PENALTIES

§ 18700. Misdemeanors; Suspension or revocation of permit

Any person who willfully violates this part, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the department pursuant to this part is guilty of a misdemeanor, punishable by a fine not exceeding four hundred dollars ($400) or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.

Any permitholder who willfully violates this part, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the department pursuant to this part shall be subject to suspension or revocation of his or her permit to operate.

Any person who willfully violates this part, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the department pursuant to this part, shall be liable for a civil penalty of five hundred dollars ($500) for each violation or for each day of a continuing violation. The enforcement agency shall institute or maintain an action in the appropriate court to collect any civil penalty arising under this section.

Manufactured Housing Sales, Occupational Licensing and Education Regulations

Title 25 California Code of Regulations

http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome

TABLE OF CHAPTER CONTENTS

OCCUPATIONAL LICENSING AND EDUCATION — REGULATIONS

CALIFORNIA CODE OF REGULATIONS
TITLE 25 HOUSING AND COMMUNITY DEVELOPMENT
Division 1 HOUSING AND COMMUNITY DEVELOPMENT
Chapter 4 MANUFACTURED HOUSING SALES, OCCUPATIONAL LICENSING AND EDUCATION
Subchapter 1 SALES AND OCCUPATIONAL LICENSING

Article 1. General
§ 5000. Authority 87
§ 5001. Application and Scope 87
§ 5002. Definitions 87

Article 2. License and Business Requirements
§ 5010. License 88
§ 5011. Books and Records 88
§ 5012. Manufacturer's Established Place of Business 89
§ 5013. Dealer's Established Place of Business 89
§ 5014. [Repealed] Display Area 89
§ 5015. [Repealed] Dealer Branch Locations 89

Article 3. License, 90-Day and Decal Applications, Changes and Renewals
§ 5020. Application Requirements 89
§ 5020.5. License and 90-Day Certificate Application Review and Notice of Department Decision 92
§ 5021. Abbreviated Application for Applicants with Business or Personal History Irregularities 93
§ 5022. Examinations 93
§ 5023. Temporary Permits 93
§ 5023.5. 90-Day Certificate Contents and Posting 93
§ 5024. Established Place of Business Relocation, Elimination or Addition 94
§ 5025. Change of Ownership 95
§ 5026. Salesperson and 90-Day Certificate Holder; Employment or Change of Employment. 96
§ 5027. Change of Residence 96
§ 5028. Change of Personal Name 96
§ 5029. Change of Franchise or Authorization 96
§ 5030. Renewal of Licenses 96
§ 5032. Change of Supervising Managing Employee 97
§ 5034. Change of Employment Location 97
§ 5036. Replacement 90-Day Certificate 97
§ 5038. Application Requirements For 90-Day Certificate Change, Correction Or Replacement 97
§ 5040. Fees 97
§ 5041. Refunds 97
§ 5042. [Repealed] Insufficient Checks 98
§ 5043. Dealer Report of Sale Filing Fee 98

TABLE OF CHAPTER CONTENTS

Article 5. Advertising, Listing Agreements, and Sales Practices
§ 5050. General Advertising 98
§ 5051. MH-Unit or Commercial Modular Condition and Physical Size 98
§ 5052. MH-Unit or Commercial Modular Availability 98
§ 5053. Free Merchandise, Savings Claims and Rebates 99
§ 5054. Dealer Added Charges 99
§ 5055. Financing 99
§ 5056. Down Payment and Deposit 99
§ 5057. Representations 99

Article 6. Purchase Documents and Escrow
§ 5060. Escrow Required 100
§ 5061. Escrow Instructions 100
§ 5062. Disbursement of Escrow Funds 101
§ 5063. Waivers 102
§ 5064. Records Required 102

Article 7. Public Access to Information Regarding Occupational Licensing
§ 5070. Policy Regarding Disclosure 102
§ 5071. Disclosure of Information Regarding License Status 102
§ 5072. Disclosure of Information Regarding Instances of Noncompliance and Complaints 102
§ 5073. Disclosure of Information Regarding Disciplinary Actions 103

Article 8. Enforcement Actions and Penalties
§ 5080. Enforcement 103
§ 5081. Complaint and Monitoring Investigation 103
§ 5082. Notices of Suspension, Revocation, or Cancellation 103
§ 5082.5. Prohibited Sale Notice 104
§ 5083. Monetary Penalties for Compromise Settlements 104

Article 9. 90-Day Certificate Requirements
§ 5090. 90-Day Certificate Expiration 104
§ 5092. Suspension/Refusal to Issue/Revocation 104
§ 5094. Supervision of Certificate Holders 104

Subchapter 2. PRELIMINARY AND CONTINUING EDUCATION
§ 5300. Definitions 105
§ 5301. Applicant Qualification to Receive Public Benefits 105
§ 5302. Application and Scope of Preliminary Education Requirements 105
§ 5304. Application and Scope of Continuing Education Requirements 105
§ 5306. Continuing Education Topic Requirements for Dealers and Salespersons 106
§ 5308. Minimum Standards for Preliminary Education Courses 106
§ 5310. Minimum Standards for Continuing Education Courses 106
§ 5312. Minimum Standards for Continuing Education Courses by Correspondence 107
§ 5314. Course Challenges 107
§ 5316. Claims of Equivalency 108
§ 5318. Exemptions 108
§ 5320. Required Changes to Approved Courses 108
§ 5322. Certificates of Completion 108
§ 5324. Expiration of Course Approval 109
§ 5326. Instructor Qualifications 109
§ 5328. Expiration of Instructor Approval 109
§ 5330. Advertising Requirements 109
§ 5332. Course Provider Notice Requirement 109
§ 5334. Access and Denial to Course Offerings 109

TABLE OF CHAPTER CONTENTS

§ 5336. Course Provider Attendance Controls and Record Keeping Requirements 110
§ 5338. General Requirements and Prohibitions 110
§ 5340. Preliminary Education Course Approval 110
§ 5342. Continuing Education Course Approval 111
§ 5344. Application for Approved Course Renewal 111
§ 5346. Application to Change an Approved Course 111
§ 5348. Application for Instructor Approval 111
§ 5350. Application for Instructor Renewal 112
§5352. Application for Continuing Education Equivalency Approval 112
§ 5354. Application for Continuing Education Exemption 112
§ 5356. Rejected Applications 112
§ 5360. Fees 113
§ 5362. Denial of Approval 113
§ 5364. Cancellation of Approval 113
§ 5366. Appeals Procedure 113
§ 5368. Enforcement 113

OCCUPATIONAL LICENSING AND EDUCATION — REGULATIONS

CALIFORNIA CODE OF REGULATIONS
TITLE 25 HOUSING AND COMMUNITY DEVELOPMENT
Division 1 HOUSING AND COMMUNITY DEVELOPMENT

Chapter 4 MANUFACTURED HOUSING SALES, OCCUPATIONAL LICENSING AND EDUCATION
Subchapter 1 SALES AND OCCUPATIONAL LICENSING
Article 1. General

§ 5000. Authority

This chapter is adopted in order to implement, interpret and make specific and otherwise carry out the MH-Unit and commercial modular occupational licensing requirements of Chapters 5, 6, and 7 (commencing with Section 18035) of Division 13, Part 2, of the Health and Safety Code~~,~~ and Section 1797, et seq., of the Civil Code.

§ 5001. Application and Scope

(a) The provisions of this subchapter apply to all persons acting as a manufacturer, distributor, dealer, or salesperson of MH-Units or commercial modulars as defined by Sections 18000-18014.5 of the Health and Safety Code.

(b) The provisions of this chapter also apply to all persons acting in the capacity of a 90-day certificate holder as defined in Section 5002 of this subchapter.

(c) These provisions regulate the occupational licensing of and business practices of licensees regarding the manufacture, alteration, sale or lease of MH-Units or commercial modulars.

(d) To the extent permitted by law, these provisions provide for regulation of transporters of MH-Units and commercial modulars.

(e) These provisions regulate the application process and requirements for the department and persons applying for a license or 90-day certificate pursuant to law and this chapter.

§ 5002. Definitions

The following definitions and those set forth or referenced in Health and Safety Code Sections 18000 through 18153, shall govern the activities under this chapter:

(a) Accessory. Any additional structure, air-conditioning unit, driveway, landscaping, skirting, awning, carport, shed, porch, or other items contracted for and included in the purchase document for the purchase or lease of a MH-Unit and/or its installation site.

(b) Acknowledged. When used in this chapter means either notarized or attested to by a subscribing witness.

(c) Additional Business Location (ABL). This term means the same as secondary business location. See the definition of “Secondary Business Location” below.

~~(c)~~(d) Advertising. Any statement, representation, act or announcement intentionally communicated to any member of the public by any means whatever, whether orally, in writing or otherwise, generally for the purpose of arousing a desire to buy or patronize.

~~(d)~~(e) Cash or cash equivalent. Includes, but is not limited to:

(1) Cash, checks, money orders, or drafts.

(2) Promissory notes, bills of sale, certificates of ownership, or other intangible property.

(3) Assignments of funds, proceeds, contracts, rights, or other negotiable instruments.

(4) Any real or personal property.

~~(e)~~(f) Clock hour. Fifty (50) continuous minutes in an approved preliminary or continuing education course, seminar, or conference excluding breaks for meals, rest, or smoking.

~~(f)~~(g) Close of escrow. The date on which the conditions of the escrow have been met and the escrow agent is in a position to disburse all funds excepting funds withheld for uninstalled or undelivered accessories included in the purchase price.

~~(g)~~(h) Continuing Education Course. A class, seminar or conference approved by the department, pursuant to law and this chapter, which offers licensees continuing education clock hour credits on one (1) topic.

~~(h)~~(i) Correspondence Course. A continuing education program of a single topic approved by the department transmitted by mail between a licensee and an approved course provider.

~~(i)~~(j) Course Provider. A person or entity offering preliminary or continuing education courses approved by the department. A course provider meeting the minimum qualifications established in this chapter may also be an approved instructor.

(k) Designated Managing Employee (DME). See Responsible Managing Employee.

~~(j)~~(l) DOJ. The California Department of Justice.

~~(k)~~(m) Instructor. A person approved by the department to present preliminary or continuing education courses while in the employ of a course provider. An instructor may also be a course provider.

~~(l)~~(n) Live Scan. Digitally scanned fingerprinting using the electronic process certified by DOJ at an approved facility.

~~(m)~~(o) Manufactured Home. A structure as defined by section 18007 of the Health and Safety Code.

(p) Main Business Location. An applicant or licensee's primary established place of business. All added business locations will be considered secondary business locations. If there is more than one location listed on a license application, then the primary location designated on the application will be deemed the main business location.

~~(n)~~(q) Manufacturer's Suggested Retail Price. The total price shown on the label required by Health and Safety Code Section 18032.

~~(o)~~(r) Mobilehome. A structure as defined by section 18008 of the Health and Safety Code.

~~(p)~~(s) Multifamily Manufactured Home. A structure as defined by section 18008.7 of the Health and Safety Code. "Multi-unit manufactured housing" has the same meaning as "multifamily manufactured home", as that term is defined by section 18008.7 of the Health and Safety Code.

~~(q)~~(t) MH-Unit. Shall have the same meaning in this chapter as Manufactured Home, Multifamily Manufactured Home and Mobilehome as defined in the Health and Safety Code, Division 13, Part 2, Chapter 1.

~~(r)~~(u) 90-day certificate holder. An applicant for an original salesperson license, holding a certificate issued by the department which permits the applicant to perform the following activities while in the employment of a licensed dealer:

(1) A 90-day certificate holder may induce or attempt to induce a person to buy, lease, or exchange an interest in a new or used MH-Unit or commercial modular.

(2) For commission, money, profit, or other thing of value, a 90-day certificate holder may sell, exchange, buy, or lease; offer for sale; negotiate or attempt to negotiate a sale, lease or exchange of an interest in a new or used MH-Unit or commercial modular.

(3) A 90-day certificate holder shall not execute any documents, contracts, or listing agreements, or accept any cash or cash equivalent for the sale or lease of a new or used MH-Unit or commercial modular.

~~(s)~~(v) Preliminary Education Course. A class, seminar or conference approved by the department pursuant to law and this chapter relating to laws and regulations governing MH-Unit sales, specifically designed for persons not holding a MH-Unit dealer or salesperson license.

~~(t)~~(w) Purchase document. Any instrument of purchase, regardless of its title, which is prepared by a licensee to effect the sale of a MH-Unit or commercial modular to a retail purchaser.

(x) Responsible Managing Employee (RME). A licensed salesperson designated by a corporation, partnership or limited liability company to participate in the direction, control and management of the sales operation of a MH-unit or commercial modular dealer. Also acts as a supervising managing employee when designated by a dealer. Not applicable for manufacturers.

(y) Secondary Business Location. An additional business location and an established place of business for a licensed dealer or manufacturer, not the main business location.

~~(u)~~(z) Supervising Managing Employee. A person designated by a licensed dealer of MH-Units or commercial modulars as responsible for the direct supervision of 90-day certificate holders employed by the dealer at an established place of business. A supervising managing employee must be either:

(1) A salesperson in possession of a valid occupational license as required by this chapter.

(2) A sole owner dealer.

(3) A partner in a partnership; or a member of a limited liability company; or a director or officer of a corporation who, as required by this chapter, has been designated as participating in the direction and control of the sales business.

~~(v)~~(aa) Topic. The subject offered by a preliminary or continuing education course.

~~(w)~~(bb) Working days. All days except Saturdays, Sundays, and state and federal holidays.

Article 2. License and Business Requirements

§ 5010. License

(a) No person acting as a manufacturer, dealer, distributor or salesperson shall do so from any location without a current and valid occupational license issued pursuant to law ~~of~~ and this subchapter. Any person in violation of this section shall be liable for appropriate fees pursuant to Section 5040 of this subchapter and a penalty of 50 percent of the license fee in addition to any other civil and/or criminal penalties.

(b) No person acting as a manufacturer ~~whose established place of business is located outside this state,~~ from any location shall deliver new MH-Units or commercial modulars to ~~dealers in~~ this state for the purposes of sale, rent or lease, without a current and valid manufacturer's license issued pursuant to law and this chapter. ~~It is not necessary for a manufacturer to obtain a license in this state for manufacturing sites located outside of the state, provided that the manufacturer has at least one established place of business located within this state licensed by the California Department of Housing and Community Development.~~

(c) Dealers and manufacturers with more than one established place of business may have their other business locations licensed either under one license as an additional business location(s) or under a separate license with multiple locations. For licenses with multiple locations, the main business location and each additional business location shall be subject to only one original license application and that license's renewal fees pursuant to Section 5040 of this subchapter.

§ 5011. Books and Records

(a) Pertinent books and records of a licensee which relate to the manufacture, purchase, sale, rental, transportation or lease of MH-Units or commercial modulars must be available for inspection during normal work hours without prior notice. In the case of an out of state manufacturer, pertinent books and records or copies thereof shall be delivered or mailed to the department for inspection within ten (10) calendar days of a written request from the department.

(b) In the case of a dealer, pertinent books and records include, but are not limited to, invoices; certificates of origin;

identification numbers; report of sales books; purchase documents; lease or rental agreements; receipts for deposit; documents submitted into escrow for the preparation of escrow instructions; escrow instructions; and any other records which relates to the purchase, sale, rental or lease of any MH-Unit or commercial modular within this state.

(c) In the case of a manufacturer or distributor, pertinent books and records include, but are not limited to~~,~~; invoices; certificates of origin; identification numbers; contracts or franchise agreements with dealers; production orders; suggested retail price labels; and any other record which relates to the manufacture, distribution, sale, rent or lease of any MH-Unit or commercial modular within this state.

(d) Books and records must be kept on the premises of the licensee's established place of business unless the licensee has designated, on a form prescribed by the department, an alternate site within the state at which the books and records will be maintained and available for inspection. The licensee must notify the department on the prescribed form of any change in location of the books and records at least ten (10) calendar days prior to the date of the change in location.

(e) Unless otherwise specified by law or this chapter, all business records relating to MH-Unit or commercial modular transactions shall be retained by the licensee for a period of not less than three (3) years.

(f) When, for any reason, a licensee terminates or suspends business, all department report of sale books, along with all permits, licenses~~-~~and registration documents therefore, and all salespersons' licenses in possession of a dealer, shall be surrendered to the department upon demand or within ten (10) calendar days after termination or suspension, whichever occurs first.

(g) When, for any reason, a licensee terminates or suspends business, the licensee shall notify the department in writing within ten (10) calendar days of the termination or suspension, of the location where pertinent books and records will be kept and available for inspection.

§ 5012. Manufacturer’s Established Place of Business

The applicant for, or holder of, a MH-Unit or commercial modular manufacturer's license shall maintain a suitable site sufficient in size and furnishings to effect the manufacture, assembly, reconstruction or reconfiguration of MH-Units or commercial modulars.

§ 5013. Dealer's Established Place of Business

The applicant for, or holder of, a MH-Unit or commercial modular dealer's license shall maintain an established place of business. The office of an established place of business of a dealer must be constructed such that it is not temporary, transitory or mobile in nature. The office must comply with applicable construction standards and local zoning regulations. A MH-Unit or commercial modular is acceptable, provided that it is not a part of the dealer's inventory and is not being offered for or subject to sale while being used as an office, and otherwise meets the requirements of law.

§ 5014. [Repealed] Display Area

§ 5015. [Repealed] Dealer Branch Locations

Article 3. License, 90-Day and Decal Applications, Changes and Renewals

§ 5020. Application Requirements

(a) An application for an occupational license or 90-day certificate shall contain that information required by the department, including, but not limited to, the forms and items listed in this section.

(b) Applicants for licenses pursuant to this section shall present documentation necessary to determine an applicant's eligibility to receive public benefits pursuant to Chapter 5.5 of this division, beginning with Section 5802.

(c) If the applicant is a partnership, limited liability company, or corporation, the names and titles of all controlling partners, members, stockholders, directors, general managers and officers who are designated to direct, control or manage the manufacturing or sales affairs of the applicant or licensee, subject to law or this chapter, shall be disclosed. For a partnership attach a copy of the executed partnership agreement; for an LLC attach a copy of the current Articles of Organization filed with the California Secretary of State (SOS); for a corporation attach a copy of the current Articles of Incorporation filed with the SOS.

(d) **Manufacturer License.** The following forms and items are required to be submitted by applicants for a manufacturer's license:

(1) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 06/09), which is incorporated by reference.

(2) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 06/09), which is incorporated by reference, for each person designated in Part A as participating in the direction, control or management of the manufacturing or sales operations of the business.

(3) Application for MH-Unit/Commercial Modular Manufacturers, Distributors and Dealers, Part C, form HCD OL 21 (Rev. 06/09), which is incorporated by reference, for each established place of business.

(4) For each person designated in Part A as participating in the direction, control or management of the manufacturing or sales operations of the business, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of a Request for Live Scan Service, form HCD OL 8016 (New 11/05), which is incorporated by reference, or the equivalent form provided by DOJ. The form HCD OL 8016 or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprinting must be processed by a law enforcement

agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation.

(5) Two (2) full facial photographs of each person designated in Part A as participating in the direction, control or management of the manufacturing or sales operations of the business, minimum size 1 1/4" x 1", taken from a maximum distance of six (6) feet.

(6) Business photographs: One (1) photograph showing the manufacturing area and one (1) photograph of the exterior of the office for each established place of business.

(7) A list of model or brand names to be manufactured at each established place of business.

(8) An explanation of the serial number~~s~~ configuration to be assigned to MH-Units or commercial modulars.

(9) The original manufacturer license application fee specified in Section 5040 of this subchapter for each established place of business.

(e) **Distributor License.** The following forms and items are required to be submitted by applicants for a distributor's license:

(1) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part A who is designated as participating in the direction, control or management of the manufacturing or sales operations of the business, form HCD OL 12 (Rev. 06/09), which is incorporated by reference.

(2) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 06/09), which is incorporated by reference, for each person designated in Part A as participating in the direction, control or management of the manufacturing or sales operations of the business.

(3) Application for MH-Unit/Commercial Modular Manufacturers, Distributors and Dealers, Part C, form HCD OL 21 (Rev. 06/09), which is incorporated by reference, for each established place of business.

(4) For each person designated in Part A as participating in the direction, control or management of the manufacturing or sales operations of the business, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of a Request for Live Scan Service, form HCD OL 8016 (New 11/05), which is incorporated by reference, or the equivalent form provided by DOJ. The form HCD OL 8016 or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation.

(5) Two (2) full facial photographs of each person designated in Part A as participating in the direction, control or management of the manufacturing or sales operations of the business, minimum size 1 1/4" x 1", taken from a maximum distance of six (6) feet.

(6) Business photographs: One (1) photograph showing the exterior of the office for each established place of business.

(7) A list of the name, address, brands and models of each manufacturer whose line will be distributed.

(8) An explanation of the manufacturer's serial numbers configuration assigned to MH-Units or commercial modulars.

(9) The original distributor license application fee specified in Section 5040 of this subchapter for each established place of business.

(f) **Dealer License.** The following forms and items are required to be submitted by applicants for a dealer's license:

(1) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 06/09), which is incorporated by reference.

(2) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 06/09), which is incorporated by reference, for each person designated in Part A as participating in the direction, control or management of the sales operations of the business. Manufactured home dealer applicants using a bachelor’s degree from an accredited United States (U.S.) college or university to qualify for the license shall provide acceptable evidence to the department (e.g., certified transcripts) that the applicant earned the degree and the degree is from an accredited college or university, such as those listed by the U.S. Department of Education (USDE), the California Department of Education (CDE) or one of the accrediting agencies recognized by the USDE or CDE. Applicants using a foreign or non-English college or university degree shall have the degree translated into English. The applicant shall submit verification that the degree is from an accredited college or university and is equivalent to a bachelor’s degree from an accredited U.S. college or university. Applicants may obtain a degree translation and/or verification from any U.S. accredited college or university, a business approved for that purpose by the USDE, CDE, or the California Department of Real Estate. Translation and/or verification criteria from other government agencies, not identified in this section may be acceptable. For translation only, the consul of the country where the foreign degree was earned or by a translation bureau may be acceptable. Two (2) or more associate degrees are not acceptable to satisfy the education criteria, however a graduate degree from an accredited college or university may be acceptable.

(3) Application for MH-Unit/Commercial Modular Manufacturers, Distributors and Dealers, Part C, form HCD OL 21 (Rev. 06/09), which is incorporated by reference, for each established place of business.

(4) Application for MH-Unit/Commercial Modular Dealers, Part D, form HCD OL 50 (Rev. 06/09), which is incorporated by reference.

(5) For each person designated in Part A as participating in the direction, control or management of the

manufacturing or sales operations of the business, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of a Request for Live Scan Service, form HCD OL 8016 (New 11/05), which is incorporated by reference, or the equivalent form provided by DOJ. The form HCD OL 8016 or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation.

(6) Two (2) full facial photographs of each person designated in Part A as participating in the direction, control or management of the manufacturing or sales operations of the business, minimum size 1 1/4" x 1", taken from a maximum distance of six (6) feet.

(7) Business photographs: One (1) photograph showing the exterior of the office of each established place of business.

(8) Certificate of Appointment, form HCD OL 28 (Rev. 11/05), which is incorporated by reference.

(9) A Letter of Authorization from, and a copy of any franchise or contractual agreement with, each manufacturer indicating its approval to sell MH-Units or commercial modulars at the address of the established place of business (NOT required of dealers selling only used MH-Units or commercial modulars).

(10) Proof of successful passage of the MH-Unit or commercial modular dealer examination, as required by law and Section 5022 of this subchapter, by each person designated in Part A as participating in the direction, control or management of the manufacturing or sales operations of the business, within six (6) months prior to the application date.

(11) For MH-Unit dealers only, proof of completion of a preliminary education program, as required by Section 5302, for each person designated on Part A as participating in the direction, control or management of the manufacturing or sales operations of the business.

(12) A sample of all purchase documents to be used, including but not limited to, purchase orders, conditional sales contracts, security agreements, or other instruments of purchase, and receipts of deposit.

Note: Issuance of a license is not to be construed as approval of the contents of such documents or their legal sufficiency.

(13) A list of all names, license numbers and home addresses of all salespersons and managing employees to be employed at each established place of business.

(14) The original dealer license application fee specified in Section 5040 of this subchapter for each established place of business.

(g) **Salesperson License.** The following forms and items are required to be submitted by applicants for a salesperson's license:

(1) Application for MH-Unit/Commercial Modular Salespersons, Part A, form HCD OL 16 (Rev. 06/09), which is incorporated by reference.

(2) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 06/09), which is incorporated by reference.

(3) The applicant must submit fingerprints through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of a Request for Live Scan Service, form HCD OL 8016 (New 11/05), which is incorporated by reference, or the equivalent form provided by DOJ. The form HCD OL 8016 or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation.

(4) Two (2) full facial photographs of the applicant, minimum size 1 1/4" x 1", taken from a maximum distance of six (6) feet.

(5) Proof of successful passage of the MH-Unit or commercial modular salesperson examination, as required by law and Section 5022 of this subchapter, within six (6) months prior to the application date.

(6) For MH-Unit salesperson only, proof of completion of a preliminary education program, as required by Section 5302 of this chapter for each person designated on Part A as participating in the direction, control or management of manufacturing or sales operations of the business.

(7) The original salesperson license application fee specified in Section 5040 of this subchapter.

(h) **90-Day Certificate.**

(1) Any person applying for a 90-day certificate shall submit an application to the department on an Application for MH-Unit/Commercial Modular 90-Day Certificate, form HCD-OL 90 (Rev. 06/09), which is incorporated by reference.

(2) The original 90-day certificate application fee specified in Section 5040 of this subchapter.

(3) Concurrent with the submission to the department of a completed Application for MH-Unit/Commercial Modular 90-Day Certificate, form HCD-OL 90 (Rev. 06/09), which is incorporated by reference, the applicant shall also submit a completed application for license as a salesperson, in accordance with Subsections (a) and (g) of this section, with the exception of the following items:

(A) Proof of successful passage of the MH-Unit or commercial modular salesperson examination as required by

Subsection (g) of this section.

(B) Proof of completion of a preliminary education program as required by Section 5302 of this chapter.

(C) The original salesperson license application fee specified in Section 5040 of this subchapter as required by Subsection (g) of this section.

(i) **90-Day Certificate Holder Converting to a Salesperson License Holder.**

(1) All 90-day certificate holders, wishing to convert to a licensed salesperson, shall provide the department with the following no later than three (3) months after the expiration of their 90-day certificate:

(A) Proof of successful passage of the MH-Unit or commercial modular salesperson examination as required by Subsection (g) of this section.

(B) Proof of completion of a preliminary education program as required by Section 5302 of this chapter if applying for a MH-Unit salesperson license.

(C) The original salesperson license application fee specified in Section 5040 of this subchapter as required by Subsection (g) of this section.

(D) Items required by subparagraphs (A), (B), and (C) of this subsection shall be provided to the department accompanied by the 90-day certificate.

(2) No holder of an expired 90-day certificate shall act in the capacity of a 90-day certificate holder or licensed salesperson until receiving a valid certificate or salesperson license.

(3) Conversion applicants failing to comply with the provisions of Subsection (i) of this section shall meet all salesperson license application requirements as a new applicant in accordance with Subsection (g) of this section.

§ 5020.5. License and 90-Day Certificate Application Review and Notice of Department Decision

(a) Within seven (7) calendar days of receiving applications in the office designated on the application forms for an occupational license, the department shall review each license application received pursuant to this chapter, and notify the applicant in writing of either the acceptance of the application for filing, or the rejection of the application due to incompleteness or errors, specifically identifying the incompleteness or errors and what must be done in order to make the application complete and acceptable.

(b) Within 120 calendar days of receiving a completed and acceptable application, the department shall conduct an investigation pursuant to Health and Safety Code Section 18052 of each person identified on the application, and each proposed place of business within this state; determine if the provisions of law and this chapter applicable to the application have been satisfied, and either issue a license or a written notice of refusal. The written notice of refusal shall specify the reasons why approval may not be granted.

(c) A survey conducted pursuant to Government Code Section 15376 of the department's performance determined the minimum, median and maximum elapsed time between receipt of a completed application for a manufacturer, distributor, or dealer license and reaching a final decision; the results are as follows:

(1) Minimum: 21 calendar days.

(2) Median: 63 calendar days.

(3) Maximum: 463 calendar days.

(d) A survey conducted pursuant to Government Code Section 15376 of the department's performance determined the minimum, median and maximum elapsed time between receipt of a completed application for a salesperson license and reaching a final decision; the results are as follows:

(1) Minimum: 15 calendar days.

(2) Median: 57 calendar days.

(3) Maximum: 344 calendar days.

(e) The department may exceed the maximum time as provided in Subsections (a) and (b) of this section, if any of the following occurs:

(1) The number of applications is 15 percent greater than for the same calendar quarter of the preceding year.

(2) The department's application processing is delayed due to fingerprint rejection or fingerprint processing by the California Department of Justice or the Federal Bureau of Investigation.

(f) The department’s processing time~~s~~ for 90-day certificate applications, from receipt of an application to either issuance of the certificate or refusal of issuance of the certificate, shall be as follows:

(1) Minimum: 1 working day.

(2) Maximum: 7 working days.

(g) The applicant may appeal directly to the Director of the department and/or the Secretary of the Business, Transportation and Housing Agency for a timely resolution of any dispute arising from a violation of the time periods within which the department must process the application. The appeal shall be decided in the applicant's favor if the department has exceeded the established maximum time period of issuance or denial of the license or 90-day certificate and the department has failed to establish good cause for exceeding the time period. If the appeal is decided in the applicant's favor, the applicant shall receive full reimbursement of any and all filing fees paid to the department.

§ 5021. Abbreviated Application for Applicants with Business or Personal History Irregularities

(a) Occupational license applicants with previous business or personal history irregularities wishing to determine licensing eligibility may submit an abbreviated application with the following items:

(1) One of the following:

(A) For manufacturer, dealer or distributor applicants: An Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 06/09), which is incorporated by reference.

(B) For salesperson applicants: An Application for MH-Unit/Commercial Modular Salesperson, Part A, form HCD OL 16 (Rev. 06/09), which is incorporated by reference.

(2) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 06/09), which is incorporated by reference, for each person designated in Part A as participating in the direction, control or management of the sales operations of the business or each salesperson application.

(3) For each applicant designated in Part A as participating in the direction, control or management of the sales operations of the business or for each salesperson application, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of a Request for Live Scan Service, form HCD OL 8016 (New 11/05), which is incorporated by reference, or the equivalent form provided by DOJ. The form HCD OL 8016 or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation.

(4) Non-refundable original application fee, specified by Section 5040 of this subchapter, for the applicable license.

(b) After the department has determined from the abbreviated application that an applicant is eligible, all other forms and items required by Section 5020 of this subchapter must be submitted to the department before a license or temporary permit will be issued.

§ 5022. Examinations

(a) Each applicant for a dealer or salesperson license shall take and successfully complete an examination administered by the department as specified in this section. On or after January 1, 1987, each person applying for the MH-Unit dealer or salesperson examination shall provide proof of having attended an approved preliminary education program within the six (6) month period prior to the date of application for the license examination. Proof of attendance shall be evidenced by a serial number of a Certificate of Completion issued pursuant to Section 5322 of this chapter.

(b) Applicants for a dealer license subject to the examination requirement shall successfully complete the MH-Unit dealer examination or, in the case of an applicant wishing to sell only commercial modulars, the Commercial Modular Dealer Examination.

(c) All applicants for a salesperson license shall successfully complete the MH-Unit salesperson examination or, in the case of an applicant wishing to sell only commercial modulars, the Commercial Modular Salesperson Examination.

(d) Holders of and applicants for a commercial modular dealers or salespersons license wishing to sell MH-Units will be required to take and successfully complete the applicable MH-Unit examination.

(e) Holders of a valid salesperson license applying for a dealer license shall take and successfully complete the appropriate Dealer Examination.

(f) Holders of a continuously valid dealer license issued in this state on or after July 1, 1976, applying for a salesperson license will not be subject to the examination requirement.

(g) The examination of any applicant found leaving the prescribed examination area or using reference material of any kind before completion and return of the examination for correction or otherwise cheating will be given a failing grade.

(h) All disputes or questions concerning the department's examination questions, answers, or examination procedures shall be submitted to the department in writing.

(i) For each examination taken, the applicant shall pay a non-refundable fee as specified in Section 5040 of this subchapter.

§ 5023. Temporary Permits

The department, after a preliminary investigation of department records and of the information provided by the applicant for an Occupational License, and determining compliance with the applicable provisions of Section 5020 of this subchapter, may issue a temporary permit allowing the applicant to operate as a licensee for a period not to exceed 120 calendar days pending the completion of the investigation of the applicant required by law. A temporary permit is subject to cancellation by the department as provided by law.

§ 5023.5. 90-Day Certificate Contents and Posting

(a) The 90-day certificate issued by the department shall contain, but is not limited to the following information:

(1) The 90-day certificate holder's name.

(2) The employing dealership name, location of employment, and the dealer's occupational license number.

(3) The 90-day certificate effective date and expiration date.

(4) The 90-day certificate number issued by the department.

(b) Upon delivery by the 90-day certificate holder of his or her 90-day certificate to the employing dealer, the

employing dealer shall post the certificate in a place conspicuous to the public on the premises where the 90-day certificate holder is actually engaged in the selling or leasing of MH-Units or commercial modulars for the employing dealer. The 90-day certificate shall be displayed continuously during the 90-day certificate holder's employment.

(c) An expired 90-day certificate shall not be posted at the dealer's place of business, but shall be returned to the 90-day certificate holder for forwarding to the department.

§ 5024. Established Place of Business Relocation, Elimination or Addition

Any licensee relocating, eliminating or adding an established place of business shall notify the department at least ten (10) calendar days prior to the effective date of the change.

(a) Manufacturers, dealers and/or distributors relocating the site of the established place of business must notify the department by the submittal of the following forms and items for each established place of business relocation:

(1) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 06/09), which is incorporated by reference.

(2) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part C, for each established place of business, form HCD OL 21 (Rev. 06/09), which is incorporated by reference.

(3) Photographs: One (1) photograph showing the exterior of the new office. In addition, manufacturers must submit one (1) photograph showing the new manufacturing area.

(4) The Relocation of Business Fee specified by Section 5040 of this subchapter.

(b) Manufacturers, dealers and/or distributors eliminating established places of business must notify the department by the submittal of Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 06/09), which is incorporated by reference.

(c) Manufacturers adding an established place of business must notify the department by the submittal of the following forms and items for each new established place of business:

(1) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 06/09), which is incorporated by reference.

(2) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part C, form HCD OL 21 (Rev. 06/09), which is incorporated by reference, for each new established place of business.

(3) Photographs of each new established place of business: one (1) photograph showing the manufacturing area and one (1) photograph of the exterior of the office.

(4) The original license application fee specified by Section 5040 of this subchapter for each new established place of business, prorated in accordance with Section 5030 of this subchapter.

(d) Dealers adding an established place of business must notify the department by the submittal of the following forms and items for each new established place of business:

(1) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 06/09), which is incorporated by reference.

(2) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part C, form HCD OL 21 (Rev. 06/09), which is incorporated by reference, for each new established place of business.

(3) Photographs of each new established place of business: one (1) photograph showing the exterior of the office.

(4) A Letter of Authorization from, and a copy of any franchise or contractual agreement with, each manufacturer indicating its approval to sell MH-Units or commercial modulars at each new established place of business address (NOT required of used dealers).

(5) A list of any new manufacturers' names, addresses and brand names or model designations to be offered for sale.

(6) A list of names, home addresses and license numbers of all salespersons and managing persons to be employed at each new established place of business.

(7) The original license application fee specified by Section 5040 of this subchapter for each new established place of business, prorated in accordance with Section 5030 of this subchapter.

(e) Distributors adding an established place of business must notify the department by the submittal of the following forms and items for each new established place of business:

(1) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 06/09), which is incorporated by reference.

(2) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part C, form HCD OL 21 (Rev. 06/09), which is incorporated by reference, for each new established place of business.

(3) One (1) photograph showing the exterior of the office.

(4) A list of any new manufacturers' names, addresses and brand names or model designations to be distributed from each new established place of business.

(5) A copy of the warranty to be offered with the sale of new MH-Units.

(6) The original license application fee specified by Section 5040 of this subchapter for each new established place of business, prorated in accordance with Section 5030 of this subchapter.

§ 5025. Change of Ownership

(a) Every licensee which is changing ownership structure by termination or addition of partners or members of an limited liability company (LLC) or by changing the type of ownership structure to a partnership, an LLC, or corporation, shall notify the department at least ten (10) calendar days prior to the effective date of this change by the submittal of the following:

(1) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 06/09), which is incorporated by reference.

(2) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, and Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 06/09), which is incorporated by reference, for each new person designated in Part A, who will direct, control, operate or manage the manufacturing or sales operations of the license.

(3) For each person designated in Part A, who will direct, control, operate or manage the manufacturing or sales operations of the license, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of a Request for Live Scan Service, form HCD OL 8016 (New 11/05), which is incorporated by reference, or the equivalent form provided by DOJ. The form HCD OL 8016 or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation.

(4) Two (2) full facial photographs of each new person designated in Part A, who will direct, control, operate or manage the manufacturing or sales operations of the license.

(5) For dealers only, a Certificate of Appointment, form HCD OL 28 (Rev. 11/05), which is incorporated by reference.

(6) For dealers only, proof of successful passage by each new person designated in Part A, who will direct, control, operate or manage the manufacturing or sales operations of the license, of the MH-Unit or Commercial Modular Dealer Examination, as required by law and Section 5022 of this subchapter, within six (6) months prior to the application date.

(7) For MH-Unit dealers only, proof of completion of a preliminary education program, as required by Section 5302 of this chapter for each person designated in Part A as participating in the direction, control or management of the manufacturing or sales operations of the business.

(8) For each person relinquishing their ownership interest in a partnership or membership of an LLC, a Statement of Relinquishment by MH-Unit/Commercial Modular Manufacturer, Distributor or Dealer, form HCD OL 49 (Rev. 06/09), which is incorporated by reference.

(9) The fee specified in Section 5040 of this subchapter, whichever is applicable for the change of ownership structure to a partnership, an LLC or corporation, or change of partner or member.

(b) Every license which is a corporation changing the ownership structure by the termination or addition of officers, directors or controlling stockholders shall notify the department within at least ten (10) calendar days after the effective date of the change by the submittal of the following:

(1) Notice of Change of Corporate Officer(s) and/or Director(s), form HCD OL 15 (Rev. 06/09), which is incorporated by reference.

(2) Application for MH-Unit/Commercial Modular Manufacturers, Distributors, Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 06/09), which is incorporated by reference, for each new officer, director or controlling stockholder who will be designated to direct, control, operate or manage the manufacturing or sales operation of the license.

(3) For each new officer, director or controlling stockholder who will be designated to direct, control, operate or manage the manufacturing or sales operation of the license, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of a Request for Live Scan Service, form HCD OL 8016 (New 11/05) which is incorporated by reference, or the equivalent form provided by DOJ. The form HCD OL 8016 or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation.

(4) Two (2) full facial photographs of each new officer, director or controlling stockholder who will be designated to direct, control, operate or manage the manufacturing or sales operations of the license, minimum size 1 1/4" x 1", taken from a maximum distance of six (6) feet.

(5) For dealers only, proof of successful passage by each new officer and/or director of the MH-Unit or Commercial Modular Dealer Examination, as required by law and Section 5022 of this subchapter, within six (6) months prior to the application date.

(6) Addition of corporate officer(s), director(s) or controlling stockholder(s), or elimination of a corporate officer, director or controlling stockholder fee specified in Section 5040 of this subchapter, whichever is applicable.

(7) For MH-Unit dealer only, proof of completion of a preliminary education program as required by Section 5302 of this chapter for each person designated in Part A as participating in the direction, control or management of the sales

operations of the business.

§ 5026. Salesperson and 90-Day Certificate Holder; Employment or Change of Employment.

(a) Every dealer shall notify the department in writing within ten (10) calendar days after the employment or termination of any salesperson on an Application for Occupational License Change, Correction or Replacement, form HCD OL 18 (Rev. 06/09), which is incorporated by reference.

(b) Every salesperson within ten (10) calendar days of changing employment shall apply to the department for a replacement license by the submittal of a written notice on an Application for Occupational License Change, Correction or Replacement, form HCD OL 18 (Rev. 06/09), which is incorporated by reference, and the change of employment fee specified in Section 5040 of this subchapter.

(c) Every dealer shall notify the department within ten (10) calendar days after the dealer has terminated the employment of any 90-day certificate holder. Notification shall be provided on an Application for 90-Day Certificate Change, Correction or Replacement, form HCD OL 90A (Rev. 06/09), which is incorporated by reference.

(d) Every 90-day certificate holder shall notify the department within ten (10) calendar days of a change of employment. Notification shall be provided on an Application for MH-Unit/Commercial Modular 90-Day Certificate, form HCD OL 90 (Rev. 06/09), which is incorporated by reference. The fee specified in Section 5040of this subchapter shall accompany the form.

(e) After department acceptance of the application required in this subsection and the fee specified in Section 5040of this subchapter, the department will issue a corrected 90-day certificate to the 90-day certificate holder.

§ 5027. Change of Residence

(a) Every licensee shall notify the department in writing within five (5) calendar days of any change in residence address on an Application for Occupational License Change, Correction or Replacement, form HCD OL 18 (Rev. 06/09), which is incorporated by reference, along with the change of residence fee specified in Section 5040 of this subchapter.

(b) Every 90-day certificate holder shall notify the department within five (5) calendar days of any change in residence address using an Application for 90-Day Certificate Change, Correction or Replacement, form HCD OL 90A (Rev. 06/09), which is incorporated by reference. The fee specified in Section 5040 of this subchapter shall accompany the form.

§ 5028. Change of Personal Name

(a) Every business licensee shall notify the department in writing within ten (10) calendar days of any change in the business name, including “Doing Business As” names and business name changes as a result of business structure changes, such as changing to a partnership, a limited liability company or a corporation; terminating, cancelling or dissolution of the business on the Application for Occupation License Change, Correction or Replacement, form HCD OL 18 (Rev. 06/09), which is incorporated by reference, along with the change in business name fee specified in Section 5040 of this subchapter.

(b) Every licensee shall notify the department in writing within ten (10) calendar days of any change in his or her personal name on an Application for Occupational License Change, Correction or Replacement, form HCD OL 18 (Rev. 06/09), which is incorporated by reference, along with the change in personal name fee specified in Section 5040 of this subchapter.

(c) Every 90-day certificate holder shall notify the department within ten (10) calendar days of any change in his or her personal name using an Application for 90-Day Certificate Change, Correction or Replacement, form HCD OL 90A (Rev. 06/09), which is incorporated by reference.

(d) Upon department receipt of the completed Application for 90-Day Certificate Change, Correction or Replacement, form HCD OL 90A (Rev. 06/09), and receipt of the fee required by Section 5040 of this subchapter, the department shall issue a corrected 90-day certificate to the 90-day certificate holder.

§ 5029. Change of Franchise or Authorization

Every manufacturer, distributor or dealer shall notify the department in writing within ten (10) calendar days of the effective date of any change, addition or cancellation of any franchise, contractual agreement or authorization to sell MH-Units or commercial modulars.

§ 5030. Renewal of Licenses

(a) It is the responsibility of each licensee to renew its license pursuant to the requirements of law and this chapter.

(b) Licensees who fail to make application for renewal for a license when required, shall, in addition to the fees required pursuant to Section 5040 of this subchapter, pay a penalty of 50 percent of the relevant license fee.

(c) Failure to renew a license before its expiration date results in automatic cancellation of the license. Any person whose license has expired cannot renew it and may receive a new one only by applying for a new license pursuant to the requirements of law and this chapter and paying the penalty prescribed in Subsection (b) of this section.

(d) Any check received for renewal that is subsequently dishonored and not reimbursed before the expiration date will result in the cancellation of the applicant's license.

(e) The following language shall become effective on January 1, 1984. Every occupational license issued to a manufacturer, distributor or dealer shall expire on the last day of the 24th month following the date of issuance of the temporary permit issued pursuant to Section 5023 of this subchapter. Every occupational license renewed by a manufacturer, distributor or dealer shall be for a term of 24 months. The application to renew an occupational license held by a manufacturer, distributor or dealer must be either received by the department or postmarked during the month preceding the month of expiration. Applications postmarked or delivered in person to the department during the month

of expiration shall be subject to a 50 percent penalty. A license may not be renewed after its expiration date.

(f) Salespersons' licenses expire on the last day of the 24th month following the date of issuance of the temporary permit pursuant to Section 5023 of this subchapter. Renewal of a salesperson's license shall be for 24-month term. Renewal may not be made more than 90 calendar days prior to the expiration date. A 50 percent penalty fee shall be added if the renewal application and fee are not postmarked or received by the department 30 calendar days prior to expiration.

(g) Licensees applying for a secondary place of business(es) license will be issued licenses for a term concurrent with the existing licensure term. Fees will be based on the applicable original application fee specified in Section 5040 of this subchapter, but shall be prorated consistent with the remaining license term.

(h) Each licensee, when applying for renewal of a license, shall present documentation necessary to determine the licensee's eligibility to receive public benefits pursuant to Chapter 5.5 of this division, beginning with Section 5802.

§ 5032. Change of Supervising Managing Employee

Every dealer shall notify the department within five (5) calendar days of a change in the designated supervising managing employee. Notification shall be provided on an Application for MH-Unit/Commercial Modular 90-Day Certificate, form HCD OL 90 (Rev. 06/09), which is incorporated by reference. The fee specified in Section 5040 of this subchapter shall accompany the form.

§ 5034. Change of Employment Location

(a) Every dealer shall notify the department within 15 calendar days of any change in the employment location of any 90-day certificate holder in the dealer's employ by using an Application for 90-Day Certificate Change Correction or Replacement, form HCD OL 90A (Rev. 06/09), which is incorporated by reference. The fee specified in Section 5040 of this subchapter shall accompany the form.

(b) If the change in employment location also changes the person designated as the "supervising managing employee," the dealer shall also comply with the notification requirements of Section 5032 of this subchapter.

(c) After receipt of the completed application form(s) and receipt of the required fee(s), the department will issue a corrected 90-day certificate to the 90-day certificate holder.

§ 5036. Replacement 90-Day Certificate

A 90-day certificate holder shall request from the department, within five (5) calendar days of the loss or destruction of a certificate, the replacement of a lost or destroyed certificate by using an Application for 90-Day Certificate Change, Correction or Replacement, form HCD OL 90A (Rev. 06/09), which is incorporated by reference. Upon department receipt of the completed application form HCD OL 90A and the fee required by Section 5040 of this subchapter, the department will issue a replacement 90-day certificate to the 90-day certificate holder. The department shall not be required to issue a replacement 90-day certificate if the 90-day certificate period has lapsed.

§ 5038. Application Requirements For 90-Day Certificate Change, Correction Or Replacement

Application for change, correction, or replacement of a 90-day certificate shall be made using an Application for 90-Day Certificate Change, Correction or Replacement, form HCD OL 90A (Rev. 06/09), which is incorporated by reference.

§ 5040. Fees

(a) Manufacturer and Distributor.

(1) Original License Application: Five hundred eighty-two dollars ($582) per year for each ~~established place of~~ main or additional business location.

(2) Renewal of License: Five hundred dollars ($500) per year for each ~~established place of~~ main or additional business location.

(b) Dealers.

(1) Original License Application: Five hundred eighty-two dollars ($582) per year for each ~~established place of~~ main or additional business location.

(2) Renewal of License: Four hundred five dollars ($405) per year for each ~~established place of~~ main or additional business location.

(c) Salesperson and 90-Day Certificate Holder.

(1) Original Salesperson License Application: Two hundred nineteen dollars ($219).

(2) Renewal of Salesperson License: One hundred fifty dollars ($150).

(3) Change of Salesperson or 90-Day Certificate Holder Employment Fee: Forty-five dollars ($45).

(4) Original 90-Day Certificate Application: One hundred thirty-four dollars ($134).

(d) Duplicate Licenses, 90-Day Certificates, and Reports of Change for All Licensees and 90-Day Certificate Holders.

(1) Duplicate License or 90-Day Certificate: Forty-five dollars ($45).

(2) Change in Business or Personal Name: Forty-five dollars ($45).

(3) Change in Business Mailing or Personal Address: Forty-five dollars ($45).

(4) Elimination of Partner, Member or Corporate Officer, Director or Controlling Stockholder: Seventy-two dollars ($72).

(5) Addition of Partner(s), Member(s) or Corporate Officer(s), Director(s) or Controlling Stockholder(s): One hundred thirty dollars ($130).

(6) Relocation of Business: Three hundred fifty-eight dollars ($358).

(7) Change of Ownership Structure to a Partnership, Limited Liability Company or a Corporation: Seventy-two dollars ($72).

(8) Change of Supervising Managing Employee: Forty-five dollars ($45).
(9) Change of Employment Location for 90-Day Certificate Holders: Forty-five dollars ($45).
(e) Examinations.
(1) Dealer Examination: One hundred ten dollars ($110) for each examination taken.
(2) Salesperson Examination: Eighty-six dollars ($86) for each examination taken.
(f) Investigative and Technical Services.
(1) One hundred ninety-six dollars ($196) provided the investigative or technical service does not exceed one hour, including travel time associated with an investigation. When the investigative or technical service exceeds one hour, the following fees shall apply:
(A) Second and subsequent whole hours: eighty-two dollars ($82).
(B) Each thirty (30) minutes, or fractional part thereof: forty-one dollars ($41).
(g) Information, Photocopying, Certification, Forms and Photos.
(1) Search for Information: Forty-five dollars ($45) per subject, whether information is found or not.
(2) Summary of Employment: Fifty-three dollars ($53) per licensee.
(3) Photocopies of Documents: Five dollars ($5.00) per page.
(4) Certified Copies of Documents: Twenty-five dollars ($25) per document.
(5) Certification of Information on File: Forty-five dollars ($45).
(6) Full facial photograph fee: One dollar and fifty cents ($1.50) per photo.
(7) Examination Study Guide: Twenty-nine dollars ($29).
(h) Statewide Licensee Lists.
(1) Manufacturers: Fifty-five dollars ($55).
(2) Dealers: Fifty-five dollars ($55).
(3) Distributors: Fifty-five dollars ($55).
(4) Salespersons: Sixty dollars ($60).
(i) Dealer Report of Sale Filing Fee: Twenty-five dollars ($25) for each report of sale filed with the department.

§ 5041. Refunds

Fees paid to the department pursuant to this chapter are not refundable, except in a case where the department has not already incurred expense, and a request is submitted in writing explaining circumstances for the refund justifying special consideration.

§ 5042. [Repealed] Insufficient Checks

§ 5043. Dealer Report of Sale Filing Fee

A Report of Sale Filing Fee specified by Section 5040 of this subchapter shall be paid to the department with each dealer's Report Sale filed pursuant to Health and Safety Code Section 18080.5.

Article 5. Advertising, Listing Agreements, and Sales Practices

§ 5050. General Advertising

(a) Any advertised statements, representations, or offers made in connection with the sale, attempted sale, listing for sale, or attempted listing for sale of any MH-Unit or commercial modular shall be clear, based on facts, and subject to the requirements of law and this chapter.
(b) Any advertisement by a dealer of a specific MH-Unit or commercial modular shall include the dealer's name, its manufacturer or model name, year model and at least one (1) of the following items:
(1) The serial number assigned by its manufacturer.
(2) The federal label number.
(3) The department insignia number.
Year models are no longer current when ensuing year models are advertised or made available for purchase at retail by the manufacturers.
(c) If a license advertises any MH-Unit or commercial modular used in its business as a lot model, display unit or office, the licensee shall clearly disclose the previous use made thereof.
(d) A licensee shall advertise any MH-Unit or commercial modular which has been previously sold at retail, registered or otherwise required to be registered expressly as a used MH-Unit or commercial modular.

§ 5051. MH-Unit or Commercial Modular Condition and Physical Size

(a) Statements of the condition of a MH-Unit or commercial modular must accurately reflect its known condition, and pictures thereof must accurately depict its overall appearance.
(b) When advertising the size of a MH-Unit or commercial modular, the size shall not include measurements of projections beyond the exterior wall such as roof overhangs, hitches, drawbars, couplings, bay windows or similar projections.

§ 5052. MH-Unit or Commercial Modular Availability

(a) No dealer shall advertise a specific new MH-Unit or commercial modular or a class thereof for sale, unless it is in the dealer's possession, or is available to the dealer directly from the manufacturer or distributor thereof under an enforceable contractual right of delivery or retail authorization on file with the department between the advertising dealer and the manufacturer or distributor.
(b) A dealer must sell advertised MH-Units or commercial modulars at or below the advertised price irrespective of

whether or not the advertised price has been communicated to the purchaser.

(c) Dealers displaying models which contain features, items or materials no longer available from the manufacturer, shall disclose such facts to prospective purchasers of homes whose order is based upon the display model.

§ 5053. Free Merchandise, Savings Claims and Rebates

(a) No licensee shall advertise or represent any merchandise, services, accessories or products as "free" with the purchase of a MH-Unit or commercial modular if the MH-Unit or commercial modular can be purchased from the advertiser at a lesser price without such "free" merchandise, services, accessories or products. Advertisements for "free" merchandise, services, accessories or products offered in consideration of such things as "visit our showroom" shall clearly and completely describe the conditions under which the "free" merchandise is offered.

(b) Dealers may advertise savings claims or discount offers on new MH-Units or commercial modulars provided the advertisement shows the difference between the dealer's advertised selling price for cash and the manufacturer's suggested retail price, except sales tax, registration fees, and finance charges. Such advertisements must include a specific reference by words, figures, or both, to the manufacturer's suggested retail price.

(c) Any advertisements with reference to "rebates" on MH-Units or commercial modulars shall clearly state the amount and source of the rebate. No dealer shall advertise or offer a rebate with the purchase of a MH-Unit or commercial modular if the advertised MH-Unit or commercial modular can normally be purchased from the advertiser at a lesser price without such rebate.

§ 5054. Dealer Added Charges

A dealer may not identify a separate charge or charges for services performed on a MH-Unit or commercial modular prior to delivery to the extent the dealer is or will be reimbursed for such expenditures by another party.

§ 5055. Financing

(a) Credit terms advertised shall include all charges required to place the transaction on a time payment basis and must state any rates in compliance with Regulation Z. Advertisements of terms which include escalated payments, balloon payments, or pick-up payments shall clearly identify those payments as to their amounts and times due and must state any rates in compliance with Regulation Z.

(b) Licensees shall not advertise statements such as "no finance charge" unless there is no charge or time-price differential whatsoever for placing the transaction on a time payment basis.

(c) Licensees shall not make claims such as "everybody financed," "no credit rejected," or words of a similar nature unless the licensee is willing to extend such credit to each and every individual under any and all circumstances.

(d) If qualifying words such as "on credit approval," are used in conjunction with advertised credit terms, licensees shall clearly state such qualifying words, unabbreviated, in type size no less than one half (1/2) of the type size of the credit terms, and in close proximity thereto.

§ 5056. Down Payment and Deposit

(a) A licensee shall not advertise the amount of down payment and/or deposit required to purchase a MH-Unit or commercial modular unless it is clearly identified as being a down payment or deposit in type size not less than one half (1/2) the type size in which the amount of the down payment or deposit is stated.

(b) A licensee shall not advertise the statements "no down payment," "no deposit" or similar terms unless the dealer will sell and deliver the advertised MH-Unit or commercial modular to any purchaser without prior payment of any kind or trade-in.

(c) If an advertisement quotes the amount of a periodic payment, the advertisement shall also quote the amount of the down payment or deposit required to qualify for the amount of the quoted periodic payment.

(d) A licensee shall not advertise the amount of a down payment or deposit unless it represents the total payment, including any payment for sales tax, permits, titling or registration, to be required of the purchaser prior to delivery of the MH-Unit or commercial modular.

§ 5057. Representations

A dealer or salesperson shall not do any of the following:

(a) Knowingly make a material misrepresentation to the owner or seller of a MH-Unit or commercial modular of its likely market value, either for the purpose of securing a listing or for the purpose of acquiring an interest in the MH-Unit or commercial modular for the licensee's own account.

(b) State or imply to an owner or seller of a MH-Unit or commercial modular during listing negotiations that the licensee is precluded by law, regulation or by the rules of any group or organization of licensees, from charging less than the commission or fee quoted to the owner by the licensee.

(c) Fail in a transaction for the sale, lease or exchange of a MH-Unit or commercial modular to disclose to a prospective purchaser or lessee facts known to the licensee materially affecting the value or desirability of the MH-Unit or commercial modular, when the licensee has reason to believe that such facts are not known to, nor readily observable by a prospective purchaser or lessee.

(d) When seeking a listing, represent to an owner or seller of the MH-Unit or commercial modular that the soliciting licensee has obtained a bona fide written offer to purchase the MH-Unit or commercial modular, unless at the time of representation the licensee has possession of a bona fide written offer to purchase.

(e) Fail to present or cause to be presented to the registered owner or seller of the MH-Unit or commercial modular any offer to purchase or lease received prior to the preparation of the purchase documents or rental agreement.

(f) Present competing offers to the seller to purchase the MH-Unit or commercial modular in such a manner as to induce the owner or seller to accept the offer which will provide the greatest compensation to the dealer, without regard

to the benefits, advantages, and/or disadvantages to the owner or seller.

(g) Knowingly underestimate the probable closing costs in a transaction in a communication to the prospective purchaser or seller of a MH-Unit or commercial modular in order to induce that person to make or to accept an offer to purchase the MH-Unit or commercial modular.

(h) Fail to explain to the parties or prospective parties to a transaction the meaning and probable significance of a contingency in an offer or contract that the licensee knows or reasonably believes may affect the closing date of the transaction, or the timing of the vacating of the MH-Unit or commercial modular by the seller or its occupancy by the purchaser.

(i) Knowingly make a false or misleading representation to the seller or purchaser of a MH-Unit or commercial modular as to the form, amount and/or treatment of a deposit toward purchase.

(j) Refund all or part of an offeror's purchase money deposit in a MH-Unit or commercial modular sales transaction after the registered owner has accepted the offer to purchase, unless the licensee has the express permission of the registered owner to make the refund.

(k) Fail to disclose the registered owner of a MH-Unit or commercial modular the nature and extent of any direct or indirect ownership interest or security interest that the licensee expects to acquire as a result of the sale. The prospective purchase of the MH-Unit or commercial modular by a person related to the licensee by blood or marriage, by an entity in which the licensee has an ownership interest, or by any other person with whom the licensee occupies a special relationship shall be disclosed.

(l) Represent, without a reasonable basis, the nature and/or condition of the interior or exterior features or accessories of a MH-Unit or commercial modular when soliciting an offer.

(m) Represent, without a reasonable basis, in the case of the MH-Unit located in a mobilehome park, any characteristics of the mobilehome park or its operation, when soliciting an offer.

(n) Fail to respond to reasonable inquiries of a seller as to the status or extent of efforts to market the MH-Unit or commercial modular listed exclusively with the licensee.

(o) Fail to disclose to a potential purchaser when discussing the purchase of a MH-Unit or commercial modular, the existence of any direct or indirect ownership interest or security interest of the licensee in the MH-Unit or commercial modular.

(p) Fail to disclose to a prospective purchaser of a used MH-Unit that it may become subject to the age limitations as specified in Section 798.73 of the Civil Code within three (3) years from the date of sale to the prospective purchaser.

Article 6. Purchase Documents and Escrow

§ 5060. Escrow Required *<Not applicable for CM exams>*

(a) Concurrent with a dealer's receipt of any cash or cash equivalent from a purchaser at any time prior to delivery of a new or used MH-Unit subject to registration, the dealer shall execute a mutually-endorsed receipt for deposit and purchase document. Within five (5) working days of receipt of deposit, the dealer must establish with an escrow agent an escrow account into which all cash or cash equivalents shall be deposited. The escrow shall not be established with an escrow agent or agency in which the dealer has more than five (5) percent ownership interest.

(b) Upon the purchaser's signing of the receipt for deposit and purchase document, the dealer shall provide the purchaser with a copy of each document, which must be mutually-endorsed.

(c) Upon establishment of the escrow account, the dealer shall provide the escrow agent, in writing, with the information required for the preparation of escrow instructions.

(d) These regulations do not imply, nor shall they be interpreted to require, that a recorded certificate of title or junior lienholder registration card(s) be delivered to the purchaser through escrow as a condition of escrow. These regulations shall, however, provide that a release of any prior rights, title, or interest in a MH-Unit being purchased or traded in as payment toward the MH-Unit being purchased, held by the registered owner(s), legal owner, flooring lender shown on or in possession of a manufacturer's certificate of origin and junior lienholder(s) be obtained as a condition of escrow. In the event that the dealer owns the MH-Unit and it has no liens, the dealer shall deliver into escrow either the certificate(s) of title or the manufacturer's certificate of origin, whichever is available.

(e) If the sale is subject to Section 18035.26 of the Health and Safety Code, the escrow agent must be in receipt of the signed Declaration of Delivery Sale document prior to preparing escrow instructions. The date the Declaration was received by the escrow agent shall precede the date of preparation of escrow instructions.

§ 5061. Escrow Instructions *<Not applicable for CM exams>*

From the information provided by the dealer, the escrow agent shall prepare escrow instructions and any amendments thereto for signing by both the dealer and purchaser. These escrow instructions may be signed in counterpart. Both the dealer and the purchaser shall receive copies of the signed escrow instructions and any mutually agreed amendments, with the originals or executed copies maintained by the escrow agent. The escrow instructions shall contain, but are not limited to, the following:

(a) The names and addresses of both the dealer and the purchaser.

(b) The names and addresses of the registered owner(s), legal owner of, flooring lender, and any junior lienholder(s), of the MH-Unit.

(c) The name, address and telephone number of the escrow agent.

(d) A description of the MH-Unit sold to the purchaser by the dealer which shall include, but not be limited to: the manufacturer name; model name, if available; size (excluding any hitch or towbar); model year, and a statement that prior to the close of escrow, the dealer shall provide the serial numbers of the MH-Unit and the control number(s) of

either the California Department of Housing and Community Development insignia(s) or the federal label(s) affixed to the MH-Unit, which indicate compliance with applicable standards, in order to complete the description of the MH-Unit.

(e) Identification of the amounts paid or to be paid as a deposit, downpayment and/or balance due prior to closing, total price of the MH-Unit and all accessories or services to be provided by the dealer as part of the sale, and any taxes, service fees, charges or other fees. The amounts disclosed by the dealer shall be consistent with the amounts set forth in the purchase document and receipt for deposit.

(f) A general description of and designation of the cash value of each accessory and any installation thereof included in the purchase. Note: This requirement does not apply when the accessories have been installed prior to the preparation of purchase documents.

(g) The specific address or location where the purchaser will accept delivery of the MH-Unit or any accessory thereto included in the purchase price. If the sale is subject to Section 18035.26 of the Health and Safety Code, the delivery address in the escrow instructions shall be the same as the delivery address or location in the Declaration of Delivery Sale document and the purchase agreement.

(h) A statement of the conditions under which the purchaser will receive delivery of the MH-Unit and any accessory thereto.

(i) A statement that prior to the close of escrow, the dealer shall secure and deliver into escrow signed and acknowledged release(s) of any rights, title or interest in the MH-Unit being purchased, executed by the registered owner(s), legal owner, flooring lender and any junior lienholder(s). Any such release shall be conditioned upon the receipt of disbursement by the party executing the release directly from the escrow account of the amount set forth in such release. If the purchaser(s) is/are assuming an indebtedness as evidenced by an existing lien, the dealer shall deliver into escrow documents executed by the legal owner and/or junior lienholder(s) consenting to the assumption by the buyer.

(j) A statement that prior to the close of escrow, the dealer shall secure and deliver into escrow a signed and acknowledged release of any rights, title or interest in the MH-Unit or personal real property being sold or traded in as payment toward the MH-Unit being purchased, from the registered owner(s), legal owner and any junior lienholder(s). Any such release shall be conditioned upon the receipt of disbursement directly from the escrow account of the amount set forth in such release. If the dealer is assuming an existing lien, he or she shall deliver into escrow documents executed by the legal owner and/or junior lienholder(s) consenting to the assumption by the dealer.

(k) A statement that prior to the close of escrow, when the MH-Unit is located in a mobilehome park at the time of sale and is to remain in the park, a statement signed by the purchaser shall be delivered into escrow, indicating that the purchaser has read the rules and regulations of the park, and entered into the park's rental agreement. A copy of a fully executed rental agreement signed by the purchaser may be substituted for the purchaser's agreement.

(l) When the MH-Unit being either purchased or traded in as payment toward the MH-Unit being purchased is subject to local property taxation, the escrow instructions may provide for the proration of said taxes.

(m) Any documentation required for disbursement pursuant to Section 5062 of this subchapter.

(n) In the event a purchaser intends to arrange for third party financing without the assistance of the dealer, a statement that escrow shall terminate 30 calendar days from the date escrow was opened, and that all cash or cash equivalent, less escrow fees, will be returned to the purchaser, unless the purchaser delivers into escrow written confirmation from a lender that financing has been approved.

(o) In the event of a conditional purchase document, a statement that if the contract is not executed by the date escrow is to close, escrow shall terminate and all cash or cash equivalent paid to the dealer be returned to the purchaser.

(p) The date agreed upon, in writing, by the purchaser and dealer that escrow is to close.

§ 5062. Disbursement of Escrow Funds ***<Not applicable for CM exams>***

In addition to the requirements of Sections 18035, 18035.2 and 18035.26 of the Health and Safety Code, the escrow agent shall disburse the amounts specified for the MH-Unit and accessories only as follows:

(a) When the MH-Unit is to be delivered to the site described in the escrow instructions, to be installed, and pass inspection pursuant to Sections 18613 and 18551(b) of the Health and Safety Code, the escrow instructions shall so state and shall require the dealer to deliver into escrow the following documentation to evidence delivery:

(1) A copy of either the statement of installation or the certificate of occupancy issued by the public agency performing the installation inspection.

(2) A statement signed by the dealer indicating that the MH-Unit has been delivered to the purchaser or that delivery has been offered to the purchaser in accordance with the agreement of the principals and that the purchaser is free to occupy the MH-Unit to the exclusion of the dealer.

(b) When the MH-Unit is to be delivered to the purchaser at a location specified in the escrow instructions and the purchaser will, at his or her own convenience either actually and physically perform the installation of the MH-Unit and accessories, or be responsible for such installation, the escrow instructions shall so state and shall contain a statement indicating that either the purchaser has agreed to actually and physically perform the installation of the MH-Unit and accessories or has agreed to be responsible for such installation and understands that escrow may close and funds be disbursed upon delivery of the MH-Unit to the purchaser at the location specified in the escrow instructions. In addition, if applicable, the escrow instructions shall include a copy of the Declaration of Delivery Sale required by Section 18035.26 of the Health and Safety Code. The documentation required to evidence such delivery shall be a statement signed by both the dealer and the purchaser indicating that the MH-Unit has been delivered to the purchaser at the location specified in the escrow instructions.

(c) When the MH-Unit is already installed pursuant to Sections 18613 or 18551(b) of the Health and Safety Code,

prior to the execution of the purchase agreement, the escrow instructions shall so state and shall require the following documentation to be delivered into escrow to evidence delivery: a statement signed by both the dealer and the purchaser indicating that delivery has been received or that delivery has been offered to the purchaser in accordance with the agreement of the principals and that the purchaser is free to occupy the
MH-Unit to the exclusion of the dealer.

(d) The escrow agent can disburse the amount specified for each accessory specified in Section 5061 of this subchapter only upon receipt of written notice signed by the dealer that the accessory has been actually installed or received by the purchaser in the event that installation is not required under the terms of the purchase document.

(e) The escrow agent can disburse the cash or cash equivalent in escrow to the purchaser in the event that the purchaser was unable to obtain third party financing within thirty (30) calendar days of the escrow opening or the conditional purchase document was not executed by the date escrow was to have been closed, as specified in Section 5061 of this subchapter.

§ 5063. Waivers *<Not applicable for CM exams>*

No agreement shall contain any provision by which the purchaser waives any rights to which the purchaser would be otherwise entitled under this article or any other provision of Health and Safety Code, Division 13, Part 2, Chapter 5. Waivers cannot result from practices which include, but are not limited to, separate contracts with the selling dealer for installation of the MH-Unit, separate contracts with the selling dealer for accessories to the manufactured home or mobilehome, substitution by the dealer of the cash and/or equivalents received as whole or partial payment for the MH-Unit or accessory thereto, agreements that liquidated damages be taken out of escrow, and granting of power of attorney, attorney in fact, or agency by the purchaser to the dealer for any purpose other than registration. Such waivers shall be void and unenforceable.

§ 5064. Records Required *<Not applicable for CM exams>*

Escrow agents shall maintain records of their handlings of escrows which shall be subject to audit by authorized representatives of the department or any other appropriate regulatory agency. Such records shall include a copy of the escrow instructions, and the dates and disbursements of cash and/or cash equivalents. Each escrow transaction processed by the escrow agent shall be assigned an escrow number by the escrow agent and this number shall be displayed on all documents relating to that escrow.

Article 7. Public Access to Information Regarding Occupational Licensing

§ 5070. Policy Regarding Disclosure

(a) The department shall provide information regarding license status, compliance, violations substantiated by the department, and disciplinary action taken against any licensee to any person requesting such information.

(b) The department may set reasonable limits upon the number of requests for information from any person.

(c) The appropriate fee for search and any reproductive costs pursuant to Section 5040 of this subchapter, may be charged for any request for information.

(d) The department may prepare and disclose statistical data of a summary nature that does not identify individual licensees, which the department considers such data informative to consumers.

§ 5071. Disclosure of Information Regarding License Status

(a) Upon receipt of written request, the department may disclose to any member of the public, the following license status information which is on record with the department:

(1) Licensee's name, including all fictitious or business names.

(2) License number.

(3) Business address and telephone number.

(4) Names of all principals and offices held.

(5) Date of original licensure.

(6) Date such license expires, expired, lapsed or was terminated and, if applicable, the reason for termination.

(7) If the licensee is a salesperson, the name of the employing dealer and any information about the employer as listed above.

§ 5072. Disclosure of Information Regarding Instances of Noncompliance and Complaints

(a) Upon receipt of written request, the department may disclose to any member of the public the following information with respect to the preceding three (3) calendar years:

(1) The number and general nature of instances of noncompliance or complaints received or discovered by the department which warranted issuance of a warning letter to the licensee.

(2) The number and general nature of complaints which, upon review by the department, establish a prima facie case of an instance of noncompliance, other than warranty complaints.

(3) The number and general nature of instances of noncompliance or complaints found to warrant administrative disciplinary action against the licensee, as evidenced by the filing of an accusation or judicial action by the department.

(b) If an instance of noncompliance or complaint which was initially determined by the department to be substantiated is later found by an Administrative Law Judge or a court of law not to constitute a violation of law, and that determination is not successfully appealed by an interested party, it shall be deleted from the complaint information.

§ 5073. Disclosure of Information Regarding Disciplinary Actions

The department may disclose the following disciplinary history information upon request:

(a) Whether any current licensee or principal thereof has ever been disciplined and, if so, when and for what offenses.

(b) Whether any current licensee or principal thereof has been named in any disciplinary action and if so, the disposition of such action.

Article 8. Enforcement Actions and Penalties

§ 5080. Enforcement

The department shall administer and enforce all of the provisions of this chapter. Any officer, agent, or employee of the department assigned to enforcement is authorized:

(a) To enter at reasonable times and without advance notice any premises where MH-Units or commercial modulars are manufactured, sold, or offered for sale, rent, or lease.

(b) To examine and copy any records, documentary evidence or other information necessary to carry out the requirements of law and this chapter.

(c) To require, by general or special orders or reports, any person subject to licensing or regulation to file, in such form as the department may prescribe, reports or answers in writing to specific questions relating to any occupational licensing function of the department.

(d) To take such other action permitted by law to carry out the requirements of law and this chapter.

(e) To pick up for inspection Report of Sale books.

(f) To post a Prohibited Sales Notice on a MH-Unit or commercial modular, as provided in this chapter.

(g) To post a Notice of Suspension at a licensee's place of business as provided in this chapter.

§ 5081. Complaint and Monitoring Investigation

(a) Upon receipt of a complaint indicating the possible existence of a violation of law or this chapter, including a violation of Section 1797, et seq. of the Civil Code, the department may investigate the complaint and, at the time and in the manner permitted by law, notify each licensee or former licensee assumed responsible for the violations. In addition, or in the alternative, the department may investigate and take any other actions permitted by law.

(b) The recipient of such a notice shall, as soon as possible, but not later than twenty (20) calendar days after notification, unless otherwise specified by the department, take appropriate steps, including inspections or investigations, to determine the extent of its responsibility. Upon determining its responsibility, the recipient of such a notice shall:

(1) Notify the department in writing of the action proposed to correct the violation and/or respond to the complainant.

(2) Take the action communicated to the department within forty (40) calendar days of the original notification of complaint, unless otherwise specified by the department.

(c) Upon written request, the department may, at its discretion, grant an extension of time for correction of violations.

(d) The department may make an independent investigation and/or may institute appropriate legal and/or administrative action as necessary to secure compliance with law if the person notified of the complaint fails to take or complete appropriate action within the specified time, or at any other time deemed necessary and appropriate by the department.

(e) To the extent that the department deems it necessary to investigate, inspect, or reinspect to ensure compliance with law, the person responsible for taking the corrective action shall submit fees pursuant to Section 5040 of this subchapter within fifteen (15) calendar days after billing by the department. The person or entity liable for such fees may appeal that determination in writing to the director of the department within ten (10) calendar days after such billing. Failure to pay the fees shall be grounds for administrative action by the department.

(f) No license may be renewed if an outstanding fee has not been paid.

§ 5082. Notices of Suspension, Revocation, or Cancellation

(a) If a license is suspended or revoked as a result of actions taken pursuant to Health and Safety Code Sections 18021.5, 18064 or 18064.5, or conditions exist providing for the automatic cancellation of the license pursuant to Health and Safety Code Section 18065, the department may post two (2) notices of suspension, revocation or cancellation provided by the department in places conspicuous to the public at each affected place of business and any branch of the licensee during the period of suspension, revocation or cancellation.

(b) Said notices shall be 24 " wide by 14 " high and shall be in substantially the following form:

> NOTICE OF SUSPENSION THE DEALERS LICENSE ISSUED FOR THESE PREMISES HAS BEEN SUSPENDED FROM _____ THROUGH _____ BY ORDER OF THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR VIOLATION OF STATE LAWS GOVERNING MH-UNIT SALES

(c) Removal of this notice prior to termination of suspension or any representation to the effect that sales or purchases have been suspended for any reason other than by order of the department shall be deemed a violation of the condition of probation.

§ 5082.5. Prohibited Sale Notice

Whenever the department discovers by investigation that MH-Units or commercial modulars are being offered for sale, rent or lease by persons or at locations, which are not licensed as required by law and this chapter, or where the license has been suspended or revoked as a result of actions taken pursuant to Health and Safety Code Sections 18021.5, 18064 and 18064.5, or that any of the conditions exist providing for automatic cancellation of a license pursuant to Health and Safety Code Section 18065, the department may post Prohibited Sales Notices, conspicuous to the public, on the MH-Units or commercial modulars.

§ 5083. Monetary Penalties for Compromise Settlements

Payment of the following monetary penalties may be required of an occupational licensee pursuant to a compromise settlement agreement between the Director and the licensee entered into pursuant to the provisions of Health and Safety Code Section 18064.5.

(a) A minimum of $150 and a maximum of $500 for each violation of the following provisions of law: Health and Safety Code Sections 18058.5; 18059(b, c); 18059.5(a, b); 18060(a, c); 18060.5(d, g); 18061)d); 18061.5(b); and 18062.2(a, g, h).

(b) A minimum of $100 and a maximum of $500 for each violation of the following provisions of law: Health and Safety Code Sections 18059(a); 18060(b); 18060.5(b, f); 18061(a, b, c, e); 18061.5(a); 18062(a, b, c); 18062.2(b, c); and 18062.5(a-e).

(c) A minimum of $50 and a maximum of $500 for each violation of the following provisions of law: Health and Safety Code Sections 18062.2(d, e, f).

Article 9. 90-Day Certificate Requirements

§ 5090. 90-Day Certificate Expiration

(a) All 90-day certificates expire ninety (90) calendar days from the date of initial issuance. Expired certificate holders shall either:

(1) Submit their expired certificates to the department within ten (10) calendar days.

(2) Submit their expired certificate to the department within three (3) months of expiration, along with all salesperson application requirements in accordance with Section 5020 of this subchapter.

(b) Any 90-day certificate holder working with an expired certificate without obtaining licensure status through this department may be subject to license refusal, or at the discretion of the department be subject to a penalty of 50 percent of the license fee in accordance with Section 5010 of this subchapter.

§ 5092. Suspension/Refusal to Issue/Revocation

The department's review of an application for a 90–day certificate shall be subject to the provisions of Health and Safety Code, Section 18050.5.

§ 5094. Supervision of Certificate Holders

The dealer and/or a supervising managing employee shall directly supervise the activities of all 90-day certificate holders. "Directly Supervise" includes all of the following:

(a) Continuous availability of the supervising managing employee or dealer to the 90-day certificate holder(s) on the premises of the dealer.

(b) On an exclusive basis, supervising the activities of the 90-day certificate holder(s).

(c) Regularly overseeing the activities of the certificate holder(s) and assuring their compliance with the laws governing MH-Unit or commercial modular sales and/or leasing.

Subchapter 2. PRELIMINARY AND CONTINUING EDUCATION

<This subchapter is not applicable for CM exams>

§ 5300. Definitions

The following definitions shall govern this chapter:

(a) Clock hour. Fifty (50) continuous minutes in an approved preliminary or continuing education course, seminar, or conference excluding breaks for meals or rest.

(b) Continuing Education Course. A class, seminar or conference approved by the department, pursuant to law and this chapter, which offers licensees continuing education clock hour credits on one topic.

(c) Correspondence Course. A continuing education program of a single topic approved by the department and transmitted by mail between a licensee and an approved course provider.

(d) Course Provider. A person or entity offering preliminary or continuing education courses approved by the department. A course provider meeting the minimum qualifications established in this chapter may also be an approved instructor.

(e) Instructor. A person approved by the department to present preliminary or continuing education courses while in the employ of a course provider. An instructor may also be a course provider.

(f) Preliminary Education Course. A class, seminar or conference approved by the department pursuant to law and this chapter relating to laws and regulations governing manufactured home and mobilehome sales, specifically designed for persons not holding a manufactured home or mobilehome dealer or salesperson license.

§ 5301. Applicant Qualification to Receive Public Benefits

When applying for a Continuing Education Course Approval, Preliminary Education Course Approval or Instructor Approval, or the renewal of a Continuing Education Course Approval, Preliminary Education Course Approval or Instructor Approval, if the applicant has not previously been determined to be eligible to receive public benefits, the applicant shall present documentation necessary to determine the applicant's qualification to receive public benefits pursuant to Chapter 5.5 of this division, beginning with Section 5802.

§ 5302. Application and Scope of Preliminary Education Requirements

On or after January 1, 1987, preliminary education requirements apply to all MH-Unit dealer and salesperson license holders and applicants for these licenses, as specified in law and this subchapter. Applicants for licenses to sell only commercial modulars are not subject to preliminary education requirements.

(a) All persons applying for a MH-Unit dealer license participating in the direction, control or management of the sales operation of the dealership, shall have completed an approved preliminary education program before applying for the dealer examination except as otherwise provided in this section.

(b) No partner, controlling stockholder, director, general manager or officer shall participate in the direction, control or management of the sales operation of a dealership prior to satisfying the provisions of this chapter relating to licensing and preliminary education.

(c) All persons applying for a MH-Unit salesperson license shall have completed an approved preliminary education program before applying for the salesperson examination except as otherwise provided in this section.

(d) Holders of a valid dealer license that have already satisfied the preliminary education requirement, and subsequently apply for a salesperson or another dealer license, are not required to attend another preliminary education program.

(e) Holders of a valid salesperson license that have already satisfied the preliminary education requirement and subsequently apply for a dealer license, are not required to attend another preliminary education program.

(f) As specified in Section 5304 of this subchapter, continuing education requirements apply to applicants who held a MH-Unit dealer or salesperson license which has expired or was surrendered or cancelled within one (1) year of the new application for a MH-Unit dealer or salesperson license.

§ 5304. Application and Scope of Continuing Education Requirements

(a) Applicants for, and holders of, MH-Unit dealer and salesperson licenses are subject to continuing education requirements as specified in law and this section and Section 5306 of this subchapter.

(b) Holders of licenses to sell only commercial modulars are not subject to continuing education requirements.

(c) The continuing education requirements apply to owners, each partner, controlling stockholder, director, general manager and officer who participates in the direction, control or management of the sales operation of a MH-Unit dealer.

(d) Continuing education requirements apply to applicants who held a MH-Unit dealer or salesperson license which has expired or was surrendered or cancelled within one (1) year of the new application for a MH-Unit dealer or salesperson license.

(e) All continuing education clock hour credits applied toward the renewal of a dealer or salesperson license shall have been earned during the term of the license to be renewed, except as provided in Section 5318 of this subchapter.

(f) Holders of both a MH-Unit dealer and salesperson license may apply the same continuing education clock hour credits toward the renewal of both licenses, provided the credits were earned within the respective licensure terms.

(g) Any partner, member, controlling stockholder, director, general manager or officer within the ownership of a dealership who becomes a participant in the direction, control or management of the sales operation of a dealership after issuance of the license is subject to continuing education requirements at the time of license renewal if more than

six (6) months remain in the licensure term. Clock hour requirements for such persons shall be equal to one (1) clock hour for each full month remaining in the licensure term exceeding six (6). The topic requirements imposed by Section 5306 of this subchapter shall not apply.

§ 5306. Continuing Education Topic Requirements for Dealers and Salespersons

(a) Each person subject to continuing education shall complete course topics as specified in this section.

(b) Each person required to complete a minimum of twenty-four (24) clock hours of continuing education shall complete approved courses in the following topics for the first license renewal occurring after the effective date of this subchapter:

(1) Laws and regulations governing MH-Unit manufacturing and sales.
(2) Escrow.
(3) Advertising and Misrepresentations.
(4) Registration and Titling.
(5) Purchase Documents.
(6) Warranties.
(7) Mobilehome Park Residency Law and Mobilehome Park Act.

If additional courses must be taken in order to earn the minimum clock hour requirement, those remaining clock hours may be earned in any approved course(s) of other topics.

(c) Persons subject to less than twenty-four (24) clock hours of continuing education as provided in law or Section 5304 of this subchapter shall complete an approved course in Laws and Regulations Update and any remaining clock hour requirements shall be earned in any approved continuing education course(s) on topics of the licensee's choice.

(d) The department shall not accept clock hour credits earned by repeating any one (1) course provided by the same course provider or instructor within any one licensure term.

§ 5308. Minimum Standards for Preliminary Education Courses

(a) All preliminary education courses shall comply with the provisions of this section.

(b) Course curriculum shall provide instruction in at least the following topics pertaining to MH-Unit:

(1) Introduction to the Laws and Regulations governing MH-Unit, manufacturing and sales.
(2) Warranties.
(3) Alternations to MH-Units.
(4) Escrow and purchase documents.
(5) Sales of noncomplying MH-Units.
(6) Advertising and misrepresentations.
(7) Taxation.
(8) Registration and Titling.

(c) No course shall be approved which provides instruction in subjects relating to business promotion, office and business skills, or sales techniques.

(d) Course curriculum may set aside up to thirty (30) minutes at the end of the course presentation for open discussions between the instructor and the participants. This subsection is not intended to eliminate participant questions and instructor responses necessary to facilitate the participant's understanding during the course presentation.

(e) Breaks for meals and rest may be arranged as deemed appropriate by the course provider or instructor, however, such time shall not intrude into the clock hours designated for the course.

(f) Preliminary education courses may utilize oral, written, audio and audio-visual presentations. Audio and audio-visual presentations may contain voices and images of persons other than the approved instructors.

(g) Except for courses consisting entirely of audio or audio-visual presentations, all courses shall be presented by only approved instructors. Courses presented entirely by audio or audio-visual means may be presented by the course provider or other person in the employ of the course provider, otherwise an approved instructor is required.

(h) Approved curriculums or materials shall not be altered or eliminated, or new materials or topics shall not be introduced and used prior to the approval of the department. Applications to change approved courses shall comply with Section 5346 of this subchapter.

(i) Applications for preliminary education course approval shall comply with Section 5340 of this subchapter.

§ 5310. Minimum Standards for Continuing Education Courses

(a) All continuing education courses shall comply with the provisions of this subchapter, except as provided in Section 5312 of this subchapter for correspondence courses.

(b) Course curriculum shall provide for no less than two (2) clock hours of continuing education for any one course.

(c) Course curriculum shall be related to the topics required by this subchapter or other topics related to MH-Unit sales requirements imposed by law or regulation. No course shall be approved which provides instruction in subjects relating to business promotion, office and business skills, or sales techniques.

(d) Course curriculum may set aside up to ten (10) minutes for every clock hour for open discussions between the instructor and the participants. This subsection is not intended to eliminate participant questions and instructor responses necessary to facilitate the participant's understanding during the course presentation.

(e) Breaks for meals and rest may be arranged as deemed appropriate by the course provider or instructor. Such time shall not intrude into the clock hours designated for the course.

(f) Courses may utilize oral, written, audio or audio-visual presentations or any combination of thereof. Audio and audio-visual presentations may contain voices and images of persons other than approved instructors.

(g) Except for courses consisting entirely of audio or audio-visual presentations, all courses shall be presented by only approved instructors. Courses presented entirely by audio or audio-visual means may be presented by the course provider or other person in the employ of the course provider, otherwise an approved instructor is required.

(h) Approved curriculums or course materials shall not be altered or eliminated, or new materials or topics shall not be introduced and used prior to the approval of the department. Applications to change approved courses shall comply with Section 5346 of this subchapter.

(i) Applications for continuing education course approval shall comply with Section 5342 of this subchapter.

§ 5312. Minimum Standards for Continuing Education Courses by Correspondence

(a) Continuing education courses shall provide no less than two (2) clock hours of education. Such courses shall utilize written, audio or audio-visual lessons and a written examination to be completed after the lesson.

(b) Written instructions shall be provided by the course provider advising the licensee and proctor of the requirements of this section.

(c) For each one (1) clock hour to be earned, the examination shall contain no less than five (5) essay type questions related to the course topic. Thirty (30) minutes shall be permitted for the completion of each five (5) questions. Course providers shall rotate the examinations by administering the use of three (3) different examinations for each course. The examination shall be provided in a sealed envelope bearing instructions which read "TO BE OPENED IN THE PRESENCE OF AN APPROVED PROCTOR ONLY. VOID IF OPENED OTHERWISE . . . ." A return envelope shall be provided which is suitable for mailing and of sufficient size to accommodate an unopened or opened examination, and bears the name and address of the course provider.

(d) Approved proctors shall include the course provider, a notary public, an officer in the armed forces on active duty, an approved instructor or other approved course provider, an attorney, a librarian at a public or school library, or a representative of the department. No person related by blood, marriage, employment, or otherwise having a conflict of interest with a licensee, shall serve as a proctor for the licensee.

(e) The proctor shall be instructed to complete a certification form provided by the course provider which makes provisions for the following:

(1) The proctor's name and address and telephone number.

(2) The proctor's qualifying occupation, title or position.

(3) The licensee's name, address and license number issued by the department.

(4) A certification statement indicating the means used to identify the licensee, that the proctor has no conflict of interest with the licensee due to employment, relation by marriage or blood, that the examination envelope was found sealed and only broken in the proctor's presence, that the examination was completed by the licensee in the proctor's presence without the use of any written materials or aids of any kind, that the examination was not copied by any means, and that the examination was returned to the course provider by the proctor through the U.S. Mail, or by similar mailing services, or by personal delivery.

(5) The proctor's signature.

(f) The course provider or instructor shall grade the examination and notify the licensee of the results within ten (10) calendar days of receipt. Should the licensee score less than 70 percent, the course provider shall provide the licensee with a second examination with different questions, to be taken under the same conditions as the first examination. Should the licensee score less than 70 percent on the second examination, the licensee has failed the course and may not attempt the examination again.

(g) No licensee shall be permitted to copy or reproduce any examination or portion thereof.

(h) All correspondence courses shall be completed within sixty (60) calendar days of the registration date. For the purposes of this section, the registration date shall be the date the course provider mails or otherwise delivers the course material to the licensee as evidenced by the course provider's records. The registration date and completion date shall be printed in the instructions to the licensee.

(i) The course provider shall disqualify any licensee when the actions or omissions to act by either the licensee or the proctor result in a violation of this section.

If a licensee for whatever reason chooses not to complete a course and fails to return the examination, unopened, to the course provider within sixty (60) calendar days of the registration date, the licensee shall be disqualified. The instructions to the licensee shall include a warning regarding disqualification as prescribed in this section.

(j) All disqualifications by course providers shall be reported to the department within ten (10) calendar days.

(k) Once disqualified due to the licensee's acts or omissions to act, clock hour credits earned by correspondence after the disqualification shall not be accepted for the license renewal. A disqualification shall only extend to the end of any one licensure term.

(l) Each set of three (3) correspondence course examinations required by this section shall be used concurrently with the course approval period. When applying for course approval renewal, the course provider shall submit new examinations for use with the renewed course. Expired examinations shall not be used, but shall be maintained with the course provider's records.

(m) Applications for continuing education course approval shall comply with Section 5342 of this subchapter.

§ 5314. Course Challenges

(a) Course providers may provide for challenge examinations of approved continuing education courses. Course providers shall rotate the examinations by administering the use of three (3) separate examinations for each course. Examinations shall contain no less than five (5) essay type questions requiring written answers for each clock hour to be earned. Challenge examinations shall be administered and corrected by the course provider or approved instructor

only. The course provider shall establish the maximum time permitted for the examination, but in no case shall the time be less than thirty (30) minutes for each five (5) questions.

(b) No licensee shall be permitted to acquire more than six (6) clock hours of continuing education by challenges. The combination of challenges and approved equivalency pursuant to Section 5316 of this subchapter shall not exceed 50 percent of total clock hour requirements for any one (1) person.

(c) Course challenge examinations, if permitted, shall be submitted along with the Application for Course Provider and/or Course Approval, form HCD OL 122 Part A (Rev. 06/09), which is incorporated by reference, as specified in Section 5342 of this subchapter.

§ 5316. Claims of Equivalency

(a) The department may grant continuing education clock hour credits for activities which have provided educational opportunities at least equivalent to attendance at approved continuing education courses as prescribed in this section.

(b) Acceptable alternative activities may include, but are not limited to the following:

(1) Instruction at an approved preliminary or continuing education course.

(2) Development or research of information or materials associated with an approved continuing education course or unapproved course if the curriculum would otherwise meet the requirements of this subchapter for a continuing education program.

(3) Authorship of published articles, periodicals or books on subjects relating to the requirements in laws or regulations governing manufactured housing sales.

(4) Instruction of, or attendance at, an education program not approved by the department for continuing education, but which is sufficiently related to manufactured housing activities.

(c) The department may grant up to a maximum of two (2) hours of continuing education clock hour credits for every one (1) hour of equivalent activity.

(d) No licensee shall be granted clock hour credits for equivalents totalling in excess of fifty (50) percent of the licensee's total clock hour requirements. The combination of total clock hour credits earned by both challenges and equivalents shall not exceed fifty (50) percent of the total clock hour requirements.

(e) Applications for equivalency approval shall comply with Section 5352 of this subchapter and be received by the department at least six (6) months before the license expiration date. Qualifying activities performed within the last six (6) months of the licensure term shall be applied to the next license renewal.

§ 5318. Exemptions

(a) As prescribed in law and this section, the department may grant exemptions from the continuing education requirement and renew an expiring license where the required clock hour credits have not been earned and one (1) or more qualifying conditions exist.

(b) Qualifying conditions are those which are beyond the control of the licensee and have made it impossible for the licensee to acquire the required clock hour credits over the last six (6) months of the licensure term including:

(1) Health conditions or prescribed treatment of health conditions which are verified in writing by a physician and which have not allowed the licensee to work in the licensed capacity.

(2) Active duty in the military service with assignment to duty outside the state.

(c) Conditions relating to the convenience of the licensee such as travel and time needed to attend courses or disruption of employment will not be considered for exemption.

(d) Any licensee granted an exemption shall earn the clock hours originally required at the time of renewal, within ninety (90) calendar days of the elimination of the condition which warranted the exemption and shall submit a revised application for license renewal to the department.

(e) Applications for exemption shall comply with Section 5354 of this subchapter.

§ 5320. Required Changes to Approved Courses

a) Whenever an approved course becomes inaccurate because of statutory or regulatory changes enacted after the course approval, the department shall provide the course provider a written notice of the change. The notice shall order the course provider to review the approved course and make appropriate changes.

(b) When changes to approved courses are ordered, the course provider shall be provided thirty (30) calendar days to make the ordered changes or discontinue the use of the course.

(c) Course changes pursuant to this section shall be submitted to the department on an Application to Change an Approved Course, form HCD OL ED 128 (Rev. 06/09), which is incorporated by reference, as specified in Section 5346 of this subchapter.

§ 5322. Certificates of Completion

(a) Within five (5) calendar days of the completion of preliminary and continuing education courses, including correspondence courses and course challenges, course providers shall complete and issue a Certificate of Completion, form HCD OL ED 125 (Rev. 06/09), which is incorporated by reference, to each participant completing the course. Course providers shall provide the following information:

(1) A serial number.

(2) The course provider name, address and approval number(s).

(3) The instructor's name and approval number.

(4) The title and approval number of the course.

(5) The date and address of the course location, except for correspondence courses.

(6) The clock hour credit earned.

(7) The participant's name.

(8) The license number of licensees.

(b) In addition to the requirements of Subsection (a) of this section, within five (5) calendar days of the completion of each preliminary or continuing education course, including correspondence courses and course challenges, the course provider shall complete and submit a Certification of Course Presentation, form HCD OL ED 126 (Rev. 06/09), which is incorporated by reference. The course provider shall provide the following information along with the fee specified in Section 5360 of this subchapter:

(1) The course provider name and address.

(2) The instructor name and approval number.

(3) The title and approval number of the course.

(4) The type of course, either preliminary, or continuing education by correspondence, classroom or challenge.

(5) The date and address of the course or challenge, except for correspondence courses.

(6) The name of each person completing the course.

(7) The license number of each licensee.

(8) The clock hour credits earned.

(9) Any other information reasonably required by the department in order to assure compliance with this subchapter.

§ 5324. Expiration of Course Approval

(a) All preliminary and continuing education course approvals shall expire on the last day of the twenty-fourth (24th) month following the month of the original approval. No expired course shall be offered or presented.

(b) Course providers applying for renewal of course approvals shall make any amendments necessary to bring the course curriculum or material into compliance with statutory or regulatory changes enacted after the date of approval.

(c) Applications for renewal of course approval shall comply with Section 5344 of this subchapter.

(d) Applications should be received by the department ninety (90) calendar days before the expiration date in order to allow processing and any review of course changes.

§ 5326. Instructor Qualifications

(a) Instructors for preliminary and continuing education courses shall meet at least one (1) of the following qualifications:

(1) A bachelor's degree in a related field to that in which the person is to teach, from a college or university with accreditation approved by the U.S. Department of Education.

(2) Five (5) years full-time experience in the applicable field or course subject matter.

(3) Any combination of at least five (5) years of full-time experience and college level education in the applicable field or course subject matter.

(b) No licensee shall be approved as an instructor who has a record of license revocation, suspension, probation, or orders to pay fines or penalties pursuant to a hearing or stipulation and waiver resulting from departmental action against the licensee.

(c) No person having been convicted of a felony, a misdemeanor involving moral turpitude, or misdemeanor associated with manufactured housing sales, shall be approved as an instructor.

(d) Applications for instructor approval shall comply with Section 5348 of this subchapter.

§ 5328. Expiration of Instructor Approval

(a) Instructor approvals shall expire on the last day of the twenty-fourth (24th) month following the month of the original approval.

(b) Instructors with expired approval shall not make preliminary or continuing education course presentations.

(c) Applications for instructor approval renewal shall comply with Section 5350 of this subchapter.

§ 5330. Advertising Requirements

Except for general advertisements of the availability of approved preliminary or continuing education courses, all specific advertisements for courses, whether printed or broadcasted, shall include the following:

(a) Course provider and instructor name(s).

(b) Course title.

(c) Course approval number issued by the department.

(d) The number of clock hours to be earned.

§ 5332. Course Provider Notice Requirement

Except for correspondence courses and course challenges, course providers shall notify the department of all course offerings at least ten (10) calendar days prior to the starting date of each course by submittal of a Notification of Intent to Present a Preliminary or Continuing Education Course, form HCD OL ED 127 (Rev. 06/09), which is incorporated by reference. The course provider shall provide the following information:

(a) Course provider and instructor name(s).

(b) Course title and approval number issued by the department.

(c) The scheduled date, time and location of the course presentation.

§ 5334. Access and Denial to Course Offerings

(a) No person shall be prohibited from attending approved courses because of their affiliations, memberships, or employment.

(b) Course providers may refuse enrollment or disqualify persons for failure to pay registration fees or for disruptive conduct during course presentations.

§ 5336. Course Provider Attendance Controls and Record Keeping Requirements

(a) Course providers shall conduct attendance controls during the course presentation and shall disqualify any person not physically present throughout the course presentation.

(b) Prior to the issuance of the Certificate of Completion specified in Section 5322_of this subchapter, course providers shall verify the identity of each course participant, by review of a valid driver's license or identification card issued by the California Department of Motor Vehicles.

(c) Course providers shall maintain records of attendance documents, certificates of completion, certificates of course presentation and any challenge examinations for a minimum of three (3) years. For correspondence courses, records of the proctor's name, address and qualifying title or position, date and location of the examination, and copies of all examinations administered shall be maintained for a minimum of three (3) years.

(d) Course provider records shall be readily available for review by the department at the course provider's business location.

(e) The department may request that copies of course provider records be made and submitted to the department for review.

§ 5338. General Requirements and Prohibitions

(a) No person shall earn more than 25 percent of his or her required continuing education credits from a course provider who is licensed as a manufactured home and mobilehome dealer or salesperson and is the employee or employer of the person earning credits.

(b) All course provider ownership, address and telephone number changes shall be reported to the department on a Notice of Change in Ownership, Name or Address of a Course Provider or Instructor, form HCD OL ED 133 (Rev. 06/09), which is incorporated by reference, within ten (10) calendar days of the effective date of the change, along with the fee specified in Section 5360 of this subchapter.

(c) Instructor name, address and telephone number changes shall be reported to the department on a Notice of Change in Ownership, Name or Address of a Course Provider or Instructor, form HCD OL ED 133 (Rev. 06/09), which is incorporated by reference, within ten (10) calendar days of the effective date of the change, along with the fee specified in Section 5360 of this subchapter.

(d) The department shall not accept continuing education clock hour credits earned by challenge examinations as permitted in Section 5314 of this subchapter, when the course provider is the licensee's employer or employee.

§ 5340. Preliminary Education Course Approval

(a) Persons or entities seeking approval of a preliminary education course shall submit an Application for Course Provider and/or Course Approval, Part A, form HCD OL ED 122 (Rev. 06/09) and an Application for Course Provider Approval, Part B, form HCD OL ED 123 (Rev. 06/09), which are incorporated by reference. On the application form or as an attachment thereto, the applicant shall provide the following information and materials:

(1) The name, address and telephone number of the applicant. If the applicant is not a natural person, the names and titles of all directors, officers, members or partners of the entity participating in the direction, control and operation of the course provider business and the entity name, address and telephone number.

(2) A disclosure of any licenses issued by the department pursuant to this chapter to the individual course provider, any director, officer, member or partner of an entity participating in the direction, control and operation of the course provider business.

(3) A disclosure of any convictions of any felonies or misdemeanors of any owner, director, officer or partner.

(4) Two (2) full facial photographs of each individual owner and each director, officer, member or partner of an entity participating in the direction, control and operation of the course provider business, minimum size 1 1/4" x 1", taken from a maximum distance of six (6) feet.

(5) For each individual owner and each director, officer, member or partner of an entity participating in the direction, control and operation of the course provider business, unless already on file with the department in conjunction with a previous application, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of a Request for Live Scan Service, form HCD OL 8016 (New 11/05), which is incorporated by reference, or the equivalent form provided by DOJ. The form HCD OL 8016 or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation.

(6) A description as to how the course will be presented.

(7) Copies of all written, audio and audio-visual presentations, lessons, reference materials or other materials the course attendants will be provided or required to possess.

(8) An outline of the course curriculum with a designation of the time allotted to each segment of the curriculum. The outline shall reference any written materials, audio or audio-visual presentations, as provided in Subsection (a)(7) above. This outline shall contain all topics required by Section 5308 of this subchapter.

(9) A description of the method of attendance control and record keeping.

(10) The signature of the applicant certifying to the accuracy of the application and that the course will be presented as approved and conducted in a manner satisfying the intent of the law and requirements of this subchapter.

(b) The application shall be accompanied by the fee specified in Section 5360 of this subchapter for an Application for Course Renewal.

§ 5342. Continuing Education Course Approval

(a) Persons or entities seeking approval of a continuing education course shall submit an Application for Course Provider and/or Course Approval, Part A, form HCD OL ED 122 (Rev. 06/09) and an Application for Course Provider Approval, Part B, form HCD OL ED 123 (Rev. 06/09), which are incorporated by reference. On the application form or as an attachment thereto, the applicant shall provide the information specified in Section 5340 of this subchapter, and the following:

(1) If the topic is not required by this subchapter, an explanation of the topic and how it relates to manufactured home and mobilehome sales and benefits a licensee.

(2) The course title which shall include reference to the course topic and an outline of the course curriculum with a designation of the time-allotted to each topic segment of the curriculum. The outline shall reference any written materials, audio and/or audio-visual presentations or reference materials the course attendees will be provided or required to possess.

(3) For correspondence courses, copies of all written, audio, and/or audio-visual lessons or presentations or other material provided or required to be possessed by those taking the course, the examination(s), instructions, warnings, certifications and envelopes in the form required by Section 5312 of this subchapter.

(4) If challenge examinations are to be permitted, a copy of all examinations to be used and information as to the examination administration and maximum time permitted for completing the examination.

(5) The clock hours to be earned.

(b) The application shall be accompanied by the fee specified in Section 5360 of this subchapter for an Application for Continuing Education Course Approval.

§ 5344. Application for Approved Course Renewal

(a) Any course provider seeking renewal of a previously approved preliminary education or continuing education course shall submit an Application for Approved Course, form HCD OL ED 131 (Rev. 06/09), which is incorporated by reference. On the application or as an attachment thereto, the applicant shall provide the following information and materials:

(1) The name, address and telephone number of the applicant.

(2) The course approval number issued by the department.

(3) A disclosure of any change(s) to the course provider ownership and all information required in Section 5340 of this subchapter, for each new controlling stockholder, director, officer, partner or managing member.

(4) A disclosure of any convictions of felonies or misdemeanors of any owner, controlling stockholder, director, officer, partner or managing member since the original application.

(5) An itemized description of any change(s) to the course as originally approved.

(6) Copies of any changed or new material.

(7) For correspondence courses, a copy of the new examinations as required by Section 5312 of this subchapter.

(8) The signature of the applicant certifying to the accuracy of the application.

(b) The application shall be accompanied by the fee specified in Section 5360 of this subchapter for an Application for Approved Course Renewal.

§ 5346. Application to Change an Approved Course

(a) Course providers seeking approval of voluntary changes or changes ordered by the department pursuant to Section 5320 of this subchapter, shall submit an Application to Change an Approved Course, form HCD OL ED 128 (Rev. 06/09), which is incorporated by reference. On the application form or as an attachment thereto, the applicant shall provide the following information:

(1) The name, address and telephone number of the applicant.

(2) The course approval number issued by the department.

(3) An itemized description of the change(s) to the course as originally approved.

(4) Copies of any changed or new material.

(5) If the change(s) is a voluntary change, an explanation of the purpose for the change.

(6) The signature of the applicant certifying to the accuracy of the application.

(b) The application shall be accompanied by the fee specified in Section 5360 of this subchapter for Approval of Changes to Approved Courses.

(c) The department shall require substantially altered courses to be submitted for approval pursuant to Sections 5340 or 5342 of this subchapter. A substantially altered course is one requiring more than one and one half (1 1/2) hours for processing and review by the department.

§ 5348. Application for Instructor Approval

(a) Any person seeking approval to instruct preliminary or continuing education courses pursuant to this article, shall submit an Application for Instructor Approval, form HCD OL ED 124 (Rev. 06/09), which is incorporated by reference. On the application or as an attachment thereto, the applicant shall provide the following information:

(1) The name, address and telephone number of the applicant.

(2) The applicant's qualifications meeting the standards of Section 5326 of this subchapter.

(3) A disclosure of any licenses issued to the applicant by the department pursuant to this chapter.

(4) A disclosure of any convictions of misdemeanors or felonies.

(5) The applicant's signature certifying to the accuracy of the application.

(6) For each new applicant, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of a Request for Live Scan Service, form HCD OL 8016 (New 11/05), which is incorporated by reference, or the equivalent form provided by DOJ. The form HCD OL 8016 or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation.

(7) Two (2) full facial photographs, minimum size 1 1/4" x 1", taken from a maximum distance of six (6) feet.

(b) The application shall be accompanied by the fee specified in Section 5360 of this subchapter for an Application for Instructor Approval.

§ 5350. Application for Instructor Renewal

(a) Any previously approved instructor seeking renewal shall submit an Application for Instructor Renewal, form HCD OL ED 132 (Rev. 06/09), which is incorporated by reference, at least thirty (30) calendar days prior to the expiration of the instructor approval. The applicant shall provide the following information:

(1) The name, address and telephone number of the applicant.

(2) A disclosure of any licenses issued by the department to the applicant pursuant to this chapter since the original application for instructor approval.

(3) A disclosure of any convictions of misdemeanors or felonies since the original application for instructor approval.

(4) The applicant's signature certifying to the accuracy of the application.

(b) The application shall be accompanied by the fee specified in Section 5360 of this subchapter for an Application for Instructor Renewal.

§5352. Application for Continuing Education Equivalency Approval

(a) Any licensee seeking approval of activities believed to qualify under the provisions of Section 5316 of this subchapter shall submit an Application for Continuing Education Equivalency Approval, form HCD OL ED 129 (Rev. 06/09), which is incorporated by reference. The applicant shall provide the following information and materials:

(1) The applicant's name, address and telephone number.

(2) The applicant's license number issued by the department.

(3) A full description of the activities believed to qualify for equivalency along with substantiating materials and information, enabling the department to determine if the activities meet the provisions of Section 5316 of this subchapter.

(4) The applicant's signature certifying to the accuracy of the application.

(b) The application shall be accompanied by the fee specified in Section 5360 of this subchapter for an Application for Continuing Education Equivalency Approval.

§ 5354. Application for Continuing Education Exemption

(a) Licensees seeking an exemption from the continuing education requirements shall submit an Application for Continuing Education Exemption, form HCD OL ED 130 (Rev. 06/09), which is incorporated by reference, along with the Application for License Renewal. The applicant shall provide the following information and items:

(1) The applicant's name, address and telephone number.

(2) The applicant's license number issued by the department.

(3) A full description of the conditions believed to qualify for exemption pursuant to Section 5318 of this subchapter, along with written substantiating information, documents or items.

(4) The applicant's signature certifying to the accuracy of the application.

(b) The application shall be accompanied by the fee specified in Section 5360 of this subchapter for an Application for Continuing Education Exemption.

§ 5356. Rejected Applications

(a) For any application submitted pursuant to this subchapter which is found to be incomplete or in error, the department shall reject the application and provide the applicant with a written explanation identifying the deficiencies and what must be done in order to make the application complete and acceptable.

(b) All fees submitted with an application which is subsequently rejected shall be retained by the department.

(c) All rejected applications which are corrected and resubmitted to the department for approval pursuant to this subchapter, shall be accompanied by the fee specified in Section 5360 of this subchapter for a Resubmittal of Corrected Applications.

§ 5360. Fees

(a) Application for Preliminary Education Course Approval. Five hundred eighty-eight dollars ($588).

(b) Application for Continuing Education Course Approval. Three hundred ninety-six dollars ($396) for the first four (4) hours plus eighty-seven dollars ($87) for each additional hour.

(c) Application for Instructor Approval. Four hundred seventy-two dollars ($472).

Note: This fee does not apply to an instructor of a college or university with accreditation approved by the U.S. Department of Education or to a course provider applying for instructor approval.

(d) Application to Change an Approved Course~~s~~. One hundred seventy-eight dollars ($178) for each course.

(e) Application for Continuing Education Equivalency Approval. One hundred sixty-seven dollars ($167) for the first two (2) hours plus sixty-six dollars ($66) for each additional hour.

(f) Application for Continuing Education Exemption. Two hundred eleven dollars ($211).

(g) Application for Approved Course Renewal. One hundred twenty-seven dollars ($127), plus sixty-three dollars ($63) if changes are made to the course or related materials.

(h) Application for Instructor Renewal. One hundred eight dollars ($108).

(i) Resubmittal of Corrected Applications. Twenty-five percent of the original filing fee specified in this section not to exceed one hundred dollars ($100).

(j) Change of Ownership, Name or Address. Forty-five dollars ($45).

(k) Certification of Course Presentation. Twenty-two dollars ($22) plus seven dollars ($7) for each attendee in a classroom type course; three dollars ($3) for each correspondence course or course challenge.

§ 5362. Denial of Approval

(a) The department shall not approve any application for approval submitted pursuant to this subchapter when any of the following conditions exist:

(1) The requirements of this subchapter have not been satisfied.

(2) The applicant for instructor approval or course approval has been convicted of a felony, a misdemeanor involving moral turpitude or a misdemeanor associated with MH-Unit sales.

(3) The applicant for instructor approval or course approval is or was a holder of a license issued by the department pursuant to this chapter which has been revoked, suspended; or if the applicant has been placed on probation, or the licensee has been ordered to pay fines, penalties or restitution pursuant to a hearing or stipulation and waiver resulting from departmental action against the licensee.

(b) When the department denies approval of an application submitted pursuant to this subchapter, the department shall provide written notice to the applicant describing the reasons for denial and providing information as to appeal rights.

§ 5364. Cancellation of Approval

(a) Whenever the department discovers that a previously approved preliminary or continuing education course, instructor, or application is in violation of the provisions of this subchapter the department shall take enforcement action as prescribed in this section.

(b) If the violations can be corrected, the department shall provide written notice to the person responsible for the violations(s) and require correction within at least twenty (20) calendar days of the notice or such time as determined appropriate by the department.

(c) If the violations cannot be corrected, the department shall issue a written warning to the person(s) responsible for the violation(s) in which the violations(s) is identified and the recipient is ordered to immediately discontinue those activities which are in violation.

(d) If the violations were committed willfully, or when a person served with a written notice issued pursuant to this section fails to comply, the department shall cancel the approval status.

§ 5366. Appeals Procedure

(a) Any person receiving a written notice issued pursuant to Sections 5362 or 5364 of this subchapter, may request and shall be granted a presentation of views before the director or his or her designee. Such person shall file with the department a petition requesting a presentation of views. For the purposes of this section, a petition shall be a written request, briefly stating the grounds for the request.

(b) Upon receipt of a petition, the department shall set a time and place for the presentation of views and shall give the petitioner written notice thereof. The presentation of views shall commence no later than thirty (30) calendar days after receiving the petition or such other time as requested by the petitioner if good and sufficient cause exists. Should the petitioner fail to appear at the scheduled time and place, the department may dismiss the petition without further action or take such other action as may be appropriate to obtain compliance.

(c) Within thirty (30) calendar days of the presentation of views, the department shall notify the petitioner in writing of the decision in the matter and the reasons therefore.

§ 5368. Enforcement

In order to enforce the provisions of the Health and Safety Code relating to preliminary and continuing education and this subchapter, representatives of the department shall be permitted to:

(a) Enter at reasonable times and without advance notice, any premises where preliminary or continuing education courses are presented and monitor such presentation.

(b) Examine and copy any records or documents required by this subchapter.

(c) Require the submittal of copies or records required by this subchapter.

(d) Take such other action permitted by law to carry out the requirements of law and this subchapter.

Mobilehome Residency Law (MRL)

<Excerpts>

<The MRL is not applicable for CM exams>

California Civil Code

http://www.leginfo.ca.gov/calaw.html

TABLE OF CHAPTER CONTENTS

MOBILEHOME RESIDENCY LAW <Excerpts>

CIVIL CODE

Division 2 Property

Chapter 2.5 MOBILEHOME RESIDENCY LAW

Article 2 Rental Agreement

§ 798.17. Rental Agreements Exempt from Rent Control 116
§ 798.19.5. Park Owner Right of First Refusal 117

Article 3 Rules and Regulations

§ 798.26. Management Entry into Mobilehomes 117
§ 798.27. Notice of Zoning or Use Permit 117
§ 798.29.6. Homeowners' Disabled Accommodations 117

Article 4 Fees and Charges

§ 798.31. Authorized Fees Charged 117
§ 798.34. Guest Fees 117
§ 798.39.5. Fines and Forfeitures Not Chargeable 118

Article 7 Transfer of Mobilehome or Mobilehome Park

§ 798.70. "For Sale" Signs 118
§ 798.71. Management Showing or Listing –Prohibitions 118
§ 798.72. No Transfer or Selling Fee 119
§ 798.73. Removal of Mobilehome Upon Third Party Sale 119
§ 798.73.5. Home Upgrades on Resale 119
§ 798.74. Management Approval of Buyer; Credit Rating Refund 120
§ 798.74.4. "Notice of Mobilehome Resale Disclosure to New Buyer" 120
§ 798.74.5. Rent Disclosure to Prospective Homeowners 120
§ 798.75. Rental Agreement Required for Park Occupancy 121
§ 798.75.5. Mobilehome Park Disclosure Form 121
§ 798.76. Senior Only Restrictions 123
§ 798.77. No Waiver of Rights 123
§ 798.78. Rights of Heir or Joint Tenant of Owner 123
§ 798.79. Repossession of Mobilehome; Sale to Third Party 123
§ 798.81. Listing or Sales - Prohibitions 123
§ 798.83. Homeowner Repair of the Space 123

Article 9 Subdivisions, Cooperatives, Condominiums, and Resident Owned Parks

§ 799.1. Rights Governed (Newly Amended) 123
§ 799.1.5. Advertising of Home for Sale; "For Sale" Signs 124
§ 799.2. Listing or Showing of Home by Park Management 124
§ 799.3. Removal of Mobilehome Upon Third Party Sale 124
§ 799.4. Withholding Prior Approval of Purchaser 124
§ 799.5. Senior Only Restrictions 124
§ 799.9. Caregivers 124
§ 799.11. Homeowners' Disabled Accommodations 124

MOBILEHOME RESIDENCY LAW (MRL)

<The MRL is not applicable for CM exams>

CIVIL CODE
Division 2 Property

Chapter 2.5 MOBILEHOME RESIDENCY LAW
Article 2 Rental Agreement

§ 798.17. Rental Agreements Exempt from Rent Control

(a)(1) Rental agreements meeting the criteria of subdivision (b) shall be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent. The terms of a rental agreement meeting the criteria of subdivision (b) shall prevail over conflicting provisions of an ordinance, rule, regulation, or initiative measure limiting or restricting rents in mobilehome parks, only during the term of the rental agreement or one or more uninterrupted, continuous extensions thereof. If the rental agreement is not extended and no new rental agreement in excess of 12 months' duration is entered into, then the last rental rate charged for the space under the previous rental agreement shall be the base rent for purposes of applicable provisions of law concerning rent regulation, if any.

(2) In the first sentence of the first paragraph of a rental agreement entered into on or after January 1, 1993, pursuant to this section, there shall be set forth a provision in at least 12–point boldface type if the rental agreement is printed, or in capital letters if the rental agreement is typed, giving notice to the homeowner that the rental agreement will be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent.

(b) Rental agreements subject to this section shall meet all of the following criteria:

(1) The rental agreement shall be in excess of 12 months' duration.

(2) The rental agreement shall be entered into between the management and a homeowner for the personal and actual residence of the homeowner.

(3) The homeowner shall have at least 30 days from the date the rental agreement is first offered to the homeowner to accept or reject the rental agreement.

(4) The homeowner who executes a rental agreement offered pursuant to this section may void the rental agreement by notifying management in writing within 72 hours of the homeowner's execution of the rental agreement.

(c) If, pursuant to paragraph (3) or (4) of subdivision (b), the homeowner rejects the offered rental agreement or rescinds a signed rental agreement, the homeowner shall be entitled to instead accept, pursuant to Section 798.18, a rental agreement for a term of 12 months or less from the date the offered rental agreement was to have begun. In the event the homeowner elects to have a rental agreement for a term of 12 months or less, including a month–to– month rental agreement, the rental agreement shall contain the same rental charges, terms, and conditions as the rental agreement offered pursuant to subdivision (b), during the first 12 months, except for options, if any, contained in the offered rental agreement to extend or renew the rental agreement.

(d) Nothing in subdivision (c) shall be construed to prohibit the management from offering gifts of value, other than rental rate reductions, to homeowners who execute a rental agreement pursuant to this section.

(e) With respect to any space in a mobilehome park that is exempt under subdivision (a) from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a homeowner for rent, and notwithstanding any ordinance, rule, regulation, or initiative measure, a mobilehome park shall not be assessed any fee or other exaction for a park space that is exempt under subdivision (a) imposed pursuant to any ordinance, rule, regulation, or initiative measure. No other fee or other exaction shall be imposed for a park space that is exempt under subdivision (a) for the purpose of defraying the cost of administration thereof.

(f) At the time the rental agreement is first offered to the homeowner, the management shall provide written notice to the homeowner of the homeowner's right (1) to have at least 30 days to inspect the rental agreement, and (2) to void the rental agreement by notifying management in writing within 72 hours of the acceptance of a rental agreement. The failure of the management to provide the written notice shall make the rental agreement voidable at the homeowner's option upon the homeowner's discovery of the failure. The receipt of any written notice provided pursuant to this subdivision shall be acknowledged in writing by the homeowner.

(g) No rental agreement subject to subdivision (a) that is first entered into on or after January 1, 1993, shall have a provision which authorizes automatic extension or renewal of, or automatically extends or renews, the rental agreement for a period beyond the initial stated term at the sole option of either the management or the homeowner.

(h) This section does not apply to or supersede other provisions of this part or other state law.

§ 798.19.5. Park Owner Right of First Refusal

A rental agreement entered into or renewed on and after January 1, 2006, shall not include a clause, rule, regulation, or any other provision that grants to management the right of first refusal to purchase a homeowner's mobilehome that is in the park and offered for sale to a third party pursuant to Article 7 (commencing with Section 798.70). This section does not preclude a separate agreement for separate consideration granting the park owner or management a right of first refusal to purchase the homeowner's mobilehome that is in the park and offered for sale.

Article 3 Rules and Regulations

§ 798.26. Management Entry into Mobilehomes

(a) Except as provided in subdivision (b), the ownership or management of a park have no right of entry to a mobilehome or enclosed accessory structure without the prior written consent of the resident. The consent may be revoked in writing by the resident at any time. The ownership or management shall have a right of entry upon the land upon which a mobilehome is situated for maintenance of utilities, trees, and driveways, for maintenance of the premises in accordance with the rules and regulations of the park when the homeowner or resident fails to so maintain the premises, and protection of the mobilehome park at any reasonable time, but not in a manner or at a time which would interfere with the resident's quiet enjoyment.

(b) The ownership or management of a park may enter a mobilehome or enclosed accessory structure without the prior written consent of the resident in case of an emergency or when the resident has abandoned the mobilehome or accessory structure.

(Amended by SB 1234 (Correa) Chap. 115, Statutes of 2008, effective 1/1/09)

§ 798.27. Notice of Zoning or Use Permit

(a) The management shall give written notice to all homeowners and prospective homeowners concerning the following matters: (1) the nature of the zoning or use permit under which the mobilehome park operates. If the mobilehome park is operating pursuant to a permit subject to a renewal or expiration date, the relevant information and dates shall be included in the notice. (2) The duration of any lease of the mobilehome park, or any portion thereof, in which the management is a lessee.

(b) If a change occurs concerning the zoning or use permit under which the park operates or a lease in which the management is a lessee, all homeowners shall be given written notice within 30 days of that change. Notification regarding the change of use of the park, or any portion thereof, shall be governed by subdivision (g) of Section 798.56. A prospective homeowner shall be notified prior to the inception of the tenancy.

§ 798.29.6. Homeowners' Disabled Accommodations

The management shall not prohibit a homeowner or resident from installing accommodations for the disabled on the home or the site, lot, or space on which the mobilehome is located, including, but not limited to, ramps or handrails on the outside of the home, as long as the installation of those facilities complies with code, as determined by an enforcement agency, and those facilities are installed pursuant to a permit, if required for the installation, issued by the enforcement agency. The management may require that the accommodations installed pursuant to this section be removed by the current homeowner at the time the mobilehome is removed from the park or pursuant to a written agreement between the current homeowner and the management prior to the completion of the resale of the mobilehome in place in the park. This section is not exclusive and shall not be construed to condition, affect, or supersede any other provision of law or regulation relating to accessibility or accommodations for the disabled.

(Added by SB 1107 (Correa), Ch. 170 (2008), eff. 1/1/09)

Article 4 Fees and Charges

§ 798.31. Authorized Fees Charged

A homeowner shall not be charged a fee for other than rent, utilities, and incidental reasonable charges for services actually rendered.

A homeowner shall not be charged a fee for obtaining a lease on a mobilehome lot for (1) a term of 12 months, or (2) a lesser period as the homeowner may request. A fee may be charged for a lease of more than one year if the fee is mutually agreed upon by both the homeowner and management.

§ 798.34. Guest Fees

(a) A homeowner shall not be charged a fee for a guest who does not stay with him or her for more than a total of 20 consecutive days or a total of 30 days in a calendar year. A person who is a guest, as described in this subdivision, shall not be required to register with the management.

(b) A homeowner who is living alone and who wishes to share his or her mobilehome with one person may do so, and a fee shall not be imposed by management for that person. The person shall be considered a guest of the homeowner and any agreement between the homeowner and the person shall not change the terms and conditions of the rental agreement between management and the homeowner. The guest shall comply with the provisions of the rules and regulations of the mobilehome park.

(c) A homeowner may share his or her mobilehome with any person over 18 years of age if that person is providing live-in health care or live-in supportive care to the homeowner pursuant to a written treatment plan prepared by the homeowner's physician. A fee shall not be charged by management for that person. That person shall have no

rights of tenancy in the park, and any agreement between the homeowner and the person shall not change the terms and conditions of the rental agreement between management and the homeowner. That person shall comply with the rules and regulations of the mobilehome park.

(d) A senior homeowner who resides in a mobilehome park that has implemented rules or regulations limiting residency based on age requirements for housing for older persons, pursuant to Section 798.76, may share his or her mobilehome with any person over 18 years of age if this person is a parent, sibling, child, or grandchild of the senior homeowner and requires live-in health care, live-in supportive care, or supervision pursuant to a written treatment plan prepared by a physician and surgeon. Management may not charge a fee for this person. Any agreement between the senior homeowner and this person shall not change the terms and conditions of the rental agreement between management and the senior homeowner. Unless otherwise agreed upon, park management shall not be required to manage, supervise, or provide for this person's care during his or her stay in the mobilehome park. This person shall have no rights of tenancy in the park, but shall comply with the rules and regulations of the mobilehome park. A violation of the mobilehome park rules and regulations by this person shall be deemed a violation of the rules and regulations by the homeowner pursuant to subdivision (d) of Section 798.56. As used in this subdivision, "senior homeowner" means a homeowner who is 55 years of age or older.

§ 798.39.5. Fines and Forfeitures Not Chargeable

(a) The management shall not charge or impose upon a homeowner any fee or increase in rent which reflects the cost to the management of any fine, forfeiture, penalty, money damages, or fee assessed or awarded by a court of law against the management for a violation of this chapter, including any attorney's fees and costs incurred by the management in connection therewith.

(b) A court shall consider the remoteness in time of the assessment or award against the management of any fine, forfeiture, penalty, money damages, or fee in determining whether the homeowner has met the burden of proof that the fee or increase in rent is in violation of this section.

(c) Any provision in a rental agreement entered into, renewed, or modified on or after January 1, 1995, that permits a fee or increase in rent that reflects the cost to the management of any money damages awarded against the management for a violation of this chapter shall be void.

Article 7 Transfer of Mobilehome or Mobilehome Park

§ 798.70. "For Sale" Signs

A homeowner, an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who was a homeowner at the time of his or her death, or the agent of any such person, may advertise the sale or exchange of his or her mobilehome, or, if not prohibited by the terms of an agreement with the management, may advertise the rental of his or her mobilehome, by displaying a sign in the window of the mobilehome, or by a sign posted on the side of the mobilehome facing the street, or by a sign in front of the mobilehome facing the street, stating that the mobilehome is for sale or exchange or, if not prohibited, for rent by the owner of the mobilehome or his or her agent. Any such person also may display a sign conforming to these requirements indicating that the mobilehome is on display for an "open house," unless the park rules prohibit the display of an open house sign. The sign shall state the name, address, and telephone number of the owner of the mobilehome or his or her agent and the sign face shall not exceed 24 inches in width and 36 inches in height. Signs posted in front of a mobilehome pursuant to this section may be of an H–frame or A–frame design with the sign face perpendicular to, but not extending into, the street. Homeowners may attach to the sign or their mobilehome tubes or holders for leaflets which provide information on the mobilehome for sale, exchange, or rent.

§ 798.71. Management Showing or Listing –Prohibitions

(a)(1) The management may not show or list for sale a manufactured home or mobilehome without first obtaining the owner's written authorization. The authorization shall specify the terms and conditions regarding the showing or listing.

(2) Management may require that a homeowner advise management in writing that his or her manufactured home or mobilehome is for sale. If management requires that a homeowner advise management in writing that his or her manufactured home or mobilehome is for sale, failure to comply with this requirement does not invalidate a transfer.

(b) The management shall prohibit neither the listing nor the sale of a manufactured home or mobilehome within the park by the homeowner, an heir, joint tenant, or personal representative of the estate who gains ownership of a manufactured home or mobilehome in the mobilehome park through the death of the owner of the manufactured home or mobilehome who was a homeowner at the time of his or her death, or the agent of any such person other than the management.

(c) The management shall not require the selling homeowner, or an heir, joint tenant, or personal representative of the estate who gains ownership of a manufactured home or mobilehome in the mobilehome park through the death of the owner of the manufactured home or mobilehome who was a homeowner at the time of his or her death, to authorize the management or any other specified broker, dealer, or person to act as the agent in the sale of a manufactured home or mobilehome as a condition of resale of the home in the park or of management's approval of the buyer or prospective homeowner for residency in the park.

(d) The management shall not require a homeowner, who is replacing a mobilehome or manufactured home on a space in the park, in which he or she resides, to use a specific broker, dealer, or other person as an agent in the purchase of or installation of the replacement home.

(e) Nothing in this section shall be construed as affecting the provisions of the Health and Safety Code governing the licensing of manufactured home or mobilehome salespersons or dealers.

§ 798.72. No Transfer or Selling Fee

(a) The management shall not charge a homeowner, an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who was a homeowner at the time of his or her death, or the agent of any such person a transfer or selling fee as a condition of a sale of his mobilehome within a park unless the management performs a service in the sale. The management shall not perform any such service in connection with the sale unless so requested, in writing, by the homeowner, an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who was a homeowner at the time of his or her death, or the agent of any such person.

(b) The management shall not charge a prospective homeowner or his or her agent, upon purchase of a mobilehome, a fee as a condition of approval for residency in a park unless the management performs a specific service in the sale. The management shall not impose a fee, other than for a credit check in accordance with subdivision (b) of Section 798.74, for an interview of a prospective homeowner.

§ 798.73. Removal of Mobilehome Upon Third Party Sale

The management shall not require the removal of a mobilehome from the park in the event of the sale of the mobilehome to a third party during the term of the homeowner's rental agreement or in the 60 days following the initial notice required by paragraph (1) of subdivision (b) of Section 798.55. However, in the event of a sale to a third party, in order to upgrade the quality of the park, the management may require that a mobilehome be removed from the park where:

(a) It is not a "mobilehome" within the meaning of Section 798.3.

(b) It is more than 20 years old, or more than 25 years old if manufactured after September 15, 1971, and is 20 feet wide or more, and the mobilehome does not comply with the health and safety standards provided in Sections 18550, 18552, and 18605 of the Health and Safety Code and the regulations established thereunder, as determined following an inspection by the appropriate enforcement agency, as defined in Section 18207 of the Health and Safety Code.

(c) The mobilehome is more than 17 years old, or more than 25 years old if manufactured after September 15, 1971, and is less than 20 feet wide, and the mobilehome does not comply with the construction and safety standards under Sections 18550, 18552, and 18605 of the Health and Safety Code and the regulations established thereunder, as determined following an inspection by the appropriate enforcement agency, as defined in Section 18207 of the Health and Safety Code.

(d) It is in a significantly rundown condition or in disrepair, as determined by the general condition of the mobilehome and its acceptability to the health and safety of the occupants and to the public, exclusive of its age. The management shall use reasonable discretion in determining the general condition of the mobilehome and its accessory structures. The management shall bear the burden of demonstrating that the mobilehome is in a significantly rundown condition or in disrepair. The management of the park may not require repairs or improvements to the park space or property owned by the management, except for damage caused by the actions or negligence of the homeowner or an agent of the homeowner.

(e) The management shall not require a mobilehome to be removed from the park, pursuant to this section, unless the management has provided to the homeowner notice particularly specifying the condition that permits the removal of the mobilehome.

(Amended by SB 1498 (Senate Judiciary Committee), Ch. 179, Stat. 2008, eff. 1/1/09)

§ 798.73.5. Home Upgrades on Resale

(a) In the case of a sale or transfer of a mobilehome that will remain in the park, the management may only require repairs or improvements to the mobilehome, its appurtenances, or an accessory structure that meet all of the following conditions:

(1) Except as provided by Section 798.83, the repair or improvement is to the mobilehome, its appurtenances, or an accessory structure that is not owned and installed by the management.

(2) The repair or improvement is based upon or is required by a local ordinance or state statute or regulation relating to mobilehomes, or a rule or regulation of the mobilehome park that implements or enforces a local ordinance or a state statute or regulation relating to mobilehomes.

(3) The repair or improvement relates to the exterior of the mobilehome, its appurtenances, or an accessory structure that is not owned and installed by the management.

(b) The management, in the case of sale or transfer of a mobilehome that will remain in the park, shall provide a homeowner with a written summary of repairs or improvements that management requires to the mobilehome, its appurtenances, or an accessory structure that is not owned and installed by the management no later than 10 business days following the receipt of a request for this information, as part of the notice required by Section 798.59. This summary shall include specific references to park rules and regulations, local ordinances, and state statutes and regulations relating to mobilehomes upon which the request for repair or improvement is based.

(c) The provisions of this section enacted at the 1999–2000 Regular Session of the Legislature are declarative of existing law as they pertain to allowing park management to enforce park rules and regulations; these provisions specifically limit repairs and improvements that can be required of a homeowner by park management at the time of sale or transfer to the same repairs and improvements that can be required during any other time of a residency.

§ 798.74. Management Approval of Buyer; Credit Rating Refund

(a) The management may require the right of prior approval of a purchaser of a mobilehome that will remain in the park and that the selling homeowner or his or her agent give notice of the sale to the management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the rent and charges of the park unless the management reasonably determines that, based on the purchaser's prior tenancies, he or she will not comply with the rules and regulations of the park. In determining whether the purchaser has the financial ability to pay the rent and charges of the park, the management shall not require the purchaser to submit copies of any personal income tax returns in order to obtain approval for residency in the park. However, management may require the purchaser to document the amount and source of his or her gross monthly income or means of financial support.

Upon request of any prospective homeowner who proposes to purchase a mobilehome that will remain in the park, management shall inform that person of the information management will require in order to determine if the person will be acceptable as a homeowner in the park.

Within 15 business days of receiving all of the information requested from the prospective homeowner, the management shall notify the seller and the prospective homeowner, in writing, of either acceptance or rejection of the application, and the reason if rejected. During this 15–day period the prospective homeowner shall comply with the management's request, if any, for a personal interview. If the approval of a prospective homeowner is withheld for any reason other than those stated in this article, the management or owner may be held liable for all damages proximately resulting therefrom.

(b) If the management collects a fee or charge from a prospective purchaser of a mobilehome in order to obtain a financial report or credit rating, the full amount of the fee or charge shall be credited toward payment of the first month's rent for that mobilehome purchaser. If, for whatever reason, the prospective purchaser is rejected by the management, the management shall refund to the prospective purchaser the full amount of that fee or charge within 30 days from the date of rejection. If the prospective purchaser is approved by the management, but, for whatever reason, the prospective purchaser elects not to purchase the mobilehome, the management may retain the fee, or a portion thereof, to defray its administrative costs under this section.

§ 798.74.4. "Notice of Mobilehome Resale Disclosure to New Buyer"

The transfer or sale of a manufactured home or mobilehome in a mobilehome park is subject to the transfer disclosure requirements and provisions set forth in Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of the Civil Code. The requirements include, but are not limited to, the use of the Manufactured Home and Mobilehome Transfer Disclosure Statement set forth in Section 11 02.6d of the Civil Code.

§ 798.74.5. Rent Disclosure to Prospective Homeowners

(a) Within two business days of receiving a request from a prospective homeowner for an application for residency for a specific space within a mobilehome park, if the management has been advised that the mobilehome occupying that space is for sale, the management shall give the prospective homeowner a separate document in at least 12–point type entitled "INFORMATION FOR PROSPECTIVE HOMEOWNERS," which includes the following statements:

> *"As a prospective homeowner you are being provided with certain information you should know prior to applying for tenancy in a mobilehome park. This is not meant to be a complete list of information.*
>
> *Owning a home in a mobilehome park incorporates the dual role of "homeowner" (the owner of the home) and park resident or tenant (also called a "homeowner" in the Mobilehome Residency Law). As a homeowner under the Mobilehome Residency Law, you will be responsible for paying the amount necessary to rent the space for your home, in addition to other fees and charges described below. You must also follow certain rules and regulations to reside in the park.*
>
> *If you are approved for tenancy, and your tenancy commences within the next 30 days, your beginning monthly rent will be $_____ (must be completed by the management) for space number _____ (must be completed by the management). Additional information regarding future rent or fee increases may also be provided.*
>
> *In addition to the monthly rent, you will be obligated to pay to the park the following additional fees and charges listed below. Other fees or charges may apply depending upon your specific requests. Metered utility charges are based on use.*
>
> _____
>
> _____
>
> *(Management shall describe the fee or charge and a good faith estimate of each fee or charge.)*
>
> *Some spaces are governed by an ordinance, rule, regulation, or initiative measure that limits or restricts rents in mobilehome parks. Long–term leases specify rent increases during the term of the lease. By signing a rental agreement or lease for a term of more than one year, you may be removing your rental space from a local rent control ordinance during the term, or any extension, of the lease if a local rent control ordinance is in effect for the area in which the space is located.*
>
> *A fully executed lease or rental agreement, or a statement signed by the park's management and by you stating that you and the management have agreed to the terms and conditions of a rental agreement, is required to complete the sale or escrow process of the home. You have no rights to tenancy without a properly executed lease or agreement or that statement. (Civil Code Section 798.75)*
>
> *If the management collects a fee or charge from you in order to obtain a financial report or credit rating, the full amount of the fee or charge will be either credited toward your first month's rent or, if you are rejected for any*

reason, refunded to you. However, if you are approved by management, but, for whatever reason, you elect not to purchase the mobilehome, the management may retain the fee to defray its administrative costs. (Civil Code Section 798.74)

We encourage you to request from management a copy of the lease or rental agreement, the park's rules and regulations, and a copy of the Mobilehome Residency Law. Upon request, park management will provide you a copy of each document. We urge you to read these documents before making the decision that you want to become a mobilehome park resident.

Dated: _____

Signature of Park Manager_____

Acknowledge Receipt by Prospective Homeowner:_____"

(b) Management shall provide a prospective homeowner, upon his or her request, with a copy of the rules and regulations of the park and with a copy of this chapter.

(c) This section shall become operative on October 1, 2004.

§ 798.75. Rental Agreement Required for Park Occupancy

(a) An escrow, sale, or transfer agreement involving a mobilehome located in a park at the time of the sale, where the mobilehome is to remain in the park, shall contain a copy of either a fully executed rental agreement or a statement signed by the park's management and the prospective homeowner that the parties have agreed to the terms and conditions of a rental agreement.

(b) In the event the purchaser fails to execute the rental agreement, the purchaser shall not have any rights of tenancy.

(c) In the event that an occupant of a mobilehome has no rights of tenancy and is not otherwise entitled to occupy the mobilehome pursuant to this chapter, the occupant is considered an unlawful occupant if, after a demand is made for the surrender of the mobilehome park site, for a period of five days, the occupant refuses to surrender the site to the mobilehome park management. In the event the unlawful occupant fails to comply with the demand, the unlawful occupant shall be subject to the proceedings set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure.

(d) The occupant of the mobilehome shall not be considered an unlawful occupant and shall not be subject to the provisions of subdivision (c) if all of the following conditions are present:

(1) The occupant is the registered owner of the mobilehome.

(2) The management has determined that the occupant has the financial ability to pay the rent and charges of the park; will comply with the rules and regulations of the park, based on the occupant's prior tenancies; and will comply with this article.

(3) The management failed or refused to offer the occupant a rental agreement.

§ 798.75.5. Mobilehome Park Disclosure Form

(a) The management shall provide a prospective homeowner with a completed written disclosure form concerning the park described in subdivision (b) at least three days prior to execution of a rental agreement or statement signed by the park management and the prospective homeowner that the parties have agreed to the terms and conditions of the rental agreement. The management shall update the information on the disclosure form annually, or, in the event of a material change in the condition of the mobilehome park, at the time of the material change in that condition.

(b) The written disclosure form shall read as follows:

Mobilehome Park Rental Agreement Disclosure Form

THIS DISCLOSURE STATEMENT CONCERNS THE MOBILEHOME PARK KNOWN AS

_____ LOCATED AT_____

Park name *Park address*

IN THE CITY OF _____ COUNTY OF_____

STATE OF CALIFORNIA.

THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE PARK AND PARK COMMON AREAS AS OF (Date)_____ IN COMPLIANCE WITH SECTION 798.75.5 OF THE CIVIL CODE.

IT IS NOT A WARRANTY OF ANY KIND BY THE MOBILEHOME PARK OWNER OR PARK MANAGEMENT AND IS NOT A SUBSTITUTE FOR ANY INSPECTION BY THE PROSPECTIVE HOMEOWNER/ LESSEE OF THE SPACE TO BE RENTED OR LEASED OR OF THE PARK, INCLUDING ALL COMMON AREAS REFERENCED IN THIS STATEMENT. THIS STATEMENT DOES NOT CREATE ANY NEW DUTY OR NEW LIABILITY ON THE PART OF THE MOBILEHOME PARK OWNER OR MOBILEHOME PARK MANAGEMENT OR AFFECT ANY DUTIES THAT MAY HAVE EXISTED PRIOR TO THE ENACTMENT OF SECTION 798.75.5 OF THE CIVIL CODE, OTHER THAN THE DUTY TO DISCLOSE THE INFORMATION REQUIRED BY THE STATEMENT.

MOBILEHOME RESIDENCY LAW <Excerpts>

Are you (the mobilehome park owner / mobilehome park manager) aware of any of the following:

A. Park or common area facilities	**B.** Does the park contain this facility?		**C.** Is the facility in operation ?		**D.** Does the facility have any known substantial defects?		**E.** Are there any uncorrected park citations or notices of abatement relating to the facilities issued by a public agency?		**F.** Is there any substantial, uncorrected damage to the facility from fire, flood, earthquake, or landslides?		**G.** Are there any pending lawsuits by or against the park affecting the facilities or alleging defects in the facilities?		**H.** Is there any encroachment, easement, non-conforming use, or violation of setback requirements regarding this park common area facility?	
	Yes	**No**	**Yes**	**No**	**Yes**	**No**	**Yes**	**No**	**Yes**	**No**	**Yes**	**No**	**Yes**	**No**
Clubhouse														
Walkways														
Streets, roads and access														
Electric utility system														
Water utility system														
Gas utility														
System														
Common area lighting system														
Septic or sewer system														
Playground														
RV storage														
Parking areas														
Swimming pool														
Spa pool														
Laundry														
Other common area facilities*														

**If there are other important park or common area facilities, please specify (attach additional sheets if necessary):*

_____

If any item in C is checked "no", or any item in D, E, F, G, or H is checked "yes", please explain (attach additional sheets if necessary):

_____
_____
_____
_____

The mobilehome park owner / park manager states that the information herein has been delivered to the prospective homeowner / lessee a minimum of three days prior to execution of a rental agreement and is true and correct to the best of the park owner/park manager's knowledge as of the date signed by the park owner/manager.

*Park Owner/Manager:*_____
print name

*By :*_____
signature

Date: _____

I / WE ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THE PARK OWNER/MANAGER STATEMENT.
Prospective Homeowner _____

Lessee _____

*Park Owner/Manager*_____ *Date:*_____
Title

Prospective Homeowner _____

Lessee _____

*Park Owner/Manager*_____ *Date:*_____
Title

§ 798.76. Senior Only Restrictions

The management may require that a prospective purchaser comply with any rule or regulation limiting residency based on age requirements for housing for older persons, provided that the rule or regulation complies with the federal Fair Housing Act, as amended by Public Law 104–76, and implementing regulations.

§ 798.77. No Waiver of Rights

No rental or sale agreement shall contain a provision by which the purchaser or homeowner waives his or her rights under this chapter. Any such waiver shall be deemed contrary to public policy and shall be void and unenforceable.

§ 798.78. Rights of Heir or Joint Tenant of Owner

(a) An heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who was a homeowner at the time of his or her death shall have the right to sell the mobilehome to a third party in accordance with the provisions of this article, but only if all the homeowner's responsibilities and liabilities to the management regarding rent, utilities, and reasonable maintenance of the mobilehome and its premises which have arisen since the death of the homeowner have been satisfied as they have accrued pursuant to the rental agreement in effect at the time of the death of the homeowner up until the date the mobilehome is resold.

(b) In the event that the heir, joint tenant, or personal representative of the estate does not satisfy the requirements of subdivision (a) with respect to the satisfaction of the homeowner's responsibilities and liabilities to the management which accrue pursuant to the rental agreement in effect at the time of the death of the homeowner, the management shall have the right to require the removal of the mobilehome from the park.

(c) Prior to the sale of a mobilehome by an heir, joint tenant, or personal representative of the estate, that individual may replace the existing mobilehome with another mobilehome, either new or used, or repair the existing mobilehome so that the mobilehome to be sold complies with health and safety standards provided in Sections 18550, 18552, and 18605 of the Health and Safety Code, and the regulations established thereunder. In the event the mobilehome is to be replaced, the replacement mobilehome shall also meet current standards of the park as contained in the park's most recent written requirements issued to prospective homeowners.

(d) In the event the heir, joint tenant, or personal representative of the estate desires to establish a tenancy in the park, that individual shall comply with those provisions of this article which identify the requirements for a prospective purchaser of a mobilehome that remains in the park.

§ 798.79. Repossession of Mobilehome; Sale to Third Party

(a) Any legal owner or junior lienholder who forecloses on his or her security interest in a mobilehome located in a mobilehome park shall have the right to sell the mobilehome within the park to a third party in accordance with this article, but only if all of the homeowner's responsibilities and liabilities to the management regarding rent, utilities, and reasonable maintenance of a mobilehome and its premises are satisfied by the foreclosing creditor as they accrue through the date the mobilehome is resold.

(b) In the event the legal owner or junior lienholder has received from the management a copy of the notice of termination of tenancy for nonpayment of rent or other charges, the foreclosing creditor's right to sell the mobilehome within the park to a third party shall also be governed by Section 798.56a.

§ 798.81. Listing or Sales - Prohibitions

The management (1) shall not prohibit the listing or sale of a used mobilehome within the park by the homeowner, an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who was a homeowner at the time of his or her death, or the agent of any such person other than the management, (2) nor require the selling homeowner to authorize the management to act as the agent in the sale of a mobilehome as a condition of approval of the buyer or prospective homeowner for residency in the park.

§ 798.83. Homeowner Repair of the Space

In the case of a sale or transfer of a mobilehome that will remain in the park, the management of the park shall not require repairs or improvements to the park space or property owned by the management, except for damage caused by the actions or negligence of the homeowner or an agent of the homeowner.

Article 9 Subdivisions, Cooperatives, Condominiums, and Resident Owned Parks

§ 799.1. Rights Governed (Newly Amended)

(a) Except as provided in subdivision (b), this article shall govern the rights of a resident who has an ownership interest in the subdivision, cooperative, or condominium for mobilehomes, or a resident-owned mobilehome park in which his or her mobilehome is located or installed. In a subdivision, cooperative, or condominium for mobilehomes, or a resident-owned mobilehome park, Articles 1 (commencing with Section 798) to through Article 8 (commencing with Section 798.84), inclusive, shall apply only to a resident who does not have an ownership interest in the subdivision, cooperative, or condominium for mobilehomes, or the resident-owned mobilehome park, in which his or her mobilehome is located or installed.

(b) Notwithstanding subdivision (a), in a mobilehome park owned and operated by a nonprofit mutual benefit corporation, established pursuant to Section 11010.8 of the Business and Professions Code, whose members consist of park residents where there is no recorded condominium plan, tract, parcel map, or declaration, Article 1 (commencing with Section 798) through Article 8 (commencing with Section 798.84) shall govern the rights of members who are residents that have a rental agreement with the corporation.

MOBILEHOME RESIDENCY LAW <Excerpts>

(Amended by Stats. 2010, Chap. 175 (SB 1047, Correa), eff. 1/1/11)

§ 799.1.5. Advertising of Home for Sale; "For Sale" Signs

A homeowner or resident, or an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome through the death of the resident of the mobilehome who was a resident at the time of his or her death, or the agent of any of those persons, may advertise the sale or exchange of his or her mobilehome or, if not prohibited by the terms of an agreement with the management or ownership, may advertise the rental of his or her mobilehome by displaying a sign in the window of the mobilehome, or by a sign posted on the side of the mobilehome facing the street, or by a sign in front of the mobilehome facing the street, stating that the mobilehome is for sale or exchange or, if not prohibited, for rent by the owner of the mobilehome or his or her agent. Any such person also may display a sign conforming to these requirements indicating that the mobilehome is on display for an "open house," unless the park rules prohibit the display of an open house sign. The sign shall state the name, address, and telephone number of the owner of the mobilehome or his or her agent. The sign face may not exceed 24 inches in width and 36 inches in height. Signs posted in front of a mobilehome pursuant to this section may be of an H-frame or A-frame design with the sign face perpendicular to, but not extending into, the street. A homeowner or resident, or an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome through the death of the resident of the mobilehome who was a resident at the time of his or her death, or the agent of any of those persons, may attach to the sign or their mobilehome tubes or holders for leaflets that provide information on the mobilehome for sale, exchange, or rent.

§ 799.2. Listing or Showing of Home by Park Management

The ownership or management shall not show or list for sale a mobilehome owned by a resident without first obtaining the resident's written authorization. The authorization shall specify the terms and conditions regarding the showing or listing.

Nothing contained in this section shall be construed to affect the provisions of the Health and Safety Code governing the licensing of mobilehome salesmen.

§ 799.3. Removal of Mobilehome Upon Third Party Sale

The ownership or management shall not require the removal of a mobilehome from a subdivision, cooperative, or condominium for mobilehomes, or resident–owned mobilehome park in the event of its sale to a third party.

§ 799.4. Withholding Prior Approval of Purchaser

The ownership or management may require the right to prior approval of the purchaser of a mobilehome that will remain in the subdivision, cooperative, or condominium for mobilehomes, or resident–owned mobilehome park and that the selling resident, or his or her agent give notice of the sale to the ownership or management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the fees and charges of the subdivision, cooperative, or condominium for mobilehomes, or resident–owned mobilehome park unless the ownership or management reasonably determines that, based on the purchaser's prior residences, he or she will not comply with the rules and regulations of the subdivision, cooperative, or condominium for mobilehomes, or resident– owned mobilehome park.

§ 799.5. Senior Only Restrictions

The ownership or management may require that a purchaser of a mobilehome that will remain in the subdivision, cooperative, or condominium for mobilehomes, or resident–owned mobilehome park comply with any rule or regulation limiting residency based on age requirements for housing for older persons, provided that the rule or regulation complies with the provisions of the federal Fair Housing Act, as amended by Public Law 1 04–76, and implementing regulations.

§ 799.9. Caregivers

(a) A homeowner may share his or her mobilehome with any person over 18 years of age or older if that person is providing live-in health care, live-in supportive care, or supervision to the homeowner pursuant to a written treatment plan prepared by the homeowner's physician and surgeon. A fee shall not be charged by management for that person. That person shall have no rights of tenancy in, and shall comply with the rules and regulations of, the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park.

(b) A senior homeowner who resides in a subdivision, cooperative, or condominium for mobilehomes, or a resident-owned mobilehome park, that has implemented rules or regulations limiting residency based on age requirements for housing for older persons, pursuant to Section 799.5, may share his or her mobilehome with any person 18 years of age or older if this person is a parent, sibling, child, or grandchild of the senior homeowner and requires live-in health care, live-in supportive care, or supervision pursuant to a written treatment plan prepared by a physician and surgeon. A fee shall not be charged by management for that person. Unless otherwise agreed upon, the management shall not be required to manage, supervise, or provide for this person's care during his or her stay in the subdivision, cooperative or condominium for mobilehomes, or resident-owned mobilehome park. That person shall have no rights of tenancy in, and shall comply with the rules and regulations of, the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park. As used in this subdivision, "senior homeowner" means a homeowner or resident who is 55 years of age or older.

§ 799.11. Homeowners' Disabled Accommodations

The ownership or management shall not prohibit a homeowner or resident from installing accommodations for the disabled on the home or the site, lot, or space on which the mobilehome is located, including, but not limited to, ramps or handrails on the outside of the home, as long as the installation of those facilities complies with code, as determined by an enforcement agency, and those facilities are installed pursuant to a permit, if required for the installation, issued by the enforcement agency. The management may require that the accommodations installed pursuant to this section be removed by the current homeowner at the time the mobilehome is removed from the park or pursuant to a written agreement between the current homeowner and the management prior to the completion of the resale of the mobilehome in place in the park. This section is not exclusive and shall not be construed to condition, affect, or supersede any other provision of law or regulation relating to accessibility or accommodation for the disabled.

Resale Disclosures

<Excerpts>

<This section is not applicable for CM exams>

California Civil Code

http://www.leginfo.ca.gov/calaw.html

TABLE OF CHAPTER CONTENTS

RESALE DISCLOSURES

CIVIL CODE
Division 2 Property
Part 4 Acquisition of Property
Title 4 TRANSFER
Chapter 2 TRANSFER OF REAL PROPERTY
Article 1.5 Disclosures Upon Transfer of Residential Property

§ 1102. Transactions to which article applies; Waiver void as against public policy 127
§ 1102.1. Legislative intent regarding use of disclosure statement 127
§ 1102.2. Transactions to which article does not apply 128
§ 1102.3a. Delivery of disclosure statement by transferor of manufactured home or mobilehome; Effect of delivery of specified disclosure after execution of purchase offer 128
§ 1102.4. Liability for errors or omissions 128
§ 1102.5. Information rendered inaccurate due to subsequent events; Use of approximations 129
§ 1102.6d. Manufactured home and mobilehome transfer disclosure statement 129
§ 1102.7. Disclosures to be made in good faith; “Good faith” 132
§ 1102.8. Effect of article on other required disclosures 132
§ 1102.9. Amendment of disclosure statement 132
§ 1102.10. Means of delivering statement 133
§ 1102.11. Escrow agents 133
§ 1102.12. Broker’s duties 133
§ 1102.13. Failure to comply with article; Liability for damages 133
§ 1102.14. “Listing agent”; “Selling agent” 133
§ 1102.15. Disclosure of former ordnance locations within neighborhood area 133
§ 1102.16. Disclosure relating to window security bars 133
§ 1102.17. Notice that property is adjacent to, zoned to allow, or affected by nuisance created by industrial use 133

RESALE DISCLOSURES

<Not applicable for CM exams>

CIVIL CODE

Division 2 Property
Part 4 Acquisition of Property
Title 4 TRANSFER

Chapter 2 TRANSFER OF REAL PROPERTY

Article 1.5 Disclosures Upon Transfer of Residential Property

§ 1102. Transactions to which article applies; Waiver void as against public policy

(a) Except as provided in Section 1102.2, this article applies to any transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of real property or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

(b) Except as provided in Section 1102.2, this article shall apply to a resale transaction entered into on or after January 1, 2000, for a manufactured home, as defined in Section 18007 of the Health and Safety Code, or a mobilehome, as defined in Section 18008 of the Health and Safety Code, which manufactured home or mobilehome is classified as personal property and intended for use as a residence.

(c) Any waiver of the requirements of this article is void as against public policy.

§ 1102.1. Legislative intent regarding use of disclosure statement

(a) In enacting Chapter 817 of the Statutes of 1994, it was the intent of the Legislature to clarify and facilitate the use of the real estate disclosure statement, as specified in Section 1102.6. The Legislature intended the statement to be used by transferors making disclosures required under this article and by agents making disclosures required by Section 2079 on the agent‘s portion of the real estate disclosure statement, in transfers subject to this article. In transfers not subject to this article, agents may make required disclosures in a separate writing. The Legislature did not intend to affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical conditions of the property and previously received reports of physical inspections noted on the disclosure form set forth in Section 1102.6 or 1102.6a, and that nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079.

It is also the intent of the Legislature that the delivery of a real estate transfer disclosure statement may not be waived in an “as is” sale, as held in Loughrin v Superior Court (1993) 15 Cal. App. 4th 1188.

(b) In enacting Chapter 677 of the Statutes of 1996, it was the intent of the Legislature to clarify and facilitate the use of the manufactured home and mobilehome transfer disclosure statement applicable to the resale of a manufactured home or mobilehome pursuant to subdivision (b) of Section 1102. The Legislature intended the statements to be used by transferors making disclosures required under this article and by agents making disclosures required by Section 2079 on the agent’s portion of the disclosure statement and as required by Section 18046 of the Health and Safety Code on the dealer‘s portion of the manufactured home and mobilehome transfer disclosure statement, in transfers subject to this article. In transfers not subject to this article, agents may make required disclosures in a separate writing. The Legislature did not intend to affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical conditions of the property and previously received reports of physical inspections noted on the disclosure form set forth in Section 1102.6 or 1102.6a or to affect the existing obligations of the parties to a manufactured home or mobilehome purchase contract, and nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079 or the duty of a manufactured home or mobilehome dealer or salesperson pursuant to Section 18046 of the Health and Safety Code.

It is also the intent of the Legislature that the delivery of a mobilehome transfer disclosure statement may not be waived in an “as is” sale.

(c) It is the intent of the Legislature that manufactured home and mobilehome dealers and salespersons and real estate brokers and salespersons use the form provided pursuant to Section 1102.6d. It is also the intent of the Legislature for sellers of manufactured homes or mobilehomes who are neither manufactured home dealers or salespersons nor real estate brokers or salespersons to use the Manufactured Home/Mobilehome Transfer Disclosure Statement contained in Section 1102.6d.

RESALE DISCLOSURES <Excerpts>

§ 1102.2. Transactions to which article does not apply

This article does not apply to the following:

(a) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code and transfers which can be made without a public report pursuant to Section 11010.4 of the Business and Professions Code.

(b) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.

(c) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure, transfers to the legal owner or lienholder of a manufactured home or mobilehome by a registered owner or successor in interest who is in default, or transfers by reason of any foreclosure of a security interest in a manufactured home or mobilehome.

(d) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust. This exemption shall not apply to a transfer if the trustee is a natural person who is sole trustee of a revocable trust and he or she is a former owner of the property or an occupant in possession of the property within the preceding year.

(e) Transfers from one coowner to one or more other coowners.

(f) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(g) Transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation or from a property settlement agreement incidental to that judgment.

(h) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(i) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(j) Transfers or exchanges to or from any governmental entity.

§ 1102.3a. Delivery of disclosure statement by transferor of manufactured home or mobilehome; Effect of delivery of specified disclosure after execution of purchase offer

(a) The transferor of any manufactured home or mobilehome subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows:

(1) In the case of a sale, or a lease with an option to purchase, of a manufactured home or mobilehome, involving an agent, as defined in Section 18046 of the Health and Safety Code, as soon as practicable, but no later than the close of escrow for the purchase of the manufactured home or mobilehome.

(2) In the case of a sale, or lease with an option to purchase, of a manufactured home or mobilehome, not involving an agent, as defined in Section 18046 of the Health and Safety Code, at the time of execution of any document by the prospective transferee with the transferor for the purchase of the manufactured home or mobilehome.

(b) With respect to any transfer subject to this section, the transferor shall indicate compliance with this article either on the transfer disclosure statement, any addendum thereto, or on a separate document.

(c) If any disclosure, or any material amendment of any disclosure, required to be made pursuant to subdivision (b) of Section 1102, is delivered after the execution of an offer to purchase, the transferee shall have three days after delivery in person or five days after delivery by deposit in the mail, to terminate his or her offer by delivery of a written notice of termination to the transferor.

§ 1102.4. Liability for errors or omissions

(a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or that listing or selling agent, was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting it.

(b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or any listing or selling agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license or expertise, shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefor, whether written or oral. In responding to such a request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1102.6 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where such a statement is furnished, the expert shall not be responsible for any items of

information, or parts thereof, other than those expressly set forth in the statement.

§ 1102.5. Information rendered inaccurate due to subsequent events; Use of approximations

If information disclosed in accordance with this article is subsequently rendered inaccurate as a result of any act, occurrence, or agreement subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of this article. If at the time the disclosures are required to be made, an item of information required to be disclosed is unknown or not available to the transferor, and the transferor or his or her agent has made a reasonable effort to ascertain it, the transferor may use an approximation of the information, provided the approximation is clearly identified as such, is reasonable, is based on the best information available to the transferor or his or her agent, and is not used for the purpose of circumventing or evading this article.

§ 1102.6d. Manufactured home and mobilehome transfer disclosure statement

Except for manufactured homes and mobilehomes located in a common interest development governed by Title 6 (commencing with Section 1351), the disclosures applicable to the resale of a manufactured home or mobilehome pursuant to subdivision (b) of Section 1102 are set forth in, and shall be made on a copy of, the following disclosure form:

MANUFACTURED HOME AND MOBILEHOME:

TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE MANUFACTURED HOME OR MOBILEHOME (HEREAFTER REFERRED TO AS "HOME") LOCATED AT_____ _____ IN THE CITY OF_____ COUNTY OF _____ , STATE OF CALIFORNIA, DESCRIBED AS

_____	_____	_____	_____
YEAR	*MAKE*	*SERIAL #(s)*	*HCD DECAL # OR EQUIVALENT*

THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE-DESCRIBED HOME IN COMPLIANCE WITH SUBDIVISION (B) OF SECTION 1102 OF THE CIVIL CODE AND SECTIONS 18025 AND 18046 OF THE HEALTH AND SAFETY CODE AS OF _____

DATE

IT IS NOT A WARRANTY OF ANY KIND BY THE LAWFUL OWNER OF THE MANUFACTURED HOME OR MOBILEHOME WHO OFFERS THE HOME FOR SALE (HEREINAFTER THE SELLER), OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN. AN "AGENT" MEANS ANY DEALER OR SALESPERSON LICENSED PURSUANT TO PART 2 (COMMENCING WITH SECTION 18000) OF THE HEALTH AND SAFETY CODE, OR A REAL ESTATE BROKER OR SALESPERSON LICENSED PURSUANT TO DIVISION 4 (COMMENCING WITH SECTION 10000) OF DIVISION 13 OF THE BUSINESS AND PROFESSIONS CODE.

I

COORDINATION WITH OTHER DISCLOSURES & INFORMATION

This Manufactured Home and Mobilehome Transfer Disclosure Statement is made pursuant to Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code. Other statutes require disclosures, or other information may be important to the prospective buyer, depending upon the details of the particular transaction (including, but not limited to, the condition of the park in which the manufactured home or mobilehome will be located; disclosures required or information provided by the Mobilehome Residency Law, Section 798 of the Civil Code et seq.; the mobilehome park rental agreement or lease; the mobilehome park rules and regulations; and park and lot inspection reports, if any, completed by the state or local enforcement agency). Substituted disclosures: The following disclosures have or will be made in connection with this transfer, and are intended to satisfy the disclosure obligations of this form, where the subject matter is the same:

☐ *… Home inspection reports completed pursuant to the contract of sale or receipt for deposit.*

☐ *… Additional inspection reports or disclosures:* _____

_____

II

SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective buyers may rely on this information in deciding whether, and on what terms, to purchase the subject Home. Seller hereby authorizes any agent(s), as defined in Section 18046 of the Health and Safety Code, representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the Home.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY, AS DEFINED IN SECTION 18046 OF THE HEALTH AND SAFETY CODE. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND THE SELLER.

RESALE DISCLOSURES <Excerpts>

Seller ☐ is ☐ is not occupying the Home.

A. The subject Home includes the items checked below which are being sold with the Home (read across):

☐*Range*	☐ *Oven*	☐ *Microwave*
☐*Dishwasher*	☐ *Trash Compactor*	☐ *Garbage Disposal*
☐*Burglar Alarm*	☐ *Carbon Monoxide Device(s)*	☐ *Fire Alarm*
☐ *TV Antenna*	☐ *Satellite Dish*	☐ *Intercom*
☐ *Central Heating*	☐ *Central Air Conditioning.*	☐ *Wall/Window Air Conditioning*
☐*Evaporative Cooler(s)*	☐ *Sump Pump*	☐ *Water Softener*
☐*Porch Decking*	☐ *Porch Awning*	☐ *Gazebo*
☐*Private Sauna*	☐ *Private Spa*	☐ *Spa Locking Safety Cover**
☐*Private Hot Tub*	☐ *Hot Tub Locking Cover**	☐ *Gas/Spa Heater*
☐ *Solar/Spa Heater*	☐ *Gas Water Heater*	☐ *Solar Water Heater*
☐*Electric Water Heater*	☐ *Bottled Propane*	☐ *Carport Awning*
☐ *Automatic Garage*	☐ *Attached Garage*	☐ *Detached Garage*
*Door Opener(s)**	☐ *# Remote Controls*	☐ *Window Screens*
☐ *Window Secure Bars*	☐ *Bedroom Window Quick Release Mechanism**	
☐*Earthquake Resistant*	☐ *Washer/Dryer Hookups*	☐ *Rain Gutters Bracing System*

*Exhaust Fan(s) in*_____ *220 Volt Wiring in* ____ _____
Fireplace(s) in _____ *Gas Starter(s)* _____ _____
Roof(s) and type(s) _____ *Roof Age (Approximate)*_____
_____
*Other*_____

Installation of a listed appliance, device, or amenity is not a precondition of sale or transfer of the dwelling. The carbon monoxide device, garage door opener, or child-resistant pool barrier may not be in compliance with the safety standards relating to, respectively, carbon monoxide device standards of Chapter 8 (commencing with Section 13260) of Part 2 of Division 12 of, automatic reversing device standards of Chapter 12.5 (commending with Section 19890) of Part 3 of Division 13 of, or the pool safety standards of Article 2.5 (commencing with Section 115920) of Chapter 5 of Part 10 of Division 104 of the Health and Safety Code. Window security bars may not have quick release mechanisms in compliance with the 1995 edition of the California Building Standards Code.

Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition? ☐

Yes ☐ *No If Yes, then describe. (Attach additional sheets if necessary):* _____

B. Are you (the Seller) aware of any significant defects/malfunctions in any of the following in connection with the Home?

☐ *Yes* ☐ *No If yes, check appropriate space(s) below:*

☐*Interior Walls,* ☐ *Ceilings,* ☐ *Floors,* ☐ *Exterior Walls,* ☐ *Insulation,* ☐ *Roof(s),* ☐ *Windows,*

☐*Doors,* ☐ *Home Electrical Systems,* ☐ *Plumbing,* ☐ *Porch or Deck,* ☐ *Porch Steps & Railings,* ☐

Other Steps & Railings, ☐ *Porch Awning,* ☐ *Carport Awning,* ☐ *Other Awnings,* ☐ *Skirting,*

☐*Home Foundation or Support System,* ☐ *Other Structural Components (Describe):* _____

_____

_____

If any of the above is checked, explain. (Attach additional Sheets if necessary):

_____

_____

C. Are you (The Seller) aware of any of the following:

RESALE DISCLOSURES <Excerpts>

1. *Substances, materials, or products which may be an environmental hazard, such as, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, or chemical storage tanks on the subject home interior or exterior.* ☐ *Yes* ☐ *No*
2. *Room additions, structural modifications, or other alterations or repairs made without necessary permits.* ☐ *Yes* ☐ *No*
3. *Room additions, structural modifications, or other alterations or repairs not in compliance with applicable codes.* ☐ *Yes* ☐ *No*
4. *Any settling from slippage, sliding or problems with leveling of the home or the foundation or support system.* ☐ *Yes* ☐ *No*
5. *Drainage or grading problems with the home, space or lot.* ☐ *Yes* ☐ *No*
6. *Damage to the home or accessory structures being sold with the home from fire, flood, earthquake, or landslides.* ☐ *Yes* ☐ *No*
7. *Any notices of abatement or citations against the home or accessory structures being sold with the home.* ☐ *Yes* ☐ *No*
8. *Any lawsuits by or against the seller threatening to or affecting the home or the accessory structures being sold with the home, including any lawsuits alleging any defect or deficiency in the home or accessories sold with the home.* ☐ *Yes* ☐ *No*
9. *Neighborhood noise problems or other nuisances.* ☐ *Yes* ☐ *No*
10. *Any encroachment, easement, nonconforming use or violation of setback requirements with the home, accessory structures being sold with the home, or space.* ☐ *Yes* ☐ *No*

If the answer to any of these is yes, explain. (Attach additional sheets if necessary):

_____

_____ *Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.*

Seller _____ *Date* _____

Seller _____ *Date* _____

(Added by Stats. 2010, Chap. 19 (SB 183, Lowenthal), eff. 1/1/2011)

III

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the Seller is represented by an Agent in this transaction)

THE UNDERSIGNED, BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO THE CONDITION OF THE HOME AND BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE HOME IN CONJUNCTION WITH THAT INQUIRY, STATES THE FOLLOWING:

☐ *Agent notes no items for disclosure.*

☐ *Agent notes the following items:*

_____

_____

_____

_____

Agent Representing Seller _____
(Print Name)

By _____ *Date* _____
(Signature)

IV

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the Agent who has obtained the offer is other than the Agent above.)

THE UNDERSIGNED, BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE HOME, STATES THE FOLLOWING:

☐ *Agent notes no items for disclosure.*

☐ *Agent notes the following items:*

_____
_____
_____
_____

Agent Representing Buyer _____
(Print Name)

*By*_____ *Date* _____
(Signature)

V

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE HOME AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THE BUYER(S) AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller _____ *Date* _____ *Buyer* _____ *Date*_____

Seller _____ *Date* _____ *Buyer* _____ *Date*_____

Agent Representing Seller _____
(Print Name)

*By*_____ *Date* _____
(Signature)

Agent Representing Buyer _____
(Print Name)

*By*_____ *Date* _____
(Signature)

SECTION 1102.3a OF THE CIVIL CODE PROVIDES A PROSPECTIVE BUYER WITH THE RIGHT TO RESCIND THE PURCHASE OF THE MANUFACTURED HOME OR MOBILEHOME FOR AT LEAST THREE DAYS AFTER DELIVERY OF THIS DISCLOSURE, IF DELIVERY OCCURS AFTER THE SIGNING OF AN OFFER TO PURCHASE. IF YOU WISH TO RESCIND THE CONTRACT, YOU MUST ACT WITHIN THE PRESCRIBED PERIOD.

A MANUFACTURED HOME OR MOBILEHOME DEALER OR A REAL ESTATE BROKER IS QUALIFIED TO PROVIDE ADVICE ON THE SALE OF A MANUFACTURED HOME OR MOBILEHOME. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY

§ 1102.7. Disclosures to be made in good faith; "Good faith"

Each disclosure required by this article and each act which may be performed in making the disclosure, shall be made in good faith. For purposes of this article, "good faith" means honesty in fact in the conduct of the transaction.

§ 1102.8. Effect of article on other required disclosures

The specification of items for disclosure in this article does not limit or abridge any obligation for disclosure created by any other provision of law or which may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

§ 1102.9. Amendment of disclosure statement

Any disclosure made pursuant to this article may be amended in writing by the transferor or his or her agent, but the amendment shall be subject to Section 1102.3 or 11 02.3a.

§ 1102.10. Means of delivering statement

Delivery of disclosures required by this article shall be by personal delivery to the transferee or by mail to the prospective transferee. For the purposes of this article, delivery to the spouse of a transferee shall be deemed delivery to the transferee, unless provided otherwise by contract.

§ 1102.11. Escrow agents

Any person or entity, other than a real estate licensee licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, acting in the capacity of an escrow agent for the transfer of real property subject to this article shall not be deemed the agent of the transferor or transferee for purposes of the disclosure requirements of this article, unless the person or entity is empowered to so act by an express written agreement to that effect. The extent of such an agency shall be governed by the written agreement.

§ 1102.12. Broker's duties

(a) If more than one licensed real estate broker is acting as an agent in a transaction subject to this article, the broker who has obtained the offer made by the transferee shall, except as otherwise provided in this article, deliver the disclosure required by this article to the transferee, unless the transferor has given other written instructions for delivery.

(b) If a licensed real estate broker responsible for delivering the disclosures under this section cannot obtain the disclosure document required and does not have written assurance from the transferee that the disclosure has been received, the broker shall advise the transferee in writing of his or her rights to the disclosure. A licensed real estate broker responsible for delivering disclosures under this section shall maintain a record of the action taken to effect compliance in accordance with Section 10148 of the Business and Professions Code.

§ 1102.13. Failure to comply with article; Liability for damages

No transfer subject to this article shall be invalidated solely because of the failure of any person to comply with any provision of this article. However, any person who willfully or negligently violates or fails to perform any duty prescribed by any provision of this article shall be liable in the amount of actual damages suffered by a transferee.

§ 1102.14. "Listing agent"; "Selling agent"

(a) As used in this article, "listing agent" means listing agent as defined in subdivision (f) of Section 1086.

(b) As used in this article, "selling agent" means selling agent as defined in subdivision (g) of Section 1086, exclusive of the requirement that the agent be a participant in a multiple listing service as defined in Section 1087.

§ 1102.15. Disclosure of former ordnance locations within neighborhood area

The seller of residential real property subject to this article who has actual knowledge of any former federal or state ordnance locations within the neighborhood area shall give written notice of that knowledge as soon as practicable before transfer of title.

For purposes of this section, "former federal or state ordnance locations" means an area identified by an agency or instrumentality of the federal or state government as an area once used for military training purposes which may contain potentially explosive munitions. "Neighborhood area" means within one mile of the residential real property.

The disclosure required by this section does not limit or abridge any obligation for disclosure created by any other law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

§ 1102.16. Disclosure relating to window security bars

The disclosure of the existence of any window security bars and any safety release mechanism on those window security bars shall be made pursuant to Section 1102.6 or 1102.6a of the Civil Code.

§ 1102.17. Notice that property is adjacent to, zoned to allow, or affected by nuisance created by industrial use

The seller of residential real property subject to this article who has actual knowledge that the property is adjacent to, or zoned to allow, an industrial use described in Section 731a of the Code of Civil Procedure, or affected by a nuisance created by such a use, shall give written notice of that knowledge as soon as practicable before transfer of title.

Consumer Warranty Protection
Including Manufactured Homes-Mobilehomes

<Excerpts>

California Civil Code

http://www.leginfo.ca.gov/calaw.html

TABLE OF CHAPTER CONTENTS

CONSUMER WARRANTY PROTECTION-MOBILEHOME WARRANTIES

CIVIL CODE
Division 3 Obligations
Part 4 Obligations Arising from Particular Transactions
Title 1.7 CONSUMER WARRANTIES
Chapter 1 Consumer Warranty Protection

Article 1 General Provisions
§ 1790. Title 137
§ 1790.1. Enforceability of waiver 137
§ 1790.2. Severability 137
§ 1790.3. Construction in case of conflict with Commercial Code 137
§ 1790.4. Cumulative remedies 137

Article 2 Definitions
§ 1791. Definitions 137
§ 1791.1. "Implied warranty of merchantability"; "Implied warranty of fitness" 138
§ 1791.2. "Express warranty" 138
§ 1791.3. "As is"; "With all faults" 139

Article 3 Sale Warranties
§ 1792. Implied warranty of merchantability 139
§ 1792.1. Manufacturer's implied warranty of fitness for particular purpose 139
§ 1792.2. Retailer's or distributor's implied warranty of fitness for particular purpose 139
§ 1792.3. Waiver of implied warranties 139
§ 1792.4. Disclaimer of implied warranty 139
§ 1792.5. "As is" sales 139
§ 1793. Express warranties 139
§ 1793.03. Manufacturers of consumer electronics or appliances making express warranties; Availability of service literature and parts 139
§ 1793.1. Form of express warranties; Requirements on distribution of warranty or product registration car or form, or electronic online warranty or product registration forms 140
§ 1793.2. Duties of manufacturer making express warranty 140
§ 1793.3. Failure to provide service facility in conjunction with express warranty 142
§ 1793.4. Time to exercise option for service of item under express warranty 142
§ 1793.5. Liability of manufacturer making express warranties for failure to maintain service facilities 143
§ 1793.6. Manufacturer's liability to independent serviceman performing services or incurring obligations on express warranties 143
§ 1794. Buyer's damages, penalties and fees 143
§ 1794.1. Seller's and serviceman's damages 144
§ 1794.3. Effect of unauthorized or unreasonable use of goods 144
§1794.4. Service contract in lieu of warranty 148
§ 1794.41. Vehicle, home appliance, or home electronic product service contract; Requirements; Applicability; Conflicts with insurance provisions 145
§ 1794.5. Alternative suggestions for repair of item under express warranty 145
§ 1795. Liability of nonmanufacturer making express warranty 145
§ 1795.1. Application of chapter to components of air conditioning system 145
§ 1795.4. Rules applicable to leases of consumer goods 145
§ 1795.5. Obligations of distributors or sellers of used goods 146
§ 1795.6. Tolling the warranty period 146
§ 1795.7. Effect of tolling on manufacturer's liability 147

TABLE OF CHAPTER CONTENTS

Chapter 3 MOBILEHOME WARRANTIES

§ 1797. Mobilehomes covered by warranty 147
§ 1797.1. Definitions 147
§ 1797.2. Application of warranty to manufacturer, contractor, and dealer 147
§ 1797.3. Required written warranty; Contents 147
§ 1797.4. Additional rights and privileges; Prohibited waiver 147
§ 1797.5. Display of copy of warranty 148
§ 1797.6. Records required to be kept 148
§ 1797.7. Deadline for correcting defects 148

CONSUMER WARRANTY PROTECTION-MOBILEHOME WARRANTIES

CIVIL CODE
Division 3 Obligations
Part 4 Obligations Arising from Particular Transactions
Title 1.7 CONSUMER WARRANTIES

Chapter 1 Consumer Warranty Protection
Article 1 General Provisions

§ 1790. Title
This chapter may be cited as the "Song–Beverly Consumer Warranty Act."

§ 1790.1. Enforceability of waiver
Any waiver by the buyer of consumer goods of the provisions of this chapter, except as expressly provided in this chapter, shall be deemed contrary to public policy and shall be unenforceable and void.

§ 1790.2. Severability
If any provision of this chapter or the application thereof to any person or circumstance is held unconstitutional, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

§ 1790.3. Construction in case of conflict with Commercial Code
The provisions of this chapter shall not affect the rights and obligations of parties determined by reference to the Commercial Code except that, where the provisions of the Commercial Code conflict with the rights guaranteed to buyers of consumer goods under the provisions of this chapter, the provisions of this chapter shall prevail.

§ 1790.4. Cumulative remedies
The remedies provided by this chapter are cumulative and shall not be construed as restricting any remedy that is otherwise available, and, in particular, shall not be construed to supplant the provisions of the Unfair Practices Act.

Article 2 Definitions

§ 1791. Definitions
As used in this chapter:
(a) "Consumer goods" means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.
(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling consumer goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, limited liability company, association, or other legal entity that engages in any of these businesses.
(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.
(d) "Consumables" means any product that is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and that usually is consumed or expended in the course of consumption or use.
(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship that stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.
(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, that engages in the business of servicing and repairing consumer goods.
(g) "Lease" means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods' depreciation.
(h) "Lessee" means an individual who leases consumer goods under a lease.
(i) "Lessor" means a person who regularly leases consumer goods under a lease.
(j) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship that manufactures, assembles, or produces consumer goods.

(k) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for consumer goods.

(l) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship that engages in the business of selling or leasing consumer goods to retail buyers.

(m) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller's place of business, as defined in subdivision (k).

(n) "Sale" means either of the following:

(1) The passing of title from the seller to the buyer for a price.

(2) A consignment for sale.

(o) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, that is used or intended to be used, to assist an individual with a disability in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of an individual with a disability, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code and unless they are intended to assist the limited vision of the person so disabled.

(q) "Catalog or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device.

(r) "Home appliance" means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, or room air–conditioner normally used or sold for personal, family, or household purposes.

(s) "Home electronic product" means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars ($50).

This section shall become operative on January 1, 2008.

§ 1791.1. "Implied warranty of merchantability"; "Implied warranty of fitness"

As used in this chapter:

(a) "Implied warranty of merchantability" or "implied warranty that goods are merchantable" means that the consumer goods meet each of the following:

(1) Pass without objection in the trade under the contract description.

(2) Are fit for the ordinary purposes for which such goods are used.

(3) Are adequately contained, packaged, and labeled.

(4) Conform to the promises or affirmations of fact made on the container or label.

(b) "Implied warranty of fitness" means (1) that when the retailer, distributor, or manufacturer has reason to know any particular purpose for which the consumer goods are required, and further, that the buyer is relying on the skill and judgment of the seller to select and furnish suitable goods, then there is an implied warranty that the goods shall be fit for such purpose and (2) that when there is a sale of an assistive device sold at retail in this state, then there is an implied warranty by the retailer that the device is specifically fit for the particular needs of the buyer.

(c) The duration of the implied warranty of merchantability and where present the implied warranty of fitness shall be coextensive in duration with an express warranty which accompanies the consumer goods, provided the duration of the express warranty is reasonable; but in no event shall such implied warranty have a duration of less than 60 days nor more than one year following the sale of new consumer goods to a retail buyer. Where no duration for an express warranty is stated with respect to consumer goods, or parts thereof, the duration of the implied warranty shall be the maximum period prescribed above.

(d) Any buyer of consumer goods injured by a breach of the implied warranty of merchantability and where applicable by a breach of the implied warranty of fitness has the remedies provided in Chapter 6 (commencing with Section 2601) and Chapter 7 (commencing with Section 2701) of Division 2 of the Commercial Code, and, in any action brought under such provisions, Section 1794 of this chapter shall apply.

§ 1791.2. "Express warranty"

(a) "Express warranty" means:

(1) A written statement arising out of a sale to the consumer of a consumer good pursuant to which the manufacturer, distributor, or retailer undertakes to preserve or maintain the utility or performance of the consumer good or provide compensation if there is a failure in utility or performance; or

(2) In the event of any sample or model, that the whole of the goods conforms to such sample or model.

(b) It is not necessary to the creation of an express warranty that formal words such as "warrant" or "guarantee" be used, but if such words are used then an express warranty is created. An affirmation merely of the value of the goods or a statement purporting to be merely an opinion or commendation of the goods does not create a warranty.

(c) Statements or representations such as expressions of general policy concerning customer satisfaction which are not subject to any limitation do not create an express warranty.

§ 1791.3. "As is"; "With all faults"

As used in this chapter, a sale "as is" or "with all faults" means that the manufacturer, distributor, and retailer disclaim all implied warranties that would otherwise attach to the sale of consumer goods under the provisions of this chapter.

Article 3 Sale Warranties

§ 1792. Implied warranty of merchantability

Unless disclaimed in the manner prescribed by this chapter, every sale of consumer goods that are sold at retail in this state shall be accompanied by the manufacturer's and the retail seller's implied warranty that the goods are merchantable. The retail seller shall have a right of indemnity against the manufacturer in the amount of any liability under this section.

§ 1792.1. Manufacturer's implied warranty of fitness for particular purpose

Every sale of consumer goods that are sold at retail in this state by a manufacturer who has reason to know at the time of the retail sale that the goods are required for a particular purpose and that the buyer is relying on the manufacturer's skill or judgment to select or furnish suitable goods shall be accompanied by such manufacturer's implied warranty of fitness.

§ 1792.2. Retailer's or distributor's implied warranty of fitness for particular purpose

(a) Every sale of consumer goods that are sold at retail in this state by a retailer or distributor who has reason to know at the time of the retail sale that the goods are required for a particular purpose, and that the buyer is relying on the retailer's or distributor's skill or judgment to select or furnish suitable goods shall be accompanied by such retailer's or distributor's implied warranty that the goods are fit for that purpose.

(b) Every sale of an assistive device sold at retail in this state shall be accompanied by the retail seller's implied warranty that the device is specifically fit for the particular needs of the buyer.

§ 1792.3. Waiver of implied warranties

No implied warranty of merchantability and, where applicable, no implied warranty of fitness shall be waived, except in the case of a sale of consumer goods on an "as is" or "with all faults" basis where the provisions of this chapter affecting "as is" or "with all faults" sales are strictly complied with.

§ 1792.4. Disclaimer of implied warranty

(a) No sale of goods, governed by the provisions of this chapter, on an "as is" or "with all faults" basis, shall be effective to disclaim the implied warranty of merchantability or, where applicable, the implied warranty of fitness, unless a conspicuous writing is attached to the goods which clearly informs the buyer, prior to the sale, in simple and concise language of each of the following:

(1) The goods are being sold on an "as is" or "with all faults" basis.

(2) The entire risk as to the quality and performance of the goods is with the buyer.

(3) Should the goods prove defective following their purchase, the buyer and not the manufacturer, distributor, or retailer assumes the entire cost of all necessary servicing or repair.

(b) In the event of sale of consumer goods by means of a mail order catalog, the catalog offering such goods shall contain the required writing as to each item so offered in lieu of the requirement of notification prior to the sale.

§ 1792.5. "As is" sales

Every sale of goods that are governed by the provisions of this chapter, on an "as is" or "with all faults" basis, made in compliance with the provisions of this chapter, shall constitute a waiver by the buyer of the implied warranty of merchantability and, where applicable, of the implied warranty of fitness.

§ 1793. Express warranties

Except as provided in Section 1793.02, nothing in this chapter shall affect the right of the manufacturer, distributor, or retailer to make express warranties with respect to consumer goods. However, a manufacturer, distributor, or retailer, in transacting a sale in which express warranties are given, may not limit, modify, or disclaim the implied warranties guaranteed by this chapter to the sale of consumer goods.

§ 1793.03. Manufacturers of consumer electronics or appliances making express warranties; Availability of service literature and parts

(a) Every manufacturer making an express warranty with respect to an electronic or appliance product described in subdivision (h), (i), (j), or (k) of Section 9801 of the Business and Professions Code, with a wholesale price to the retailer of not less than fifty dollars ($50) and not more than ninety–nine dollars and ninety–nine cents ($99.99), shall make available to service and repair facilities sufficient service literature and functional parts to effect the repair of a product for at least three years after the date a product model or type was manufactured, regardless of whether the three–year period exceeds the warranty period for the product.

(b) Every manufacturer making an express warranty with respect to an electronic or appliance product described in subdivision (h), (i), (j), or (k) of Section 9801 of the Business and Professions Code, with a wholesale price to the retailer of one hundred dollars ($100) or more, shall make available to service and repair facilities sufficient service literature and functional parts to effect the repair of a product for at least seven years after the date a product model or type was

manufactured, regardless of whether the seven–year period exceeds the warranty period for the product

§ 1793.1. Form of express warranties; Requirements on distribution of warranty or product registration car or form, or electronic online warranty or product registration forms

(a)(1) Every manufacturer, distributor, or retailer making express warranties with respect to consumer goods shall fully set forth those warranties in simple and readily understood language, which shall clearly identify the party making the express warranties, and which shall conform to the federal standards for disclosure of warranty terms and conditions set forth in the federal Magnuson–Moss Warranty–Federal Trade Commission Improvement Act (15 U.S.C. Sec. 2301 et seq.), and in the regulations of the Federal Trade Commission adopted pursuant to the provisions of that act. If the manufacturer, distributor, or retailer provides a warranty or product registration card or form, or an electronic online warranty or product registration form, to be completed and returned by the consumer, the card or form shall contain statements, each displayed in a clear and conspicuous manner, that do all of the following:

(A) Informs the consumer that the card or form is for product registration.

(B) Informs the consumer that failure to complete and return the card or form does not diminish his or her warranty rights.

(2) Every work order or repair invoice for warranty repairs or service shall clearly and conspicuously incorporate in 10–point boldface type the following statement either on the face of the work order or repair invoice, or on the reverse side, or on an attachment to the work order or repair invoice: “A buyer of this product in California has the right to have this product serviced or repaired during the warranty period. The warranty period will be extended for the number of whole days that the product has been out of the buyer’s hands for warranty repairs. If a defect exists within the warranty period, the warranty will not expire until the defect has been fixed. The warranty period will also be extended if the warranty repairs have not been performed due to delays caused by circumstances beyond the control of the buyer, or if the warranty repairs did not remedy the defect and the buyer notifies the manufacturer or seller of the failure of the repairs within 60 days after they were completed. If, after a reasonable number of attempts, the defect has not been fixed, the buyer may return this product for a replacement or a refund subject, in either case, to deduction of a reasonable charge for usage. This time extension does not affect the protections or remedies the buyer has under other laws.”

If the required notice is placed on the reverse side of the work order or repair invoice, the face of the work order or repair invoice shall include the following notice in 10–point boldface type: “Notice to Consumer: Please read important information on back.”

A copy of the work order or repair invoice and any attachment shall be presented to the buyer at the time that warranty service or repairs are made.

(b) No warranty or product registration card or form, or an electronic online warranty or product registration form, may be labeled as a warranty registration or a warranty confirmation.

(c) The requirements imposed by this section on the distribution of any warranty or product registration card or form, or an electronic online warranty or product registration form, shall become effective on January 1, 2004.

(d) This section does not apply to any warranty or product registration card or form that was printed prior to January 1, 2004, and was shipped or included with a product that was placed in the stream of commerce prior to January 1, 2004.

(e) Every manufacturer, distributor, or retailer making express warranties and who elects to maintain service and repair facilities within this state pursuant to this chapter shall perform one or more of the following:

(1) At the time of sale, provide the buyer with the name and address of each service and repair facility within this state.

(2) At the time of the sale, provide the buyer with the name and address and telephone number of a service and repair facility central directory within this state, or the toll–free telephone number of a service and repair facility central directory outside this state. It shall be the duty of the central directory to provide, upon inquiry, the name and address of the authorized service and repair facility nearest the buyer.

(3) Maintain at the premises of retail sellers of the warrantor’s consumer goods a current listing of the warrantor’s authorized service and repair facilities, or retail sellers to whom the consumer goods are to be returned for service and repair, whichever is applicable, within this state. It shall be the duty of every retail seller provided with that listing to provide, on inquiry, the name, address, and telephone number of the nearest authorized service and repair facility, or the retail seller to whom the consumer goods are to be returned for service and repair, whichever is applicable.

§ 1793.2. Duties of manufacturer making express warranty

(a) Every manufacturer of consumer goods sold in this state and for which the manufacturer has made an express warranty shall:

(1)(A) Maintain in this state sufficient service and repair facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of those warranties or designate and authorize in this state as service and repair facilities independent repair or service facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of the warranties.

(B) As a means of complying with this paragraph, a manufacturer may enter into warranty service contracts with independent service and repair facilities. The warranty service contracts may provide for a fixed schedule of rates to be charged for warranty service or warranty repair work. However, the rates fixed by those contracts shall be in conformity with the requirements of subdivision (c) of Section 1793.3. The rates established pursuant to subdivision (c) of Section 1793.3, between the manufacturer and the independent service and repair facility, do not preclude a good faith discount

that is reasonably related to reduced credit and general overhead cost factors arising from the manufacturer's payment of warranty charges direct to the independent service and repair facility. The warranty service contracts authorized by this paragraph may not be executed to cover a period of time in excess of one year, and may be renewed only by a separate, new contract or letter of agreement between the manufacturer and the independent service and repair facility.

(2) In the event of a failure to comply with paragraph (1) of this subdivision, be subject to Section 1793.5.

(3) Make available to authorized service and repair facilities sufficient service literature and replacement parts to effect repairs during the express warranty period.

(b) Where those service and repair facilities are maintained in this state and service or repair of the goods is necessary because they do not conform with the applicable express warranties, service and repair shall be commenced within a reasonable time by the manufacturer or its representative in this state. Unless the buyer agrees in writing to the contrary, the goods shall be serviced or repaired so as to conform to the applicable warranties within 30 days. Delay caused by conditions beyond the control of the manufacturer or its representatives shall serve to extend this 30–day requirement. Where delay arises, conforming goods shall be tendered as soon as possible following termination of the condition giving rise to the delay.

(c) The buyer shall deliver nonconforming goods to the manufacturer's service and repair facility within this state, unless, due to reasons of size and weight, or method of attachment, or method of installation, or nature of the nonconformity, delivery cannot reasonably be accomplished. If the buyer cannot return the nonconforming goods for any of these reasons, he or she shall notify the manufacturer or its nearest service and repair facility within the state. Written notice of nonconformity to the manufacturer or its service and repair facility shall constitute return of the goods for purposes of this section. Upon receipt of that notice of nonconformity, the manufacturer shall, at its option, service or repair the goods at the buyer's residence, or pick up the goods for service and repair, or arrange for transporting the goods to its service and repair facility. All reasonable costs of transporting the goods when a buyer cannot return them for any of the above reasons shall be at the manufacturer's expense. The reasonable costs of transporting nonconforming goods after delivery to the service and repair facility until return of the goods to the buyer shall be at the manufacturer's expense.

(d)(1) Except as provided in paragraph (2), if the manufacturer or its representative in this state does not service or repair the goods to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either replace the goods or reimburse the buyer in an amount equal to the purchase price paid by the buyer, less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(2) If the manufacturer or its representative in this state is unable to service or repair a new motor vehicle, as that term is defined in paragraph (2) of subdivision (e) of Section 1793.22, to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either promptly replace the new motor vehicle in accordance with subparagraph (A) or promptly make restitution to the buyer in accordance with subparagraph (B). However, the buyer shall be free to elect restitution in lieu of replacement, and in no event shall the buyer be required by the manufacturer to accept a replacement vehicle.

(A) In the case of replacement, the manufacturer shall replace the buyer's vehicle with a new motor vehicle substantially identical to the vehicle replaced. The replacement vehicle shall be accompanied by all express and implied warranties that normally accompany new motor vehicles of that specific kind. The manufacturer also shall pay for, or to, the buyer the amount of any sales or use tax, license fees, registration fees, and other official fees which the buyer is obligated to pay in connection with the replacement, plus any incidental damages to which the buyer is entitled under Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(B) In the case of restitution, the manufacturer shall make restitution in an amount equal to the actual price paid or payable by the buyer, including any charges for transportation and manufacturer–installed options, but excluding nonmanufacturer items installed by a dealer or the buyer, and including any collateral charges such as sales tax, license fees, registration fees, and other official fees, plus any incidental damages to which the buyer is entitled under Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(C) When the manufacturer replaces the new motor vehicle pursuant to subparagraph (A), the buyer shall only be liable to pay the manufacturer an amount directly attributable to use by the buyer of the replaced vehicle prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. When restitution is made pursuant to subparagraph (B), the amount to be paid by the manufacturer to the buyer may be reduced by the manufacturer by that amount directly attributable to use by the buyer prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. The amount directly attributable to use by the buyer shall be determined by multiplying the actual price of the new motor vehicle paid or payable by the buyer, including any charges for transportation and manufacturer–installed options, by a fraction having as its denominator 120,000 and having as its numerator the number of miles traveled by the new motor vehicle prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. Nothing in this paragraph shall in any way limit the rights or remedies available to the buyer under any other law.

(e)(1) If the goods cannot practicably be serviced or repaired by the manufacturer or its representative to conform to the applicable express warranties because of the method of installation or because the goods have become so affixed to real property as to become a part thereof, the manufacturer shall either replace and install the goods or reimburse the buyer in an amount equal to the purchase price paid by the buyer, including installation costs, less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(2) With respect to claims arising out of deficiencies in the construction of a new residential dwelling, paragraph (1)

shall not apply to either of the following:

(A) A product that is not a manufactured product, as defined in subdivision (g) of Section 896.

(B) A claim against a person or entity that is not the manufacturer that originally made the express warranty for that manufactured product.

§ 1793.3. Failure to provide service facility in conjunction with express warranty

If the manufacturer of consumer goods sold in this state for which the manufacturer has made an express warranty does not provide service and repair facilities within this state pursuant to subdivision (a) of Section 1793.2, or does not make available to authorized service and repair facilities service literature and replacement parts sufficient to effect repair during the express warranty period, the buyer of such manufacturer's nonconforming goods may follow the course of action prescribed in either subdivision (a), (b), or (c), below, as follows:

(a) Return the nonconforming consumer goods to the retail seller thereof. The retail seller shall do one of the following:

(1) Service or repair the nonconforming goods to conform to the applicable warranty.

(2) Direct the buyer to a reasonably close independent repair or service facility willing to accept service or repair under this section.

(3) Replace the nonconforming goods with goods that are identical or reasonably equivalent to the warranted goods.

(4) Refund to the buyer the original purchase price less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(b) Return the nonconforming consumer goods to any retail seller of like goods of the same manufacturer within this state who may do one of the following:

(1) Service or repair the nonconforming goods to conform to the applicable warranty.

(2) Direct the buyer to a reasonably close independent repair or service facility willing to accept service or repair under this section.

(3) Replace the nonconforming goods with goods that are identical or reasonably equivalent to the warranted goods.

(4) Refund to the buyer the original purchase price less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(c) Secure the services of an independent repair or service facility for the service or repair of the nonconforming consumer goods, when service or repair of the goods can be economically accomplished. In that event the manufacturer shall be liable to the buyer, or to the independent repair or service facility upon an assignment of the buyer's rights, for the actual and reasonable cost of service and repair, including any cost for parts and any reasonable cost of transporting the goods or parts, plus a reasonable profit. It shall be a rebuttable presumption affecting the burden of producing evidence that the reasonable cost of service or repair is an amount equal to that which is charged by the independent service dealer for like services or repairs rendered to service or repair customers who are not entitled to warranty protection. Any waiver of the liability of a manufacturer shall be void and unenforceable.

The course of action prescribed in this subdivision shall be available to the buyer only after the buyer has followed the course of action prescribed in either subdivision (a) or (b) and such course of action has not furnished the buyer with appropriate relief. In no event, shall the provisions of this subdivision be available to the buyer with regard to consumer goods with a wholesale price to the retailer of less than fifty dollars ($50). In no event shall the buyer be responsible or liable for service or repair costs charged by the independent repair or service facility which accepts service or repair of nonconforming consumer goods under this section. Such independent repair or service facility shall only be authorized to hold the manufacturer liable for such costs.

(d) A retail seller to which any nonconforming consumer good is returned pursuant to subdivision (a) or (b) shall have the option of providing service or repair itself or directing the buyer to a reasonably close independent repair or service facility willing to accept service or repair under this section. In the event the retail seller directs the buyer to an independent repair or service facility, the manufacturer shall be liable for the reasonable cost of repair services in the manner provided in subdivision (c).

(e) In the event a buyer is unable to return nonconforming goods to the retailer due to reasons of size and weight, or method of attachment, or method of installation, or nature of the nonconformity, the buyer shall give notice of the nonconformity to the retailer. Upon receipt of such notice of nonconformity the retailer shall, at its option, service or repair the goods at the buyer's residence, or pick up the goods for service or repair, or arrange for transporting the goods to its place of business. The reasonable costs of transporting the goods shall be at the retailer's expense. The retailer shall be entitled to recover all such reasonable costs of transportation from the manufacturer pursuant to Section 1793.5. The reasonable costs of transporting nonconforming goods after delivery to the retailer until return of the goods to the buyer, when incurred by a retailer, shall be recoverable from the manufacturer pursuant to Section 1793.5. Written notice of nonconformity to the retailer shall constitute return of the goods for the purposes of subdivisions (a) and (b).

(f) The manufacturer of consumer goods with a wholesale price to the retailer of fifty dollars ($50) or more for which the manufacturer has made express warranties shall provide written notice to the buyer of the courses of action available to him under subdivision (a), (b), or (c).

§ 1793.4. Time to exercise option for service of item under express warranty

Where an option is exercised in favor of service and repair under Section 1793.3, such service and repair must be

commenced within a reasonable time, and, unless the buyer agrees in writing to the contrary, goods conforming to the applicable express warranties shall be tendered within 30 days. Delay caused by conditions beyond the control of the retail seller or his representative shall serve to extend this 30–day requirement. Where such a delay arises, conforming goods shall be tendered as soon as possible following termination of the condition giving rise to the delay.

§ 1793.5. Liability of manufacturer making express warranties for failure to maintain service facilities

Every manufacturer making express warranties who does not provide service and repair facilities within this state pursuant to subdivision (a) of Section 1793.2 shall be liable as prescribed in this section to every retail seller of such manufacturer's goods who incurs obligations in giving effect to the express warranties that accompany such manufacturer's consumer goods. The amount of such liability shall be determined as follows:

(a) In the event of replacement, in an amount equal to the actual cost to the retail seller of the replaced goods, and cost of transporting the goods, if such costs are incurred plus a reasonable handling charge.

(b) In the event of service and repair, in an amount equal to that which would be received by the retail seller for like service rendered to retail consumers who are not entitled to warranty protection, including actual and reasonable costs of the service and repair and the cost of transporting the goods, if such costs are incurred, plus a reasonable profit.

(c) In the event of reimbursement under subdivision (a) of Section 1793.3, in an amount equal to that reimbursed to the buyer, plus a reasonable handling charge.

§ 1793.6. Manufacturer's liability to independent serviceman performing services or incurring obligations on express warranties

Except as otherwise provided in the terms of a warranty service contract, as specified in subdivision (a) of Section 1793.2, entered into between a manufacturer and an independent service and repair facility, every manufacturer making express warranties whose consumer goods are sold in this state shall be liable as prescribed in this section to every independent serviceman who performs services or incurs obligations in giving effect to the express warranties that accompany such manufacturer's consumer goods whether the independent serviceman is acting as an authorized service and repair facility designated by the manufacturer pursuant to paragraph (1) of subdivision (a) of Section 1793.2 or is acting as an independent serviceman pursuant to subdivisions (c) and (d) of Section 1793.3. The amount of such liability shall be an amount equal to the actual and reasonable costs of the service and repair, including any cost for parts and any reasonable cost of transporting the goods or parts, plus a reasonable profit. It shall be a rebuttable presumption affecting the burden of producing evidence that the reasonable cost of service or repair is an amount equal to that which is charged by the independent serviceman for like services or repairs rendered to service or repair customers who are not entitled to warranty protection. Any waiver of the liability of a manufacturer shall be void and unenforceable.

§ 1794. Buyer's damages, penalties and fees

(a) Any buyer of consumer goods who is damaged by a failure to comply with any obligation under this chapter or under an implied or express warranty or service contract may bring an action for the recovery of damages and other legal and equitable relief.

(b) The measure of the buyer's damages in an action under this section shall include the rights of replacement or reimbursement as set forth in subdivision (d) of Section 1793.2, and the following:

(1) Where the buyer has rightfully rejected or justifiably revoked acceptance of the goods or has exercised any right to cancel the sale, Sections 2711, 2712, and 2713 of the Commercial Code shall apply.

(2) Where the buyer has accepted the goods, Sections 2714 and 2715 of the Commercial Code shall apply, and the measure of damages shall include the cost of repairs necessary to make the goods conform.

(c) If the buyer establishes that the failure to comply was willful, the judgment may include, in addition to the amounts recovered under subdivision (a), a civil penalty which shall not exceed two times the amount of actual damages. This subdivision shall not apply in any class action under Section 382 of the Code of Civil Procedure or under Section 1781, or with respect to a claim based solely on a breach of an implied warranty.

(d) If the buyer prevails in an action under this section, the buyer shall be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney's fees based on actual time expended, determined by the court to have been reasonably incurred by the buyer in connection with the commencement and prosecution of such action.

(e)(1) Except as otherwise provided in this subdivision, if the buyer establishes a violation of paragraph (2) of subdivision (d) of Section 1793.2, the buyer shall recover damages and reasonable attorney's fees and costs, and may recover a civil penalty of up to two times the amount of damages.

(2) If the manufacturer maintains a qualified third–party dispute resolution process which substantially complies with Section 1793.22, the manufacturer shall not be liable for any civil penalty pursuant to this subdivision.

(3) After the occurrence of the events giving rise to the presumption established in subdivision (b) of Section 1793.22, the buyer may serve upon the manufacturer a written notice requesting that the manufacturer comply with paragraph (2) of subdivision (d) of Section 1793.2. If the buyer fails to serve the notice, the manufacturer shall not be liable for a civil penalty pursuant to this subdivision.

(4) If the buyer serves the notice described in paragraph (3) and the manufacturer complies with paragraph (2) of subdivision (d) of Section 1793.2 within 30 days of the service of that notice, the manufacturer shall not be liable for a civil penalty pursuant to this subdivision.

(5) If the buyer recovers a civil penalty under subdivision (c), the buyer may not also recover a civil penalty under this subdivision for the same violation.

§ 1794.1. Seller's and serviceman's damages

(a) Any retail seller of consumer goods injured by the willful or repeated violation of the provisions of this chapter may bring an action for the recovery of damages. Judgment may be entered for three times the amount at which the actual damages are assessed plus reasonable attorney fees.

(b) Any independent serviceman of consumer goods injured by the willful or repeated violation of the provisions of this chapter may bring an action for the recovery of damages. Judgment may be entered for three times the amount at which the actual damages are assessed plus reasonable attorney fees.

§ 1794.3. Effect of unauthorized or unreasonable use of goods

The provisions of this chapter shall not apply to any defect or nonconformity in consumer goods caused by the unauthorized or unreasonable use of the goods following sale.

§ 1794.4. Service contract in lieu of warranty

(a) Nothing in this chapter shall be construed to prevent the sale of a service contract to the buyer in addition to or in lieu of an express warranty if that contract fully and conspicuously discloses in simple and readily understood language the terms, conditions, and exclusions of that contract, provided that nothing in this section shall apply to a home protection contract issued by a home protection company that is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(b) Except as otherwise expressly provided in the service contract, every service contract shall obligate the service contractor to provide to the buyer of the product all of the services and functional parts that may be necessary to maintain proper operation of the entire product under normal operation and service for the duration of the service contract and without additional charge.

(c) The service contract shall contain all of the following items of information:

(1) A clear description and identification of the covered product.

(2) The point in time or event when the term of the service contract commences, and its duration measured by elapsed time or an objective measure of use.

(3) If the enforceability of the service contract is limited to the original buyer or is limited to persons other than every consumer owner of the covered product during the term of the service contract, a description of the limits on transfer or assignment of the service contract.

(4) A statement of the general obligation of the service contractor in the same language set forth in subdivision (b), with equally clear and conspicuous statements of the following:

(A) Any services, parts, characteristics, components, properties, defects, malfunctions, causes, conditions, repairs, or remedies that are excluded from the scope of the service contract.

(B) Any other limits on the application of the language in subdivision (b) such as a limit on the total number of service calls.

(C) Any additional services that the service contractor will provide.

(D) Whether the obligation of the service contractor includes preventive maintenance and, if so, the nature and frequency of the preventive maintenance that the service contractor will provide.

(E) Whether the buyer has an obligation to provide preventive maintenance or perform any other obligations and, if so, the nature and frequency of the preventive maintenance and of any other obligations, and the consequences of any noncompliance.

(5) A step–by–step explanation of the procedure that the buyer should follow in order to obtain performance of any obligation under the service contract including the following:

(A) The full legal and business name of the service contractor.

(B) The mailing address of the service contractor.

(C) The persons or class of persons that are authorized to perform service.

(D) The name or title and address of any agent, employee, or department of the service contractor that is responsible for the performance of any obligations.

(E) The method of giving notice to the service contractor of the need for service.

(F) Whether in–home service is provided or, if not, whether the costs of transporting the product, for service or repairs will be paid by the service contractor.

(G) If the product must be transported to the service contractor, either the place where the product may be delivered for service or repairs or a toll–free telephone number that the buyer may call to obtain that information.

(H) All other steps that the buyer must take to obtain service.

(I) All fees, charges, and other costs that the buyer must pay to obtain service.

(6) An explanation of the steps that the service contractor will take to carry out its obligations under the service contract.

(7) A description of any right to cancel the contract if the buyer returns the product or the product is sold, lost, stolen, or destroyed, or, if there is no right to cancel or the right to cancel is limited, a statement of the fact.

(8) Information respecting the availability of any informal dispute settlement process.

(d) Subdivisions (b) and (c) are applicable to service contracts on new or used home appliances and home electronic products entered into on or after July 1, 1989. They are applicable to service contracts on all other new or used products entered into on and after July 1, 1991.

(e) This section shall become operative on January 1, 2008.

§ 1794.41. Vehicle, home appliance, or home electronic product service contract; Requirements; Applicability; Conflicts with insurance provisions

(a) No service contract covering any motor vehicle, home appliance or home electronic product purchased for use in this state may be offered for sale or sold unless all of the following elements exist:

(1) The contract shall contain the disclosures specified in Section 1794.4 and shall disclose in the manner described in that section the buyer's cancellation and refund rights provided by this section.

(2) The contract shall be available for inspection by the buyer prior to purchase and either the contract, or a brochure which specifically describes the terms, conditions, and exclusions of the contract, and the provisions of this section relating to contract delivery, cancellation, and refund, shall be delivered to the buyer at or before the time of purchase of the contract. Within 60 days after the date of purchase, the contract itself shall be delivered to the buyer. If a service contract for a home appliance or a home electronic product is sold by means of a telephone solicitation, the seller may elect to satisfy the requirements of this paragraph by mailing or delivering the contract to the buyer not later than 30 days after the date of the sale of the contract.

(3) The contract is applicable only to items, costs, and time periods not covered by the express warranty. However, a service contract may run concurrently with or overlap an express warranty if (A) the contract covers items or costs not covered by the express warranty or (B) the contract provides relief to the purchaser not available under the express warranty, such as automatic replacement of a product where the express warranty only provides for repair.

(4) The contract shall be cancelable by the purchaser under the following conditions:

(A) Unless the contract provides for a longer period, within the first 60 days after receipt of the contract, or with respect to a contract covering a used motor vehicle without manufacturer warranties, a home appliance, or a home electronic product, within the first 30 days after receipt of the contract, the full amount paid shall be refunded by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract, and if no claims have been made against the contract. If a claim has been made against the contract either within the first 60 days after receipt of the contract, or with respect to a used motor vehicle without manufacturer warranties, home appliance, or home electronic product, within the first 30 days after receipt of the contract, a pro rata refund, based on either elapsed time or an objective measure of use, such as mileage or the retail value of any service performed, at the seller's option as indicated in the contract, shall be made by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract.

(B) Unless the contract provides for a longer period for obtaining a full refund, after the first 60 days after receipt of the contract, or with respect to a contract covering a used motor vehicle without manufacturer warranties, a home appliance, or a home electronic product, after the first 30 days after the receipt of the contract, a pro rata refund, based on either elapsed time or an objective measure of use, such as mileage or the retail value of any service performed, at the seller's option as indicated in the contract, shall be made by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract. In addition, the seller may assess a cancellation or administrative fee, not to exceed 10 percent of the price of the service contract or twenty– five dollars ($25), whichever is less.

(C) If the purchase of the service contract was financed, the seller may make the refund payable to the purchaser, the assignee, or lender of record, or both.

(b) Nothing in this section shall apply to a home protection plan that is issued by a home protection company which is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(c) The amendments to this section made at the 1988 portion of the 1 987–88 Regular Session of the Legislature that extend the application of this section to service contracts on home appliances and home electronic products shall become operative on July 1, 1989.

(d) If any provision of this section conflicts with any provision of Part 8 (commencing with Section 12800) of Division 2 of the Insurance Code, the provision of the Insurance Code shall apply instead of this section.

§ 1794.5. Alternative suggestions for repair of item under express warranty

The provisions of this chapter shall not preclude a manufacturer making express warranties from suggesting methods of effecting service and repair, in accordance with the terms and conditions of the express warranties, other than those required by this chapter.

§ 1795. Liability of nonmanufacturer making express warranty

If express warranties are made by persons other than the manufacturer of the goods, the obligation of the person making such warranties shall be the same as that imposed on the manufacturer under this chapter.

§ 1795.1. Application of chapter to components of air conditioning system

This chapter shall apply to any equipment or mechanical, electrical, or thermal component of a system designed to heat, cool, or otherwise condition air, but, with that exception, shall not apply to the system as a whole where such a system becomes a fixed part of a structure.

§ 1795.4. Rules applicable to leases of consumer goods

For the purposes of this chapter only, the following rules apply to leases of both new and used consumer goods:

(a) If express warranties are regularly furnished to purchasers of substantially the same kind of goods, (1) those warranties will be deemed to apply to the leased goods and (2) the lessor and lessee shall each be deemed to be the first purchaser of the goods for the purpose of any warranty provision limiting warranty benefits to the original purchaser.

(b) The lessee of goods has the same rights under this chapter against the manufacturer and any person making express warranties that the lessee would have had under this chapter if the goods had been purchased by the lessee, and the manufacturer and any person making express warranties have the same duties and obligations under this chapter with respect to the goods that such manufacturer and other person would have had under this chapter if the goods had been sold to the lessee.

(c) If a lessor leases goods to a lessee from the lessor's inventory, the lessee has the same rights under this chapter against the lessor that the lessee would have had if the goods had been purchased by the lessee, and the lessor has the same duties and obligations under this chapter with respect to the goods that the lessor would have had under this chapter if the goods had been sold to the lessee. For purposes of this section, "inventory" shall include both goods in the lessor's possession prior to negotiation of the lease and goods ordered from another party in order to lease those goods to the lessee where the lessor is a dealer in goods of that type.

(d) If a lessor leases goods to a lessee which the lessor acquires other than from the lessor's inventory, the lessee has the same rights under this chapter against the seller of the goods to the lessor that the lessee would have had under this chapter if the goods had been purchased by the lessee from the seller, and the seller of the goods to the lessor has the same duties and obligations under this chapter with respect to the goods that the seller would have had under this chapter if the goods had been purchased by the lessee from the seller.

(e) A lessor who re–leases goods to a new lessee and does not retake possession of the goods prior to consummation of the re–lease may, notwithstanding the provisions of Section 1793, disclaim as to that lessee any and all warranties created by this chapter by conspicuously disclosing in the lease that these warranties are disclaimed.

(f) A lessor who has obligations to the lessee with relation to warranties in connection with a lease of goods and the seller of goods to a lessor have the same rights and remedies against the manufacturer and any person making express warranties that a seller of the goods would have had if the seller had sold the goods to the lessee.

§ 1795.5. Obligations of distributors or sellers of used goods

Notwithstanding the provisions of subdivision (a) of Section 1791 defining consumer goods to mean "new" goods, the obligation of a distributor or retail seller of used consumer goods in a sale in which an express warranty is given shall be the same as that imposed on manufacturers under this chapter except:

(a) It shall be the obligation of the distributor or retail seller making express warranties with respect to used consumer goods (and not the original manufacturer, distributor, or retail seller making express warranties with respect to such goods when new) to maintain sufficient service and repair facilities within this state to carry out the terms of such express warranties.

(b) The provisions of Section 1793.5 shall not apply to the sale of used consumer goods sold in this state.

(c) The duration of the implied warranty of merchantability and where present the implied warranty of fitness with respect to used consumer goods sold in this state, where the sale is accompanied by an express warranty, shall be coextensive in duration with an express warranty which accompanies the consumer goods, provided the duration of the express warranty is reasonable, but in no event shall such implied warranties have a duration of less than 30 days nor more than three months following the sale of used consumer goods to a retail buyer. Where no duration for an express warranty is stated with respect to such goods, or parts thereof, the duration of the implied warranties shall be the maximum period prescribed above.

(d) The obligation of the distributor or retail seller who makes express warranties with respect to used goods that are sold in this state, shall extend to the sale of all such used goods, regardless of when such goods may have been manufactured.

§ 1795.6. Tolling the warranty period

(a) Every warranty period relating to an implied or express warranty accompanying a sale or consignment for sale of consumer goods selling for fifty dollars ($50) or more shall automatically be tolled for the period from the date upon which the buyer either (1) delivers nonconforming goods to the manufacturer or seller for warranty repairs or service or (2), pursuant to subdivision (c) of Section 1793.2 or Section 1793.22, notifies the manufacturer or seller of the nonconformity of the goods up to, and including, the date upon which (1) the repaired or serviced goods are delivered to the buyer, (2) the buyer is notified the goods are repaired or serviced and are available for the buyer's possession or (3) the buyer is notified that repairs or service is completed, if repairs or service is made at the buyer's residence.

(b) Notwithstanding the date or conditions set for the expiration of the warranty period, such warranty period shall not be deemed expired if either or both of the following situations occur: (1) after the buyer has satisfied the requirements of subdivision (a), the warranty repairs or service has not been performed due to delays caused by circumstances beyond the control of the buyer or (2) the warranty repairs or service performed upon the nonconforming goods did not remedy the nonconformity for which such repairs or service was performed and the buyer notified the manufacturer or seller of this failure within 60 days after the repairs or service was completed. When the warranty repairs or service has been performed so as to remedy the nonconformity, the warranty period shall expire in accordance with its terms, including any extension to the warranty period for warranty repairs or service.

(c) For purposes of this section only, "manufacturer" includes the manufacturer's service or repair facility.

(d) Every manufacturer or seller of consumer goods selling for fifty dollars ($50) or more shall provide a receipt to the buyer showing the date of purchase. Every manufacturer or seller performing warranty repairs or service on the goods shall provide to the buyer a work order or receipt with the date of return and either the date the buyer was notified that the goods were repaired or serviced or, where applicable, the date the goods were shipped or delivered to the buyer.

§ 1795.7. Effect of tolling on manufacturer's liability

Whenever a warranty, express or implied, is tolled pursuant to Section 1795.6 as a result of repairs or service performed by any retail seller, the warranty shall be extended with regard to the liability of the manufacturer to a retail seller pursuant to law. In such event, the manufacturer shall be liable in accordance with the provisions of Section 1793.5 for the period that an express warranty has been extended by virtue of Section 1795.6 to every retail seller who incurs obligations in giving effect to such express warranty. The manufacturer shall also be liable to every retail seller for the period that an implied warranty has been extended by virtue of Section 1795.6, in the same manner as he would be liable under Section 1793.5 for an express warranty. If a manufacturer provides for warranty repairs and service through its own service and repair facilities and through independent repair facilities in the state, its exclusive liability pursuant to this section shall be to such facilities.

Chapter 3 MOBILEHOME WARRANTIES

<Not applicable for CM exams>

§ 1797. Mobilehomes covered by warranty

All new mobilehomes and manufactured homes sold to a buyer shall be covered by the warranty set forth in this chapter.

§ 1797.1. Definitions

As used in this chapter:

(a) "Contractor" means any person who is a general building contractor within the meaning of Section 7057 of the Business and Professions Code.

(b) "Dealer" means any person who is a dealer within the meaning of Section 18002.6 of the Health and Safety Code.

(c) "Mobilehome" and "manufactured home" have the meanings, respectively, defined in Sections 18007 and 18008 of the Health and Safety Code.

(d) "Substantial defects in materials and workmanship" means defects objectively manifested by broken, ripped, cracked, stained, or missing parts or components, or workmanship resulting in improper function of materials, components, appliances, or systems as installed or manufactured by the contractor, dealer, or manufacturer.

§ 1797.2. Application of warranty to manufacturer, contractor, and dealer

(a) The warranty provided for in this chapter shall apply to the manufacturer of the mobilehome or the manufactured home as well as to the contractor or dealer who sells the mobilehome or the manufactured home to the buyer. The warranty shall cover the electrical, plumbing, heating, cooling, fire safety, and structural systems, and all appliances of the mobilehome or manufactured home as installed or manufactured by the contractor, dealer, or manufacturer.

(b) Where a manufacturer sells a mobilehome or manufactured home directly to a city, city and county, or other public agency pursuant to the exception established in Section 18015.7, the manufacturer shall be responsible for providing the warranty required by this chapter.

§ 1797.3. Required written warranty; Contents

The mobilehome/manufactured home warranty from the contractor, manufacturer, or dealer to the buyer shall be set forth in a separate written document that reprints all of the provisions of this chapter and shall be delivered to the buyer by the contractor or dealer at the time the contract of sale is signed, and shall contain, but is not limited to, the following terms:

(a) That the mobilehome or manufactured home is free from any substantial defects in materials or workmanship.

(b) That the contractor, manufacturer, or dealer or any or all of them shall take appropriate corrective action at the site of the mobilehome or manufactured home in instances of substantial defects in materials or workmanship which become evident within one year from the date of delivery of the mobilehome or manufactured home to the buyer, provided the buyer or his or her transferee gives written notice of those defects to the contractor, manufacturer, or dealer at their business address not later than one year and 10 days after date of delivery.

(c) That the manufacturer and the contractor or dealer shall be jointly and severally liable to the buyer for the fulfillment of the terms of warranty, and that the buyer may notify either one or both of the need for appropriate corrective action in instances of substantial defects in materials or workmanship.

(d) That the address and the phone number of where to mail or deliver written notices of defects shall be set forth in the document.

(e) That the one–year warranty period applies to the plumbing, heating, electrical, cooling, fire safety, and structural systems and all appliances of the mobilehome or manufactured home.

(f) That, while the manufacturers of any or all appliances may also issue their own warranties, the primary responsibility for appropriate corrective action under the warranty rests with the contractor or dealer and the manufacturer, and the buyer should report all complaints to the contractor or dealer and the manufacturer initially.

(g) That, if corrective action taken by the manufacturer or the contractor or dealer fails to eliminate a substantial defect, then the material, system, appliance, or component shall be replaced in kind. As used in this subdivision, "replaced in kind" means (1) replacement with the identical material, system, appliance, or component, and, if not available (2) replacement with a comparable or better material, system, appliance, or component.

§ 1797.4. Additional rights and privileges; Prohibited waiver

The warranty under this chapter shall be in addition to, and not in derogation of, all other rights and privileges which the buyer may have under any other law or instrument. The contractor, manufacturer, or dealer shall not require the

buyer to waive his or her rights under this chapter, and any waiver of these rights shall be deemed contrary to public policy and shall be unenforceable and void.

§ 1797.5. Display of copy of warranty

Every contractor or dealer shall display a copy of all of the warranty provisions required by this chapter. The copy of the warranty provisions required by this chapter shall be posted in each area where purchase orders and conditional sales contracts are written.

§ 1797.6. Records required to be kept

Manufacturers, contractors, and dealers shall keep records of all actions taken pursuant to this chapter, including all correspondence to or from the buyer for a period of three years from the date of delivery.

§ 1797.7. Deadline for correcting defects

The contractor, dealer, or manufacturer shall complete warranty service to correct all substantial defects within 90 days of receiving the buyer's written notice specified in subdivision (b) of Section 1797.3, unless there are circumstances which are beyond the control of the contractor, dealer, or manufacturer.

California Code of Regulations

Title 18 Public Revenues

<Excerpts>

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TABLE OF CHAPTER CONTENTS

CALIFORNIA CODE OF REGULATIONS

TITLE 18. PUBLIC REVENUES

Division 2. STATE BOARD OF EQUALIZATION—BUSINESS TAXES

Chapter IV. SALES AND USE TAX

§ 1521. Construction Contractors 151
§ 1610.2. Mobilehomes and Commercial Coaches 158
§ 1660. Leases of Tangible Personal Property–In General 162
§ 1699. Permits 167
§ 1700. Reimbursement for Sales Tax 169

CALIFORNIA CODE OF REGULATIONS

TITLE 18. PUBLIC REVENUES

Division 2. STATE BOARD OF EQUALIZATION—BUSINESS TAXES

Chapter IV. SALES AND USE TAX

§ 1521. Construction Contractors

(a) Definitions.

(1) Construction Contract.

(A) "Construction contract" means and includes a contract, whether on a lump sum, time and material, cost plus, or other basis, to:

1. Erect, construct, alter, or repair any building or other structure, project, development, or other improvement on or to real property, or

2. Erect, construct, alter, or repair any fixed works such as waterways and hydroelectric plants, steam and atomic electric generating plants, electrical transmission and distribution lines, telephone and telegraph lines, railroads, highways, airports, sewers and sewage disposal plants and systems, waterworks and water distribution systems, gas transmission and distribution systems, pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances, refineries and chemical plants, or

3. Pave surfaces separately or in connection with any of the above works or projects, or

4. Furnish and install the property becoming a part of a central heating, air-conditioning, or electrical system of a building or other structure, and furnish and install wires, ducts, pipes, vents, and other conduit imbedded in or securely affixed to the land or a structure thereon.

(B) "Construction contract" does not include:

1. A contract for the sale or for the sale and installation of tangible personal property such as machinery and equipment, or

2. The furnishing of tangible personal property under what is otherwise a construction contract if the person furnishing the property is not responsible under the construction contract for the final affixation or installation of the property furnished.

(2) Construction Contractor. "Construction contractor" means any person who for himself or herself, in conjunction with, or by or through others, agrees to perform and does perform a construction contract. "Construction contractor" includes subcontractors and specialty contractors and those engaged in such building trades as carpentry, bricklaying, cement work, steel work, plastering, drywall installation, sheet metal work, roofing, tile and terrazzo work, electrical work, plumbing, heating, air-conditioning, elevator installation and construction, painting, and persons installing floor coverings, including linoleum, floor tile, and wall-to-wall carpeting, by permanently affixing such coverings to a floor. "Construction contractor" includes any person required to be licensed under the California Contractors' State License Law (Business & Professions Code Sections 7000 et seq.), and any person contracting with the United States to perform a construction contract, whether such persons are formed or organized under the laws of this state, or another state or country.

(3) United States Construction Contractor. "United States construction contractor" means a construction contractor who for himself or herself, in conjunction with, or by or through others, agrees to perform and does perform a construction contract for the United States Government.

(4) Materials. "Materials" means and includes construction materials and components, and other tangible personal property incorporated into, attached to, or affixed to, real property by contractors in the performance of a construction contract and which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of the real property. A list of typical items regarded as materials is set forth in Appendix A.

(5) Fixtures. "Fixtures" means and includes items which are accessory to a building or other structure and do not lose their identity as accessories when installed. A list of typical items regarded as fixtures is set forth in Appendix B.

(6) Machinery and Equipment. "Machinery and equipment" means and includes property intended to be used in the production, manufacturing or processing of tangible personal property, the performance of services or for other purposes (e.g., research, testing, experimentation) not essential to the fixed works, building, or structure itself, but which property incidentally may, on account of its nature, be attached to the realty without losing its identity as a particular piece of machinery or equipment and, if attached, is readily removable without damage to the unit or to the realty. "Machinery and equipment" does not include junction boxes, switches, conduit and wiring, or valves, pipes, and tubing incorporated into fixed works, buildings, or other structures, whether or not such items are used solely or partially in connection with the operation of machinery and equipment, nor does it include items of tangible personal property such as power shovels, cranes, trucks, and hand or power tools used to perform the construction contract. A list of typical items regarded as machinery and equipment together with a list of typical items not regarded as machinery and equipment is set forth in Appendix C.

(7) Time and Material Contract. "Time and material contract" means a contract under which the contractor agrees to furnish and install materials or fixtures, or both, and which sets forth separately a charge for the materials or fixtures and a charge for their installation or fabrication.

(8) Lump Sum Contract. "Lump sum contract" means a contract under which the contractor for a stated lump sum agrees to furnish and install materials or fixtures, or both. A lump sum contract does not become a time and material contract when the

amounts attributable to materials, fixtures, labor, or tax are separately stated in the invoice.

(b) Application of Tax.

(1) United States Construction Contractors.

(A) Materials and Fixtures. United States construction contractors are consumers of materials and fixtures which they furnish and install in the performance of contracts with the United States Government. Either the sales tax or the use tax applies with respect to sales of tangible personal property (including materials, fixtures, supplies, and equipment) to contractors for use in the performance of such contracts with the United States for the construction of improvements on or to real property in this state. The fact that the contract may provide principally for the manufacture or acquisition of tangible personal property is immaterial. The sales tax, but not the use tax, applies even though the contractor purchases the property as the agent of the United States.

(B) Machinery and Equipment. United States contractors are retailers of machinery and equipment furnished in connection with the performance of a construction contract with the United States Government. Tax does not apply to sales of machinery and equipment to United States contractors or subcontractors, provided title to the property passes to the United States before the contractor makes any use of it. Such sales are sales for resale, and the purchasing contractor may issue a resale certificate. A contractor who uses the machinery or equipment before title passes to the United States is the consumer of that machinery or equipment and either sales tax or use tax applies with respect to the sale to or the use by the contractor.

(2) Construction Contractors Other than United States Construction Contractors.

(A) Materials.

1. In General. Construction contractors are consumers of materials which they furnish and install in the performance of construction contracts. Either sales tax or use tax applies with respect to the sale of the materials to or the use of the materials by the construction contractor.

2. When Contractor is Seller. A construction contractor may contract to sell materials and also to install the materials sold. If the contract explicitly provides for the transfer of title to the materials prior to the time the materials are installed, and separately states the sale price of the materials, exclusive of the charge for installation, the contractor will be deemed to be the retailer of the materials.

In the case of a time and material contract, if the contractor bills his or her customer an amount for “sales tax” computed upon his or her marked up billing for materials, it will be assumed, in the absence of convincing evidence to the contrary, that he or she is the retailer of the materials.

If the sale occurs in this state, the sales tax applies to the contractor's (retailer's) gross receipts from the sale of the materials. If the sale occurs prior to the time the property is brought into this state, the contractor's (retailer's) customer is the consumer and his or her use (unless otherwise exempt) is subject to use tax measured by the sales price. The contractor must collect the use tax and pay it to this state.

(B) Fixtures.

1. In General. Construction contractors are retailers of fixtures which they furnish and install in the performance of construction contracts and tax applies to their sales of the fixtures.

2. Measure of Tax.

a. In General. If the contract states the sale price at which the fixture is sold, tax applies to that price. If the contract does not state the sale price of the fixture, the sale price shall be deemed to be the cost price of the fixture to the contractor.

b. Determining Cost Price.

If the contractor purchases the fixtures in a completed condition, the cost price is deemed to be the sale price of the fixture to him or her and shall include any manufacturer's excise tax or import duty imposed with respect to the fixture prior to its sale by the contractor.

If the contractor is the manufacturer of the fixture, the cost price is deemed to be the price at which similar fixtures in similar quantities ready for installation are sold by him or her to other contractors.

If similar fixtures are not sold to other contractors ready for installation, then the cost price shall be deemed to be the amount stated in the price lists, bid sheets or other records of the contractor.

If the sale price cannot be established in the above manner and the fixture is manufactured by the contractor, the cost price shall be deemed to be the aggregate of the following:

[1] Cost of materials, including such items as freight-in and import duties,

[2] Direct labor, including fringe benefits and payroll taxes,

[3] Specific factory costs attributable to the fixture,

[4] Any manufacturer's excise tax,

[5] Pro rata share of all overhead attributable to the manufacture of the fixture, and

[6] Reasonable profit from the manufacturing operation which, in the absence of evidence to the contrary, shall be deemed to be 5 percent of the sum of the preceding factors.

Jobsite fabrication labor and its prorated share of manufacturing overhead must be included in the sale price of the fixture. Jobsite fabrication labor includes assembly labor performed prior to attachment of a component or a fixture to a structure or other real property.

3. Exceptions-Leased Fixtures. In some instances the construction contractor may furnish and install a fixture for a person, other than the owner of the realty, who intends to lease the fixture in place as tangible personal property as provided in section 6016.3 of the Revenue and Taxation Code and pay tax measured by rental receipts.

In this case the construction contractor may take a resale certificate from the lessor at the time of the transaction and the sale to the lessor will be considered to be a sale for resale. The resale certificate should indicate that the fixture is

purchased for resale by the purchaser as tangible personal property under section 6016.3 of the Revenue and Taxation Code.

(C) Machinery and Equipment.

1. In General. Construction contractors are retailers of machinery and equipment even though the machinery and equipment is furnished in connection with a construction contract. Tax applies to the contractor's gross receipts from such sales.

2. Measure of Tax.

a. In General. Tax applies to the gross receipts from the sale of machinery and equipment furnished and installed by a construction contractor. If the contract calls only for the furnishing and installation of machinery and equipment, tax applies to the total contract price less those charges excludible from gross receipts under Section 6012 of the Revenue and Taxation Code.

b. Lump Sum Contracts-Determining Gross Receipts. If the contract is for a lump sum and includes the furnishing and installation of materials, fixtures, and machinery and equipment, the gross receipts from the sale of the machinery and equipment shall be the price at which similar quantities ready for installation are sold at retail delivered in the market area where the installation takes place.

If there is no such retail price for the machinery and equipment, then the gross receipts shall be determined from the contracts, price lists, bid sheets, or other records of the contractor.

If the gross receipts cannot be established in the above manner and the machinery and equipment is manufactured by the contractor, the gross receipts from the sale shall be the aggregate of the following:

[1] Cost of materials, including such items as freight-in and import duties,

[2] Direct labor, including fringe benefits and payroll taxes,

[3] Specific factory costs attributable to the machinery or equipment,

[4] Any manufacturer's excise tax,

[5] Pro rata share of all overhead attributable to the machinery or equipment, including overhead attributable to manufacturing, selling, contracting, and administration, and

[6] Reasonable profit from the manufacture and sale of the machinery or equipment which, in the absence of evidence to the contrary, shall be deemed to be 5 percent of the sum of the preceding factors.

Jobsite fabrication labor and its prorated share' of manufacturing overhead must be included in the sale price of the machinery or equipment. Jobsite fabrication labor includes assembly labor performed prior to attachment of a component or the machinery or equipment to a structure or other real property.

(D) Cost Plus A Fee Contracts. When a contractor enters into a construction contract for a cost plus a fee or time and materials plus a fee, whether the fee is a lump sum or a percentage of costs, the fee is not included in the measure of tax. When the contractor is the manufacturer of the fixtures or machinery and equipment, the “cost price” of the fixtures and the gross receipts from the sale of the machinery and equipment shall be determined in accordance with (B) and (C) above.

(3) Miscellaneous Sales by Contractors. In addition to sales of fixtures and machinery and equipment, tax applies to all retail sales by contractors of tangible personal property, including parts, supplies, tools, construction equipment, buildings severed or to be severed by the contractor, and furniture, including furniture sold with a building, even though the building is sold “in place.”

(4) Permits. Contractors engaged solely in performing construction contracts which do not involve the sale and installation of fixtures and who do not also engage in business as sellers or retailers are not required to hold seller's permits. However, if a contractor is a seller or retailer because he or she makes sales of fixtures, materials, or machinery and equipment, or other tangible personal property either in connection with or as part of a construction contract, or otherwise, he or she is required to hold a seller's permit.

(5) Supplies and Tools for Self-Use. Contractors are the consumers of supplies such as oxygen, acetylene, gasoline, acid, thread-cutting oil, and tools and parts for tools, which they use in their business, and the tax applies to the sale of such supplies and tools to contractors.

(6) Exemption Certificates.

(A) Resale Certificates. Contractors holding valid seller's permits may purchase fixtures and machinery and equipment for resale by issuing resale certificates to their suppliers. They may not purchase materials for resale unless they are also in the business of selling materials.

A contractor cannot avoid liability for sales or use tax on materials or fixtures furnished and installed by him or her by taking a resale certificate from the prime contractor, interior decorators, designers, department stores, or others. However, under the circumstances described in subsection (b) (2) (B)3., a contractor may take a resale certificate for fixtures furnished and installed by him or her for a person other than the owner of the realty.

(B) Exemption Certificates for Out-of-State Use. Sales tax does not apply to sales of tangible personal property to a construction contractor who holds a valid California seller's permit when the property is used by the contractor outside this state in his or her performance of a contract to improve real property and as a result of such use the property is incorporated into and becomes a part of real property located outside this state. This exemption is available only if at the time of the purchase the contractor certifies in writing to the seller that he or she holds a valid California seller's permit (giving the number of that permit and identifying the property purchased) and states that the property will be used in the manner stated above. The certificate must be signed by the contractor or an authorized employee. Such a certification may appear in the body of a purchase order which bears the signature of the purchaser. Any certificate given subsequent to the time of purchase will not be recognized.

If the property purchased under a certificate is used by the contractor in any other manner or for any other purpose than stated in the certificate, the contractor shall be liable for sales tax as if he or she were a retailer making a retail sale of the property at the time of such use, and the sale price of the property to him or her shall be deemed the gross receipts from the sale.

(C) Deductions for Tax-Paid Purchases Resold. A contractor may claim a “tax-paid purchases resold” deduction for any property of which he or she is the retailer when he or she has reimbursed his or her vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the property, and has resold the property prior to making any use of it. In the event that the contractor sells short ends or pieces which are not used other than in severing them from larger units purchased by him or her and as to which he or she has paid sales tax reimbursement or use tax, he or she may claim the deduction for tax-paid purchases resold, but the amount of the deduction shall not exceed the price at which he or she sells such short ends or pieces.

(c) Particular Applications.

(1) Draperies and Drapery Hardware. Persons who contract to sell and install draperies including drapery hardware, such as brackets, rods, tracks, etc., are retailers of the items which they furnish and install. Tax applies to the entire contract price exclusive of the charge for installation which charge should be separately stated. Installers who furnish drapery hardware or other tangible personal property may accept resale certificates from department stores or other sellers to furnish and install the draperies and drapery hardware.

The department stores or other sellers furnishing resale certificates are required to pay the tax to the state upon their selling price of the draperies and drapery hardware, exclusive of installation charges. The installer should segregate his or her installation charge in order that the department store or other seller may properly segregate its charge attributable to installation for purposes of determining its taxable gross receipts.

(2) Prefabricated Cabinets. A cabinet will be considered to be “prefabricated” and a “fixture” when 90 percent of the total direct cost of labor and material in fabricating and installing the cabinet is incurred prior to affixation to the realty. In determining this 90 percent, the total direct cost of all labor and materials in fabricating the cabinet to the point of installation will be compared to the total direct cost of all labor and materials in completely fabricating and installing the cabinet. If more than one cabinet is fabricated and installed under the contract, each cabinet will be considered separately in determining whether the cabinet is prefabricated.

(3) Prefabricated Buildings. Prefabricated units such as commercial coaches, house trailers, etc., registered with the Department of Motor Vehicles or the Department of Housing and Community Development, are tangible personal property even though they may be connected to plumbing and utilities. A mobilehome which meets or is modified to meet, all applicable building codes and regulations and which is permanently affixed to realty, is an improvement to realty and is not personal property.

A contract to furnish and install a prefabricated or modular building which is not a factory-built school building (relocatable classroom) is a construction contract whether the building rests in place by its own weight or is physically attached to realty. It is immaterial whether the building is erected upon or affixed to land owned by the owner of the building or is leased to the landowner or lessee of the land.

Generally, a contract to furnish and install a small prefabricated building, such as a shed or kiosk, which is movable as a unit from its site of installation, is a construction contract only if the building is required to be physically attached to real property by the seller, upon a concrete foundation or otherwise. The sale of such a unit to rest in place by its own weight, whether upon the ground, a concrete slab, or sills or piers, is not a construction contract even though the seller may deliver the unit to its site of use.

Prefabricated or modular buildings which are “factory-built housing” where permanently affixed to the realty are improvements to realty. The manufacturer of factory-built housing who contracts to furnish and install the factory-built housing manufactured by him or her is the consumer of the materials; used in building and installing the factory-built housing and the retailer of the fixtures. Tax applies as provided in (b) above.

(4) Factory-built School Buildings.

(A) General. On and after September 26, 1989, a contract to furnish and install a factory-built school building is not a construction contract but rather is a sale of tangible personal property.

(B) Definitions.

1. “Factory-built School Building.” The term “factory-built school building” (relocatable classroom) means and includes:

A. for the period September 26, 1989 through September 12, 1990, any building designed to be used as a school building as defined in sections 39214 and 81165 of the Education Code and so used. A factory-built school building must be designed in compliance with state laws for school construction and approved by the structural safety section in the office of the State Architect. It must be wholly or substantially manufactured at an offsite location for the purpose of being assembled, erected, or installed on a school site.

B. effective September 13, 1990, any building which is designed or intended for use as a school building and is wholly or substantially manufactured at an offsite location for the purpose of being assembled, erected, or installed on a site owned or leased by a school district or a community college district. A factory-built school building must be designed and manufactured in accordance with building standards adapted and approved pursuant to chapter 4 (commencing with section 18935) of part 2.5 of division 13 of the Health and Safety Code and must be approved by the structural safety section in the office of the State Architect.

The term does not include buildings licensed by either the Department of Motor Vehicles or the Department of Housing and Community Development. The term also does not include prefabricated or modular buildings which are similar in size to, but which are not, “factory-built school buildings”. It is immaterial whether the building is erected upon or affixed to land

owned by the owner of the building or is leased to the landowner or lessee of the land.

2. "Consumer."

(A) For the period September 26, 1989 through September 12, 1990, the term "consumer" as used herein means either

(1) a school or a school district or

(2) a contractor who purchases a factory-built school building for the purpose of fulfilling the requirements of an existing contract with a school or school district to furnish and install such building.

(B) Effective September 13, 1990, the term "consumer" as used herein means either

(1) a school district or a community college district or

(2) a contractor who purchases a factory-built school building for the purpose of fulfilling the requirements of an existing contract with a school district or a community college district to furnish and install such building.

(C) Place of Sale. The place of sale or purchase of a factory built school building is the place of business of the retailer regardless of whether the sale of the building includes installation or whether the building is placed upon a permanent foundation.

(D) Application of Tax.

(1) Tax applies to 40 percent of the sales price of the building to the consumer excluding any charges for placing the completed building on the site. The sales price of the building shall include amounts representing tangible personal property installed in the building by a subcontractor, whether prior to or after installation of the building at the site, provided such installation is called for in the prime contract for the building.

A separate contract to furnish and install tangible personal property in a factory-built school building after installation of the building at the site is a construction contract and the tax applies as in (b) above. Any contract or subcontract for site preparation (e.g., foundation) is a construction contract and tax applies as in (b) above.

(2) The sale of a factory-built school building to a purchaser who will resell the building without installation is a sale for resale and the seller may accept a resale certificate from the purchaser. If the purchaser then sells to a contractor who has an existing contract to install the building on a school site, tax will apply as in (c)(4)(D)1 above. If tax has been paid on the purchase price of a factory-built school building which is subsequently resold for installation, a tax-paid purchases resold deduction may be taken as provided in Regulation 1701 (18 CCR 1701).

(E) Exclusion Certificate. For the period September 26, 1989, through September 12, 1990, if the purchaser certifies in writing to the retailer that the factory built school building purchased will be consumed in a manner or for a purpose entitling the retailer to exclude 60% of the gross receipts or sales price from the measure of tax and uses the property in some other manner or for some other purpose, the purchaser shall be liable for payment of tax measured by 60% of the sales price. For the above stated period, all retailers who make retail sales of "factory-built school buildings" claimed to be subject to tax measured by 40 percent of the sales price must obtain from the "consumer" a signed certificate substantially in the form set forth below.

CLAIM FOR 60% EXCLUSION FROM TAX ON PURCHASE OF FACTORY-BUILT SCHOOL BUILDINGS

(Sec. 6012.6. Rev. & Tax. Code)

I hereby certify that the factory-built school building that I

_____

(Name of Purchaser-Consumer)

am purchasing under the authority of this certificate from

_____

(Name of Retailer)

will be used as a school building as defined in Sales and Use Tax Regulation 1521. My seller's permit number, if any, is _____.

I further certify that I understand and agree that if the property purchased under the authority of this certificate is used by the purchaser for any purpose other than indicated above, the purchaser shall be liable for payment of tax to the State Board of Equalization at the time of such use measured by 60% of the sales price of the factory-built school building.

Signed by _____

(Name of Purchaser)

As: _____

(Owner, Partner, Purchasing Agent, etc.)

Date_____

(5) Mobilehomes Installed for Occupancy as Residences.

Operative July 1, 1980, a special measure of sales or use tax is provided for a mobilehome sold to be affixed to realty for occupancy as a residence.

A mobilehome dealer who sells a new mobilehome to a construction contractor to be affixed to land for occupancy as a residence is the "retailer-consumer" of the property and is required to pay tax for the period in which the sale was made by the dealer measured by an amount equal to 75 percent of the retailer-consumer's purchase price of the mobilehome.

A construction contractor who withdraws a new mobilehome from an inventory purchased for resale to be affixed to

realty for occupancy as a residence in the performance of a construction contract is required to pay tax measured by 75 percent of the purchase price by his or her mobilehome vendor except where the purchase is made directly from a mobilehome manufacturer. In the absence of satisfactory evidence of the vendor's purchase price it shall be presumed that the measure of tax for the transaction is an amount equivalent to 60 percent of the sales price of the mobilehome to the construction contractor.

A mobilehome manufacturer who sells a new mobilehome directly to a construction contractor for installation to real property for occupancy as a residence is required to pay tax measured by 75 percent of the sales price at which a similar mobilehome ready for installation would be sold by the manufacturer to a retailer-consumer in this state. A construction contractor who withdraws a new mobilehome from an inventory purchased from a manufacturer for resale must pay tax measured by 75 percent of his or her purchase price.

A mobilehome manufacturer who performs a construction contract by permanently affixing a new mobilehome to real property is the consumer of the material and the retailer of fixtures installed by him or her and the tax applies as set forth in paragraph (b) above.

Reference should also be made to the provisions of Regulation 1610.2 for additional interpretative rules relating to custom additions to the mobilehome prior to sale, transfers of nonvehicle items, and the application of the tax to a purchase made from an out-of-state retailer.

(6) Repair Contracts. A contract to repair a fixture in place or a fixture the contractor is required by the contract to reaffix to the realty is a construction contract. Sales or use tax applies to the gross receipts or sales price of the parts sold by a contractor who is a retailer under this provision. Either sales tax or use tax applies to the sales price of the parts sold to or used by a contractor who is a consumer under this provision.

(A) United States Construction Contractors. A United States construction contractor is the consumer of the parts furnished in the performance of a construction contract to repair a fixture.

(B) Construction Contractors Other Than United States Construction Contractors.

1. A contractor is the retailer of the parts furnished in the performance of a construction contract to repair a fixture when the sale price of the parts is billed separately from the repair labor.

2. A contractor is the consumer of the parts furnished in the performance of a lump sum construction contract to repair a fixture.

(7) Elevator Installations. A large number of components are included in the installation of an elevator system. Those portions constituting the cage or platform and its hoisting machinery are fixtures. The balance of the installation, if attached to a structure or other real property will generally be “materials.”

Similarly, installation of escalators and moving sidewalks are in part fixtures and in part materials.

<u>Following are examples of components constituting part of the cage or platform and its hoisting machinery, and which are fixtures:</u>

alarm bell
cab or car
car doors
car platform and sling
door hanger on cab
door openers
door operator on cab or car
door safety edge on cab
door sills on cab
electronic door protector
jack assembly
motors
power units and control boxes
pumps
pushbuttons on cab
wire and piping (which are components of a fixture)

<u>Following are examples of components constituting “materials” when attached to realty:</u>

car guides
casing section of jack assembly
guide rails
hoistway doors
hoistway door frames
hoistway door safety edge
hoistway door sills and jambs
hoistway door supports
hoistway entrance
pushbuttons on hoistway
rail brackets
sill, struts
sound insulating panels on “materials”
structural steel (unless part of cab, car, or other “fixture”)
valve strainer

wire and piping attached to “materials”

Following are examples of components constituting parts of escalators or moving sidewalks which are fixtures:

staircase
moving sidewalk
moving handrails
chains
sprockets
motors
other operating mechanisms

(8) Telephone Switchboards and Instruments. Telephone switching equipment installed in a building specifically designed to accommodate the equipment or attached to a building or structure in a manner such that its removal would cause damage to the equipment or building in which it is installed will be considered to be “fixtures” under paragraph (a)(5) of this regulation.

Telephone handsets, modular switching equipment and standardized, off-shelf, general purpose switching equipment sold for use in general purpose office buildings constitute machinery and equipment under paragraph (a)(6) of this regulation. Handsets, modular switching equipment and standardized equipment were previously classified as fixtures.

This change in classification shall be applied prospectively only with respect to construction contracts entered into on and after July 1, 1988, by contractors other than United States construction contractors.

(9) Deep-Well Agricultural Pumps. A deep-well agricultural pump is tangible personal property if installed so that it rests in position by force of gravity and is not otherwise affixed to the land.

The pump is a fixture if:

(A) It is affixed to the land such as by concrete, bolts or screws,

(B) It is physically connected to an irrigation system such as by pipes or couplings so as to become an integral part of the system, or

(C) It is enclosed by a pump house or other building or structure.

(10) Remote Control Garage Door Openers. Remote control garage door opening units are fixtures. Portable transmitter units furnished pursuant to a construction contract are deemed to be fixtures and are taxable as provided in subdivision (b)(2)(B). Sales of portable transmitter units not a part of a construction contract, as, for example, sales of replacement units, are retail sales of tangible personal property and subject to tax as such.

(11) Excess Reimbursement.

The excess tax reimbursement provisions of Regulation 1700 apply to construction contractors.

(12) On-Premise Electric Signs

(A) An on-premise electric sign is an electrically powered or illuminated structure, housing,' sign, device, figure, statuary, painting, display, message, placard, or other contrivance or any part thereof affixed to real property and intended or used to advertise, or to provide data or information in the nature of advertising, for any of the following purposes: 1) To designate, identify, or indicate the name or business of the owner or occupant of the premises upon which the advertising display is located, or 2) To advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display has been erected.

(B) Application of tax. An on-premise electric sign is a fixture and tax applies to the sale price of the sign. Notwithstanding the provisions of 1521 (b)(2)(B), operative October 1, 2000, if the contract does not state the sale price of the sign, tax applies to 33 percent of the contract price of on-premise electric signs that are furnished and installed by the seller. “Contract price” includes charges for materials, fabrication labor, installation labor, overhead, profit, and other charges associated with the sale and installation of the sign. If a contract provides that a contractor is to install an on-premise electric sign furnished by a third party, the charges for installation are not taxable. If a seller furnishes but does not install an on-premise electric sign, the seller is a retailer of the sign and tax applies to the total contract price.

Separately stated charges for transportation are subject to tax as defined in Regulation 1628, Transportation Charges.

Appendix A

The following is a list of typical items regarded as materials:

Asphalt Bricks
Builders' hardware
Caulking material
Cement Conduit Doors
Ducts
Electric wiring and connections
Flooring Glass
Gravel
Insulation Lath
Lead
Lime
Linoleum Lumber Macadam Millwork Mortar
Oil
Paint
Paper

Piping, valves, and pipe fittings
Plaster
Power poles, towers, and lines
Putty
Reinforcing mesh Roofing
Sand
Sheet metal
Steel
Stone
Stucco
Tile
Wall coping
Wallboard
Wallpaper
Wall-to-wall carpeting (when affixed to the floor)
Weather stripping Windows
Window screens
Wire netting and screen
Wood preserver

Appendix B

The following is a list of typical items regarded as fixtures:
Air conditioning units
Awnings
Burglar alarm and fire alarm fixtures
Cabinets, counters, and lockers (prefabricated)
Cranes 1 (including moving parts of cranes) affixed or annexed to a building, structure or fixed work Electric generators (affixed to and accessory to a building, structure or fixed works) Elevators, hoists, and conveying units
Furnaces, boilers, and heating units
Lighting fixtures
Plumbing fixtures
Refrigeration units
Signs
Television antennas
Transformers and switchgear
Vault doors and equipment
Venetian blinds

Appendix C

The following are lists of typical items regarded as:
Machinery and Equipment
Drill presses
Electric generators (unaffixed, or, if affixed, which meet the requirements of subparagraph (a)(6)) Lathes
Machine tools
Printing presses
Not Machinery or Equipment
Fixtures and materials as defined in this regulation
Wiring, piping, etc., used as a source of power, water, etc., for machinery and equipment Radio transmission antennas
Large tanks (i.e., over 500 barrel capacity)
Fire alarm systems
Street light standards
Cooling towers other than small prefabricated cooling units

§ 1610.2. Mobilehomes and Commercial Coaches

(a) Definitions. For purposes of this regulation, the following definitions govern:

(1) "Mobilehome" means a structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or without a foundation system. A "dwelling unit" consists of one or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating, and sanitation. "Mobilehome" does not include a recreational vehicle, commercial coach, or factory built housing as defined in Section 19971 of the Health and Safety Code.

(2) "Commercial Coach" means a structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional, or commercial purposes, which is required to be moved under permit, and shall include a trailer coach. "Trailer coach" means a vehicle, other than a motor vehicle, designed for human habitation, or human occupancy for industrial, professional, or commercial purposes, for carrying property on its own structure, and for

being drawn by a motor vehicle.

(3) "Used Mobilehome" means a mobilehome that was previously sold and registered or titled with the Department of Housing and Community Development, or with an appropriate agency or authority, or any other state, District of Columbia, territory or possession of the United States or a foreign state, province, or country.

(4) "Current Recognized Value Guide" means (1) the Kelley Blue Book Manufactured Housing and Mobilehome Guide or (2) the National Automobile Dealer Association's (NADA) Mobilehome Manufactured Housing Appraisal Guide, which is the current guide for the period in which the sale, storage, use or other consumption occurs.

(b) Basic Application of Tax.

(1) General Exemptions.

(A) Sales Tax. Sales tax does not apply to sales of mobilehomes or commercial coaches required to be annually registered under the Health and Safety Code when the retailer (as defined in Revenue and Taxation Code Section 6275) is not licensed pursuant to the Health and Safety Code as a manufacturer, manufacturer branch, dealer, dealer branch, distributor, distributor branch, representative, or representative branch. Generally, where sales tax does not apply to the sale, unless the transaction is also exempt from the use tax as provided in subdivision (b)(1)(B) below, use tax applies to the purchase of the mobilehome or commercial coach. The purchaser is required to pay the use tax to the Department of Housing and Community Development at the time of making application for registration. (For explanation regarding payment of tax by purchaser, see subdivision (c) below.)

(B) Sales and Use Tax. Neither sales tax nor use tax applies to the sale or use of:

1. Mobilehomes and commercial coaches sold by the parent, grandparent, child, grandchild, or spouse of the purchaser, or by the brother or sister of the purchaser if both are under the age of 18 and are related by blood or adoption, where the seller is not engaged in the business of selling the type of property for which the exemption is claimed. Claimants of this exemption must submit satisfactory evidence of relationship.

2. Mobilehomes and commercial coaches when included in any transfer of all or substantially all of the property held or used in the course of business activities of the transferor and when after the transfer the real and ultimate ownership remains substantially similar.

3. Used mobilehomes which are subject to property tax pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code at the time of sale.

(2) Fees. The "gross receipts" from the retailer's sale of a mobilehome and the "sales price" of a mobilehome stored, used, or otherwise consumed in this State does not include separately stated escrow fees or registration fees charged in connection with the sale of any mobilehome.

(3) New Mobilehomes.

(A) In General. Generally, unless the transaction qualifies as a sale for occupancy as a residence, or is otherwise exempt, tax applies to the gross receipts from the sale of a new mobilehome to the same extent as sales of other tangible personal property. See subdivision (b)(3)(B) below for special rules applicable to sales of new mobilehomes for occupancy as residences.

(B) Mobilehomes Sold for Occupancy as a Residence. A mobilehome dealer is the "retailer-consumer" of any new mobilehome sold to the customer for occupancy as a residence if the transaction would otherwise have been subject to the sales tax and the mobilehome is thereafter subject to local property taxation. For a description of the conditions under which a mobilehome dealer may tender a resale certificate to a supplier, see Regulation 1668(h).

1. Measure of Tax. The retailer-consumer is required to declare and pay tax at 75 percent of the retailer-consumer's purchase price for the period in which the qualifying sale is made to a customer. A qualifying sale is one in which the customer certifies to the retailer-consumer at the time of sale that the mobilehome is being acquired for occupancy as a residence. The retailer-consumer is not authorized to separately bill the customer for tax reimbursement.

The applicable percentage of the purchase price applies to all items which the retailer-consumer has purchased and affixed as an integral part of the mobilehome prior to sale, or pursuant to the contract of sale, such as carpeting, wall paneling, room partitions, and built-in appliances. Operative January 1, 1985, for purposes of this regulation, draperies and freestanding refrigerators and ranges shall be considered an integral part of a mobilehome. If these items are not included in the price of the mobilehome when acquired by the retailer-consumer, they must be included when computing the total amount subject to tax. The retailer-consumer's purchase price of these items also must include any labor charges for affixing the property when the labor is performed by other than the retailer-consumer.

A mobilehome dealer is the retailer of certain other items which are not an integral part of the mobilehome, such as furniture. The mobilehome dealer is also the retailer of mobilehome accessories, such as window awnings, skirting, and air conditioning units, provided these items are not affixed to a mobilehome situated on a permanent foundation or directly affixed to realty. Tax is due on the entire retail selling price to the customer.

2. Certification of Exemption. If a purchaser certifies in writing at the time of the sale that the mobilehome will be used in a manner or for a purpose entitling the retailer to report tax on the transaction based on 75 percent of the retailer's purchase price and subsequently uses the property in some other manner or for some other purpose not qualifying for the exemption, then the purchaser shall be liable for payment of tax measured by the entire sales price or gross receipts from the sale less an amount of equal to 75 percent of the sales price or gross receipts from the sale of the mobilehome to the retailer.

The following is a form of certification approved by the Board.

CERTIFICATION OF EXEMPTION MOBILEHOME RESIDENCE PURCHASE

I hereby certify that the mobilehome that I (name of purchaser) am purchasing from (name of retailer-consumer) is being purchased for occupancy as a residence and that it will only be used for this purpose. I further certify and agree that if the property purchased under authority of this certificate is used for any other purpose, I shall be liable for payment of tax measured by the entire sales price or gross receipts from the sale to me less an amount equal to 75 percent of the sales price or gross receipts from the sale of the mobilehome to the retailer.

Date Certificate Given: _____

Signed By: (name of purchaser)_____

Capacity: _____

Description of Property: _____

3. Determining the Date of Sale. Generally the tax applies upon the date of the sale of the property to the buyer. A sale takes place on the date of actual transfer of title to the property to the retailer-consumer's customer or at the time possession is transferred to the purchaser where title is retained by the retailer-consumer solely as security for the payment of the purchase price.

Transactions involving installations by dealers upon permanent foundation systems are subject to tax upon installation. For purpose of such a transaction, installation shall be considered to be complete upon the date of delivery of possession of the mobilehome to the buyer or upon the date of close of escrow for the sale, whichever event first occurs.

4. Equivalent Measure of Tax for Direct Sales by a Manufacturer. A manufacturer is the “retailer-consumer” of any new mobilehome which he sells directly to a customer for occupancy as a residence and is required to declare and pay tax measured by an amount equal to 75 percent of the sales price or gross receipts from the sale at which a similar mobilehome ready for installation would be sold by the manufacturer to a retailer-consumer in this state.

5. Purchase of a Mobilehome from a Retailer at an Out-of-State Location. If the out-of-state retailer is engaged in business in this state within the meaning of Revenue and Taxation Code Section 6203, the out-of-state retailer is a retailer-consumer with respect to its qualifying sales of new mobilehomes and must report and pay tax as provided in subdivision (b)(3)(B)(1).

If the out-of-state retailer is not engaged in business in this state, then the purchaser must report and pay use tax measured by 75 percent of the out-of-state retailer's purchase price of any new mobilehome as set forth in subdivision (b)(3)(B)(1) of this regulation. In the absence of satisfactory evidence of the out-of-state vendor's purchase price, it shall be presumed that the measure of use tax for the transaction is an amount equivalent to 60 percent of the sales price of the mobilehome to the purchaser, provided the vendor is not the manufacturer of the mobilehome. If the out-of-state vendor is the manufacturer, tax will apply as provided in subdivision (b)(3)(B)(4) above.

(4) Used Mobilehomes.

(A) In General. Tax applies to the “gross receipts” from the sale of a used mobilehome and the “sales price” of a used mobilehome stored, used, or otherwise consumed in this State if, at the time of sale or use, the mobilehome is subject to annual license fees under the Health and Safety Code. Tax does not apply to the sale of a used mobilehome if, at the time of sale, the mobilehome is subject to property tax pursuant to Part 13 of Division 1 of the Revenue ad Taxation Code commencing with Section 5800; however, if, subsequent to the time of sale, the mobilehome is removed from the property tax rolls and reinstated under the annual license fee system, then tax applies in the same manner as if the mobilehome had been subject to the annual license fees at the time of sale.

Where a dealer, who is acting on its own account and not as a broker, sells a used mobilehome, the dealer is a retailer and tax applies to the retail sales price of the used mobilehome including separately stated charges for awnings, skirting, and other items of tangible personal property sold with the used mobilehome provided these items are not affixed to a mobilehome situated on a permanent foundation or directly affixed to realty. However, if a used mobilehome is sold in-place by a dealer, any separately stated values of existing real property improvements such as cement and landscaping or separately stated in-place location value are not subject to tax.

(B) Special Application of Tax to Certain Transactions Involving Used Mobilehomes.

1. Application of Tax for the Period January 1, 1983 through December 31, 1984. From January 1, 1983, to December 31, 1984, inclusive, “gross receipts” from the retail sale of, and “sales price” of a used mobilehome, sold or stored, used, or otherwise consumed in this state, means the retail value of the used mobilehome as determined in accordance with a current recognized value guide, whenever the registered or legal owner sells a used mobilehome through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code.

2. Application of Tax for the Period January 1, 1985 through December 31, 1985. From January 1, 1985 through December 31, 1985, inclusive, “gross receipts” from the retail sale of, and “sales price” of a used mobilehome, sold or stored, used, or otherwise consumed in this state, means the retail value of the used mobilehome as determined in accordance with a current recognized value guide, whenever the sale is:

a. Through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account; or

b. Through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code; or

c. Whenever a purchaser of a used mobilehome is required to pay the use tax to the Department of Housing and Community Development.

If the value guide does not specify the age, model, and manufacturer of a used mobilehome or if the actual sales price of a used mobilehome is less than the current value specified in the value guide, the “sales price” shall be based on the

actual sales price of the mobilehome as evidenced by the purchase documents.

If the total contract price includes charges for accessories or other items which are not an integral part of the mobilehome, such as in-place location value, landscaping, or furnishings, and the actual sales price of the used mobilehome is not segregated in the purchase documents, the “actual sales price” of the used mobilehome for purposes of determining the “sales price” under the provisions of the preceding paragraph shall be either the total contract price or the value specified in the value guide, whichever is lower. However, if the value of the used mobilehome is not specified in the value guide, then the “actual sales price” of the mobilehome included within the total contract price shall be determined by the Board based on information available to it.

3. Application of Tax For Periods On and After January 1, 1986. Effective January 1, 1986, “gross receipts” from the retail sale of, and “sale price” of a used mobilehome, sold or stored, used, or otherwise consumed in this state, means the retail value of the used mobilehome as determined in accordance with a current recognized value guide, whenever the sale is:

a. Through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account; or

b. Through a licensed real estate broker acting pursuant to Section 101231.6 of the Business and Professions Code; or

c. Whenever a purchaser of a used mobilehome is required to pay the use tax to the Department of Housing and Community Development.

If the value guide does not specify the model or manufacturer of a used mobilehome, the value of the used mobilehome shall be established by reference to the highest value in the value guide according to age and size or the actual sales price, whichever is less. If the actual sales price of a used mobilehome is less than the current value specified in the value guide, the sales price shall be based on the actual sales price of the mobilehome as evidenced by the purchase documents. “Actual sales price” means the total contract price, including, but not limited to, the value of the mobilehome, in-place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings, or other items not part of the mobilehome, and documentation fees.

(c) Payment of Tax by Purchaser. Purchasers of mobilehomes and commercial coaches required to be registered annually under the Health and Safety Code, the sales of which are exempt from sales tax under subdivision (b)(1)(A) above, shall pay tax to the Department of Housing and Community Development, acting for and on behalf of the Board, at the time of making application for registration except:

(1) When the applicant establishes that the tax is inapplicable under the general exemption in subdivision (b)(1)(B) above; or

(2) When the applicant furnishes to the Department of Housing and Community Development a use tax exemption or tax clearance certificate issued by the Board.

A purchaser may pay the use tax and penalty, if any, to the Department of Housing and Community Development so as to secure immediate action upon the application for registration and thereafter apply to the Board for a refund of the amount so paid.

Whenever the purchaser of a commercial coach is required to pay use tax to the Department of Housing and Community Development, the sales price shall be presumed to be an amount equal to the market value of the property at the time of the purchase as that value is determined to measure the license fees imposed under Chapter 8 (commencing with Section 18075) of Part 2, Division 13, of the Health and Safety Code, multiplied by a factor of 1.8. The presumption may be rebutted by evidence which establishes that the sales price was other than such amount. This provision does not apply to commercial coaches required to be registered annually under the Health and Safety Code which are purchased outside this state from a manufacturer or dealer. The measure of tax of a purchase of a commercial coach from a bona-fide dealer outside this state is the sales price and the tax is payable to the Department of Housing and Community Development.

Whenever the purchaser of a mobilehome is required to pay use tax to the Department of Housing and Community Development, the measure of tax shall be determined in accordance with subdivision (b)(3) or (b)(4) of this regulation, whichever is applicable.

If the purchaser of a mobilehome or commercial coach makes n application to the Department of Housing and Community Development which is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the property, the purchaser then becomes liable also for penalty specified in Section 6591 of the Revenue and Taxation Code, but no interest shall accrue.

If the purchaser of a mobilehome or commercial coach does not make application to the Department of Housing and Community Development, or does not pay the amount of use tax due, or files a return with the Board under Section 6455 of the Revenue and Taxation Code which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451) of Part 1, Division 2, of the Revenue and Taxation Code.

(d) Real Property Improvements on or to Mobilehomes or Commercial Coaches. A person who both furnishes and affixes accessories or other items as improvements or additions to land, or to a mobilehome, or a commercial coach, which rests on a permanent foundation, is a construction contractor. The application of tax to construction contracts is explained in Regulation 1521, Construction Contractors.

§ 1660. Leases of Tangible Personal Property–In General

(a) Definitions.

(1) Lease. The term “lease” includes rental, hire, and license. It includes a contract under which a person secures for a consideration the temporary use of tangible personal property which, although not on his or her premises, is operated by, or under the direction and control of, the person or his or her employees. “Lease,” however, does not include a use of tangible personal property for a period of less than one day for a charge of less than twenty dollars ($20) when the privilege to use the property is restricted to use thereof on the premises or at a business location of the grantor of the privilege (see (e) below).

(2) Sale Under a Security Agreement.

(A) Where a contract designated as a lease binds the “lessee” for a fixed term and the “lessee” is to obtain title at the end of the term upon completion of the required payments or has the option to purchase the property for a nominal amount, the contract will be regarded as a sale under a security agreement from its inception and not as a lease. The option price will be regarded as nominal if it does not exceed $100 or 1 percent of the total contract price, whichever is the lesser amount.

(B) In the case of a contract designated as a lease with any state or local government, the governmental agency designated as a lessee shall be treated as bound for a fixed term notwithstanding any right it may have to terminate the contract to the extent that sufficient funds are not appropriated to pay amounts due under the contract. Such transactions are subject to tax as sales under a security agreement at their inception.

(3) Sale and Leaseback Transactions.

(A) General. Transactions structured as sales and leasebacks will be treated as financing transactions if (1) the “lease” transaction would be regarded as a sale at inception under paragraph (a)(2) of this regulation, (2) the purchaser-lessor does not claim any deduction, credit or exemption with respect to the property for federal or state income tax purposes, and (3) the amount which would be attributable to interest, had the transaction been structured originally as a financing agreement, is not usurious under California law. Transactions treated as financing transactions are not subject to sales or use tax.

(B) Special Application. Transactions structured as sales and leasebacks will also be treated as financing transactions if all of the following requirements are met:

1. The initial purchase price of the property has not been completely paid by the seller-lessee to the equipment vendor.

2. The seller-lessee assigns to the purchaser-lessor all of its right, title and interest in the purchase order and invoice with the equipment vendor.

3. The purchaser-lessor pays the balance of the original purchase obligation to the equipment vendor on behalf of the seller-lessee.

4. The purchaser-lessor does not claim any deduction, credit or exemption with respect to the property for federal or state income tax purposes.

5. The amount which would be attributable to interest, had the transaction been structured originally as a financing agreement, is not usurious under California law.

6. The seller-lessee has an option to purchase the property at the end of the lease term, and the option price is fair market value or less.

(C) Tax Benefit Transactions. Tax does not apply to sale and leaseback transactions entered into in accordance with former Internal Revenue Code section 168(f)(8), as enacted by the Economic Recovery Tax Act of 1981 (Public Law 97-34).

(D) Acquisition Sale and Leaseback Transactions. No sales or use tax applies to the transfer of title to, or the lease of, tangible personal property pursuant to an acquisition sale and leaseback, which is a transaction satisfying all of the following conditions:

(1) The seller/lessee has paid California sales tax reimbursement or use tax with respect to that person's purchase of the property.

(2) The acquisition sale and leaseback is consummated within 90 days of the seller/lessee's first functional use of the property (this 90 day period does not begin to run until the first functional use of the property; a period of storage after the purchase, but before the first functional use, is not used to calculate the 90 day period).

(3) The acquisition sale and leaseback transaction is consummated on or after January 1, 1991.

The sale of the property at the end of the lease term is subject to sales or use tax. Any lease of the property by the purchaser/lessor to any person other than the seller/lessee would be subject to use tax measured by rentals payable. A lease to the seller/lessee at the end of the original lease term is subject to use tax measured by rentals payable unless such lease is pursuant to an election to exercise an option to extend the lease term, which option was contained in the original lease agreement.

(b) Leases as Sales or Purchases.

(1) In General. Any lease of tangible personal property in any manner whatsoever for a consideration is a “sale” as defined in section 6006 of the Revenue and Taxation Code, and a “purchase” as defined in section 6010 of the Revenue and Taxation Code, except a lease of:

(A) Motion picture films and video tapes, including television films and video tapes, whether or not they are productions complete in themselves. See, however, subdivision (d)(2) below for application of tax for periods on and after September 1, 1983, to leases of video cassettes, videotapes, and videodiscs for private use under which the lessee or renter does not obtain or acquire the right to license, broadcast, exhibit, or reproduce the video cassette, videotape, or videodisc.

(B) Linen supplies and similar articles, including such items as towels, uniforms, coveralls, shop coats, dust cloths, caps and gowns, etc., when an essential part of the lease is the furnishing of the recurring service of laundering or cleaning of the articles leased.

(C) Household furnishings with a lease of the living quarters in which they are to be used. The lessor of the household furnishings must also be the lessor of the living quarters. The living quarters must be real property rather than tangible personal property.

(D) Mobile transportation equipment for use in transportation of persons or property (see regulation 1661 (18 CCR 1661)).

(E) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor as to which the lessor or his or her transferor acquired the property in a transaction that was a retail sale with respect to which the lessor or the transferor has paid sales tax reimbursement or as to which the lessor or the transferor has timely paid use tax measured by the purchase price of the property.

As used herein, “transferor” means:

1. A person from whom the lessor acquired the property in a transaction described in section 6006.5(b) of the Revenue and Taxation Code, or

2. A decedent from whom the lessor acquired the property by will or by law of succession.

For purposes of 1. above, the transaction will qualify if the property is acquired in a transfer of all or substantially all of the tangible personal property held or used by the transferor in all of his or her activities requiring the holding of a seller's permit or permits or in an activity or activities not requiring the holding of a seller's permit or permits, and the ownership of the tangible personal property is substantially similar after the transfer.

(F) Tangible personal property occurring on or after January 1, 1997 described in sections 17053.49 or 23649 of the Revenue and Taxation Code by the manufacturer of that property when leased to a qualified person, as described in sections 17053.49 or 23649 of the Revenue and Taxation Code, in a form not substantially the same as acquired as to which the manufacturer made a timely election to report and pay tax measured by the cost price of that property as defined in section 6244.5 of the Revenue and Taxation Code and Regulation 1525.3.

(G) A mobilehome, as defined in sections 18008(a) and 18211 of the Health and Safety Code, other than a mobilehome originally sold new prior to July 1, 1980 and not subject to local property taxation.

(2) Leases as Continuing Sales and Purchases. In the case of any lease that is a “sale” and “purchase” under (b)(1) above, the granting of possession by the lessor to the lessee, or to another person at the direction of the lessee, is a continuing sale in this state by the lessor, and the possession of the property by a lessee, or by another person at the direction of the lessee, is a continuing purchase for use in this state by the lessee, as respects any period of time the leased property is situated in this state, irrespective of the time or place of delivery of the property to the lessee or such other persons. The application of tax to such leases is set forth below.

(c) General Application of Tax.

(1) Nature of Tax. In the case of a lease that is a “sale” and “purchase” the tax is measured by the rentals payable. Generally, the applicable tax is a use tax upon the use in this state of the property by the lessee. The lessor must collect the tax from the lessee at the time rentals are paid by the lessee and give him or her a receipt of the kind called for in Regulation 1686 (18 CCR 1686). The lessee is not relieved from liability for the tax until he or she is given such a receipt or the tax is paid to the state.

When the lessee is not subject to use tax (for example, insurance companies), the sales tax applies. The sales tax is upon the lessor and is measured by the rentals payable.

Neither the sales tax nor the use tax applies to leases to the United States and its instrumentalities unless federal law permits taxing the instrumentality. For a more complete explanation regarding sales to the United States and its instrumentalities see Regulation 1614 (18 CCR 1614).

The “rentals” subject to the tax include any payments required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but does not include amounts paid to the lessor for:

(A) Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected by court action;

(B) Insuring, repairing or refurbishing the leased property following a default;

(C) Cost incurred in defending a court action or paying a tort judgment arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgments;

(D) Cost incurred in disposing of the leased property at expiration or earlier termination of the lease;

(E) Late charges and interest thereon for failing to pay the rentals timely;

(F) Separately stated optional insurance charges, maintenance or warranty contracts.

(G) Personal property taxes assessed against personal property where a bank or financial corporation is the lessor.

(2) Property Leased in Form Acquired. No sales or use tax is due with respect to the rentals charged for tangible personal property leased in substantially the same form as acquired by the lessor, or by his or her transferor, as to which the lessor or transferor has paid sales tax reimbursement or has paid use tax measured by the purchase price. If such tax has not been so paid, and the lessor desires to pay tax measured by the purchase price, it must be reported and paid timely with the return of the lessor for the period during which the property is first placed in rental service. A timely return is a return filed within the time prescribed by sections 6452 or 6455 of the Revenue and Taxation Code, whichever is applicable.

(3) Property Purchased Tax Paid. In the case of property ultimately leased in substantially the same form as acquired, payment of tax or tax reimbursement measured by the purchase price at the time the property is acquired

constituted an irrevocable election not to pay tax measured by rental receipts. The lessor may not change his or her election by reporting tax on rental receipts and claiming a tax-paid-purchase-resold deduction.

(4) Property Acquired in Exempt Transactions.

(A) A purchaser of tangible personal property acquired in a transaction defined as an occasional sale in section 6006.5(a) of the Revenue and Taxation Code and leased in substantially the same form as acquired by him or her, may elect to pay use tax measured by the purchase price of the property in lieu of tax measured by rental receipts.

(B) A purchaser of tangible personal property acquired in a transaction which qualifies under section 6006.5(b) of the Revenue and Taxation Code and leased in substantially the same form as acquired by his or her transferor may elect to pay use tax measured by his or her transferor's purchase price of the property in lieu of tax on rental receipts. This provision has application where the transferor did not pay tax or tax reimbursement when he or she acquired the property.

For purposes of this provision, the transaction will qualify if the property is acquired in a transfer of all or substantially all of the tangible personal property held or used by the transferor in all of his or her activities requiring the holding of a seller's permit or permits or in an activity or activities not requiring the holding of a seller's permit or permits and the ownership of the tangible personal property is substantially similar after the transfer (see also (b)(1)(E) above).

(C) The election provided for in subdivisions (c)(4)(A) and (c)(4)(B) above shall be exercised by the lessor in a timely return filed for the period in which the property is first leased by him or her.

(5) Property Subleased. Tax does not apply to receipts from subleases of tangible personal property which is leased in substantially the same form as acquired by the prime lessor where the prime lessor has paid sales tax reimbursement or use tax measured by his or her purchase price. Also, tax does not apply to subleases of tangible personal property if the tax is paid on rental receipts derived under the prime lease, or any prior sublease.

(6) Use of Property by Lessor. If a lessor, after leasing property and collecting and paying use tax, or paying sales tax, measured by rental receipts, makes any use of the property in this state, other than an incidental use, he or she is liable for use tax measured by the purchase price of the property. He or she may, however, apply as a credit against the tax so computed, the amount of tax previously paid to the Board with respect to rentals of the property. If the credit is less than the tax, he or she must pay the difference with his or her return, but may apply the amount of such payment against his or her liability for tax on subsequent rentals of the property. Effective January 1, 1973, through December 31, 1978, any amount collected as tax or tax reimbursement by the lessor from the lessee on such subsequent rentals will be regarded as excess tax reimbursement to the extent that the lessor is permitted by the foregoing provisions to apply the amount of his or her payment for use tax against his or her liability for tax on subsequent rentals of the property. An incidental use, e.g., a brief loan of property which otherwise is leased by the lessor pursuant to leases which are continuing sales, subjects the lessor to liability for use tax measured by the fair rental value of the property during the period of the incidental use. (See Regulation 1 669.5(b)(7) (18 CCR 1 669.5(b)(7)).)

(7) Options to Purchase. An agreement providing for the lease of tangible personal property and granting the lessee an option to purchase the property results in a sale when the option is exercised. The tax applies to the amount required to be paid by the purchaser upon the exercise of the option.

(8) Tax Paid to Another State. A lessor who leases property in substantially the same form as acquired and who has paid a retail sales or use tax, or reimbursement therefor, imposed with respect to that property by any other state, political subdivision thereof or the District of Columbia prior to leasing the property in this state may credit the payment against any use tax imposed on him or her by this state because of such lease. However, to be entitled to the credit the lessor must make a timely election to measure any tax liability for the property by its purchase price, unless the out-of-state tax equals or exceeds the tax imposed on him or her by this state. If the out-of-state tax equals or exceeds the tax imposed on him or her by this state, the lessor will be deemed to have made a timely election and the rental receipts will not be subject to tax provided the property is leased in substantially the same form as acquired. If a timely election is not made, no credit will be allowed because the tax due will be a use tax measured by rental receipts and imposed directly against the lessee, a person other than the one who paid the out-of-state tax or tax reimbursement. If the lessee is not subject to use tax and the lessor does not make a timely election to pay tax measured by his or her purchase price, he or she may not credit the amount of the out-of-state tax against the tax due on the rental receipts because the tax due is a sales tax rather than a use tax.

A credit otherwise permitted by the foregoing provisions shall not be allowed against taxes which are measured by periodic payments made under a lease, to the extent that taxes imposed by any other state, political subdivision or the District of Columbia were also measured by periodic payments made under a lease prior to the lease of the property in this state.

(9) Assignment of Leases.

(A) In General-Status of Assigned Leases. The situations described in (B), (C), and (D) below involve existing leases which are “sales” and “purchases” subject to tax measured by rental payments. When such a lease is assigned, whether or not title to the leased property is transferred, the rental payments remain subject to tax, without any option to measure tax by the purchase price. An assignee-purchaser who uses the property after termination of the lease is subject to use tax measured by the purchase price as provided in (c)(6) above.

Generally, when an existing lease that is not a “sale” and “purchase” is assigned, whether or not title to the leased property is transferred, the rental payments are not subject to tax. If title is transferred, tax applies measured by the sales price.

For rules relating to the assignment of leases of mobile transportation equipment coming within the exclusions provided in sections 6006(g)(4) and 6010(e)(4) of the Revenue and Taxation Code, see Regulation 1661 (18 CCR 1661).

(B) Assignment of a Right and Creation of a Security Interest. This type of assignment is an assignment by the lessor of the right to receive the rental payments together with the creation of a security interest in the leased property which is designated as such. The assignee has recourse against the assignor.

The assignee in this situation does not have the rights of a lessor and is not obligated to collect or pay the tax measured by the rental payments. The lessor remains subject to the obligation of collecting and reporting the tax even if he or she does not receive the rental payments directly from the lessee. The assignee, however, is obligated to remit to the board any amounts paid to him or her by the lessee as tax.

If the assignee enforces the security agreement and takes title to the property, the assignee as lessor becomes responsible for collecting and reporting the tax.

(C) Assignment of Contract with Transfer of Right, Title, and Interest for Security Purposes. This type of assignment is an assignment by the lessor of the lease contract together with the transfer of the right, title, and interest in the leased property for security purposes. After the termination of the lease, the property usually reverts to the original lessor. The assignment contract may specify that the transfer is for security purposes, or the circumstances may otherwise demonstrate it (e.g., a separate agreement that the property will be returned to the assignor at the termination of the lease). The assignee has recourse against the assignor.

In this situation, the assignee has assumed the position of a lessor. He or she is required to hold a seller's permit and is obligated to collect, report and pay the tax to the board. The assignor should obtain a resale certificate, covering the property in question, from the assignee.

(D) Assignment of Contract and All Right, Title, and Interest. This type of assignment is an assignment by the lessor of the lease contract together with the transfer of all right, title, and interest in the leased property. The assignment is not for security purposes, and the assignor does not retain any substantial ownership rights in the contract or the property. The assignee has no recourse against the assignor.

In this situation, the assignee has assumed the position of a lessor. He or she is required to hold a seller's permit and is obligated to collect, report and pay the tax to the board. The assignor should obtain a resale certificate, covering the property in question, from the assignee.

(d) Particular Applications.

(1) Portable Toilets. A lease of a portable toilet unit is a sale or purchase and tax applies measured by the lease or rental price regardless of whether the unit is leased in substantially the same form as acquired and regardless of whether sales tax reimbursement or use tax has been paid.

Charges for mandatory maintenance or cleaning services of portable toilet units are subject to tax as part of the rental price. Charges for optional maintenance or cleaning services of portable toilet units are not part of the rental price of the portable toilet units and are not subject to tax. Maintenance or cleaning services are mandatory within the meaning of this regulation when the lessee, as a condition of the lease or rental agreement, is required to purchase the maintenance or cleaning service from the lessor. Maintenance or cleaning services are optional within the meaning of this regulation when the lessee is not required to purchase the maintenance or cleaning service from the lessor.

Charges for maintenance or cleaning services will be considered mandatory and therefore part of the taxable rental price, unless the lessor provides documentary evidence establishing that such charges are optional. The terms of the lease or rental agreement determine whether the maintenance or service charges are mandatory or optional. In the absence of a lease or rental agreement, or in the absence of language in the lease or rental agreement specifying whether the maintenance or service charges are mandatory or optional, an invoice stating that the maintenance or cleaning charges are optional, and separately stating these charges from the rental charge, will be sufficient to support the exemption from tax.

Other documentary evidence may be accepted by the Board to establish that the maintenance or cleaning is performed at the option of the lessee.

When the maintenance or cleaning services are subject to tax, the supplies used to perform these services are considered to be sold with the services and may be purchased for resale. When the maintenance or cleaning services are not subject to tax, the provider of these services is the consumer of the supplies, and tax generally applies to the sale to or the use of these supplies by the provider of the maintenance or cleaning services.

(2) Video Cassettes, Videotapes, Videodiscs. On and after September 1, 1983, the rental or lease of a video cassette, videotape, or videodisc for private use under which the lessee or renter does not obtain or acquire the right to license, broadcast, exhibit, or reproduce the video cassette, videotape, or videodisc is a sale or purchase and tax applies measured by rental receipts. Tax applies measured by rental receipts regardless of whether the property is leased in substantially the same form as acquired and regardless of whether sales tax reimbursement or use tax has been paid by the lessor with respect to the purchase price of the video cassette, videotape, or videodisc. If the property was rented, leased or otherwise used prior to September 1, 1983, no refund, credit, or offset for any sales tax reimbursement or use tax paid on the purchase price will be allowed against the tax measured by the lease or rental price after September 1, 1983.

(3) Lease of an Animal. A lease of any form of animal life of a kind the products of which ordinarily constitute food for human consumption is not subject to tax.

(4) Composed Type, Reproduction Proofs, Impressed Mats. Tax does not apply to leases of composed type or reproduction proofs thereof by a typographer to another person for use in the preparation of printed matter or to leases of such reproduction proofs or impressed mats to a printer or publisher for use in printing, except when the reproduction proof is a component part of a “paste-up,” “mechanical” or “assembly.”

(5) Repair Parts. Sales tax does not apply to sales of repair parts to a lessor which are used by him or her in maintaining the leased equipment pursuant to a mandatory maintenance contract where the rental receipts are subject to tax. Such repair parts are regarded as being part of the sale of the leased item and may be purchased for resale. The amount paid by the lessee under the mandatory maintenance contract is regarded as part of the rental payments.

(6) Neon Signs. A lease of a neon sign that is personal property is subject to the provisions of the Sales and Use Tax

Law as any other lease of personal property.

(7) Property Affixed to Realty. For the purpose of this regulation, “tangible personal property” includes any leased fixture affixed to realty if the lessor has the right to remove the fixture upon breach or termination of the lease agreement, unless the lessor of the fixture is also the lessor of the realty to which the fixture is affixed. The term fixture as used herein has the same meaning as the term “fixture” in Regulation 1521 (18 CCR 1521).

Leases of structures together with the component parts of such structures, e.g., plumbing fixtures, air conditioners, water heaters, etc., will be treated as leases of real property. Accordingly, tax applies to contracts to construct such structures and the attached components in accordance with Regulation 1521 (18 CCR 1521).

On and after September 26, 1989, leases of factory-built school buildings (relocatable classrooms) as defined in paragraph (c)(4)(B) of Regulation 1521 (18 CCR 1521), “Construction Contractors”, will be treated as leases of real property with the lessor to the school or school district as the consumer. If the lessor is the manufacturer, tax applies to the manufacturer's costs of all tangible personal property used in constructing the factory-built school building. If the lessor is other than the manufacturer, tax applies to 40% of the sales price of the factory-built school building to such lessor.

For purposes of this section, “structure” does not include any prefabricated mobile homes or similar items which are registered with the Department of Motor Vehicles. It also does not include a portable building, such as a shed or kiosk, which is moveable as a unit from its site of installation, unless the building is physically attached to the realty, upon a concrete foundation or otherwise. Such a building resting in place by its own weight, whether upon the ground, a concrete slab, or sills or piers, is not a “structure”. A prefabricated or modular building similar in size to, but which is not, a factory-built school building (relocatable classroom) is a “structure” whether the building rests in place by its own weight or is physically attached to realty.

Those fixtures which are essential to the structure such as heating and air conditioning units, sinks, toilets, and faucets, which are leased by the lessor of the structure to which they are attached are considered part of the structure and therefore improvements to real property.

On the other hand, those fixtures which although being a component part of the structure are leased by other than the lessor of the structure, will be considered tangible personal property. Accordingly, the tax consequences with respect to such fixtures will be the same as with respect to any other lease of tangible personal property.

(8) Mobilehomes.

(A) The leasing of any mobilehome purchased by a retailer without payment of sales tax reimbursement or use tax and first leased prior to July 1, 1980, is a continuing sale and tax is due measured by the periodic lease payments unless the mobilehome becomes subject to local property taxation, in which event the lease of the property is thereafter exempt from the sales and use tax.

(B) The lease of a new mobilehome purchased by a retailer without payment of sales tax reimbursement or use tax and first leased on or after July 1, 1980, is excluded from classification as a continuing sale and the lessor's use of such property by leasing is subject to the use tax.

If the use of the property is for occupancy as a residence then the tax is measured by an amount equivalent to 75 percent of the purchase price paid by the lessor's vendor. In the absence of satisfactory evidence of the vendor's purchase price it shall be presumed that the measure of use tax is an amount equivalent to 60 percent of the sales price of the mobilehome to the lessor unless the vendor is also the manufacturer. If such mobilehome is purchased by the lessor from the manufacturer, the measure of the use tax liability is 75 percent of the purchase price of the mobilehome to the lessor.

If the use of the property is not for occupancy as a residence, then the tax is measured by the full retail sales price to the lessor.

(C) The subsequent lease of a used mobilehome which was first sold new in this state after July 1, 1980, is exempt from the sales and use tax.

(e) Grant of Privilege to Use Which is Not a Lease.

(1) In General. Certain restricted grants of a privilege to use property are excluded from the term “lease.” To fall within the exclusion, the use must be for a period of less than one continuous 24-hour period, the charge must be less than $20, and the use of the property must be restricted to use on the premises or at a business location of the grantor of the privilege to use the property.

(2) Definitions.

(A) “Grantor of the privilege” means a person who allows another person to use the personal property.

(B) “Use” includes the possession of, or the exercise of any right or power over personal property by a grantee of a privilege to use the property.

(C) “Premises” or “business location” means a building or specific area owned or leased by a grantor or to which a grantor has an exclusive right of use or a space occupied by the personal property which a grantor allows other persons to use in place. For example:

1. A place in a depot at which a grantor places a coin-operated amusement device pursuant to a contract with the management of the depot.

2. An area in an apartment house or motel where a grantor has a right to place coin-operated washing machines and dryers for use by occupants of the apartment house or motel.

3. A laundromat owned or leased by a person who places therein coin-operated washing machines and dryers for use by customers.

4. A riding stable at which horses are furnished to the public at an hourly rate with a restriction that the horses be ridden within a specific area owned or leased by a grantor of the privilege. The “specific area” might be an enclosed arena or other place the exterior boundaries of which are defined by walls, fences or otherwise in such a manner that the area readily can be recognized and distinguished from adjoining or surrounding property.

5. A golf course owned or leased by a golf club which owns or leases golf carts that it furnishes to persons for use in playing the course, or a golf course under the supervision and control of a golf professional who owns or leases golf carts that he or she furnishes to persons for use in playing the course.

(3) Examples of Situations Which Do Not Qualify for Exclusion from the Term "Lease."

(A) One of several rental firms permitted by a hospital to do so rents a portable television set and stand to a hospital patient for a charge of $4.00 per day for a period of six days.

This situation does not qualify for the exclusion because the period of "use" is not for less than one day, the total rental is not less than $20 and the place of use is not the "premises" or "business location" of the rental firm since it does not have "exclusive right of use" of the hospital as regards the placing of its rental units therein nor is the space regularly occupied by it for use in place.

(B) Rental of a canoe for a period of eight hours for a total charge of $4 when the customer will use the canoe on the Russian River.

This situation does not qualify for the exclusion because the river is not the premises or business location of the grantor of the privilege.

(C) Rental of tools to be used on the premises of the owner of the tools for a period of eight hours invoiced as follows:

1 Portable lamp.....	$ 4
1 Wheel pulley	4
1 Portable hoist	4
1 Sander.....	4
1 Spray gun	5
Total rental.....	$21

This situation does not qualify for the exclusion because the agreement for rental of the property is a single agreement involving rental charges of $21 and does not meet the requirement that the charge be less than $20.

(D) An equipment rental firm rents a cement mixer to a customer who takes the mixer to his or her home and uses it for less than one day. The rental charge is $9. The mixer is of a type which must be firmly "in place" during the cement mixing operation.

This situation does not qualify for the exclusion because although the mixer is firmly "in place" during the mixing operation, it is not in a space regularly occupied by it for use in place by customers of the grantor.

(4) Application of Tax to Situations Qualifying for Exclusion from the Term "Lease." The grantor of the privilege to use property under the conditions described in (e)(1) above is the consumer of the property. Accordingly, charges by him or her for the privilege to use the property are not subject to tax. Tax applies to the sale of the property to him or her by a retailer or to his or her use of the property, measured by his or her purchase price, when the property is purchased from a retailer in California under a resale certificate or from a retailer at an out-of-state location. If the property is acquired through an "occasional sale" as defined in section 6006.5 of the Revenue and Taxation Code, or other exempt transaction, no tax applies to the acquisition or use of the property by the grantor nor to his or her charges for the privilege to use the property.

§ 1699. Permits

(a) In General–Number of Permits Required. Every person engaged in the business of selling (or leasing under a lease defined as a sale in Revenue and Taxation Code section 6006(g)) tangible personal property of a kind the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and only a person actively so engaged, is required to hold a permit for each place of business in this state at which transactions relating to sales are customarily negotiated with his or her customers. For example:

A permit is required for a branch sales office at which orders are customarily taken and contracts negotiated, whether or not merchandise is stocked there.

No additional permits are required for warehouses or other places at which merchandise is merely stored and which customers do not customarily visit for the purpose of making purchases and which are maintained in conjunction with a place of business for which a permit is held; but at least one permit must be held by every person maintaining stocks of merchandise in this state for sale.

If two or more activities are conducted by the same person on the same premises, even though in different buildings, only one permit is required. For example:

A service station operator having a restaurant in addition to the station on the same premises requires only one permit for both activities.

(b) Persons Selling in Interstate Commerce or to United States Government. A permit is not required to be held by persons all of whose sales are made exclusively in interstate or foreign commerce but a permit is required of persons notwithstanding all their sales (or leases under a lease defined as a sale in Revenue and Taxation Code section 6006(g)) are made to the United States or instrumentalities thereof.

(c) Persons Selling Feed. Effective April 1, 1996, a permit is not required to be held by persons whose sales consist entirely of sales of feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption (food animals), or for any form of animal life not of such a kind (nonfood animals) which are being held for sale in the regular course of business, provided no other retail sales of tangible personal property are made.

If a seller of hay is also the grower of the hay, this exemption shall apply only if either:

(1) The hay is produced for sale only to beef cattle feedlots or dairies, or

(2) The hay is sold exclusively through a farmer-owned cooperative.

(d) Concessionaires. For the purposes of this regulation, the term concessionaire is defined as an independent retailer who is authorized, through contract with, or permission of, another retail business enterprise (the prime retailer), to operate within the perimeter of the prime retailer's own retail business premises, which to all intents and purposes appear to be wholly under the control of that prime retailer, and to make retail sales that to the general public might reasonably be believed to be the transactions of the prime retailer. Some indicators that a retailer is not operating as a concessionaire are that he or she:

Appears to the public to be a business separate and autonomous from the prime retailer. Examples of businesses that may appear to be separate and autonomous, while operating within the prime retailer's premises, are those with signs posted on the premises naming each of such businesses, those with separate cash registers, and those with their own receipts or invoices printed with their business name.

Maintains separate business records, particularly with respect to sales.

Establishes his or her own selling prices.

Makes business decisions independently, such as hiring employees or purchasing inventory and supplies.

Registers as a separate business with other regulatory agencies, such as an agency issuing business licenses, the Employment Development Department, and/or the Secretary of State.

Deposits funds into a separate account.

In cases where a retailer is not operating as a concessionaire, the prime retailer is not liable for any tax liabilities of the retailer operating on his or her premises. However, if a retailer is deemed to be operating as a concessionaire, the prime retailer may be held jointly and severally liable for any sales and use taxes imposed on unreported retail sales made by the concessionaire while operating as a concessionaire. Such a prime retailer will be relieved of his or her obligation for sales and use tax liabilities incurred by such a concessionaire for the period in which the concessionaire holds a permit for the location of the prime retailer or in cases where the prime retailer obtains and retains a written statement that is taken in good faith in which the concessionaire affirms that he or she holds a seller's permit for that location with the Board. The following essential elements must be included in the statement in order to relieve the prime retailer of his or her liability for any unreported tax liabilities incurred by the concessionaire:

The permit number of the concessionaire

The location for which the permit is issued (must show the concessionaire's location within the perimeter of the prime retailer's location).

Signature of the concessionaire

Date

While any statement, taken timely, in good faith and containing all of these essential elements will relieve a prime retailer of his or her liability for the unreported sales or use taxes of a concessionaire, a suggested format of an acceptable statement is provided as Appendix A to this regulation. While not required, it is suggested that the statement from the concessionaire contain language to clarify which party will be responsible for reporting and remitting the sales and/or use tax due on his or her retail sales.

In instances where the lessor, or grantor of permission to occupy space, is not a retailer himself or herself, he or she is not liable for any sales or use taxes owed by his or her lessee or grantee. In instances where an independent retailer leases space from another retailer, or occupies space by virtue of the granting of permission by another retailer, but does not operate his or her business within the perimeter of the lessor's or grantor's own retail business, such an independent retailer is not a concessionaire within the meaning of this regulation. In this case, the lessor or grantor is not liable for any sales or use taxes owned by the lessee or grantee.

(e) Agents. If agents make sales on behalf of a principal and do not have a fixed place of business, but travel from house to house or from town to town, it is unnecessary that a permit be obtained for each agent if the principal obtains a permit for each place of business located in California. If, however,; the principal does not obtain a; permit for each place of business located in California, it is necessary for each agent to obtain a permit.

(f) Inactive Permits. A permit shall be held only by persons actively engaging in or conducting a business as a seller of tangible personal property. Any person not so engaged shall forthwith surrender his or her permit to the Board for cancellation. The Board may revoke the permit of a person found to be not actively engaged in or conducting a business as a seller of tangible personal property.

Upon discontinuing or transferring a business, a permit holder shall promptly notify the Board and deliver his or her permit to the Board for cancellation. To be acceptable, the notice of transfer or discontinuance of a business must be received in one of the following ways:

(1) Oral or written statement to a Board office or authorized representative, accompanied by delivery of the permit, or followed by delivery of the permit upon actual cessation of the business. The permit need not be delivered to the Board, if lost, destroyed or is unavailable for some other acceptable reason, but notice of cessation of business must be given.

(2) Receipt of the transferee or business successor's application for a seller's permit may serve to put the Board on notice of the transferor's cessation of business.

Notice to another state agency of a transfer or cessation of business does not in itself constitute notice to the Board.

Unless the permit holder who transfers the business notifies the Board of the transfer, or delivers the permit to the Board for cancellation, he or she will be liable for taxes, interest and penalties (excluding penalties for fraud or intent to evade the tax) incurred by his or her transferee who with the permit holder's actual or constructive knowledge uses the permit

in any way; e.g., by displaying the permit in transferee's place of business, issuing any resale certificates showing the number of the permit thereon, or filing returns in the name of the permit holder or his or her business name and under his or her permit number. Except in the case where, after the transfer, 80 percent or more of the real or ultimate ownership of the business transferred is held by the predecessor, the liability shall be limited to the quarter in which the business is transferred, and the three subsequent quarters.

Stockholders, bondholders, partners, or other persons holding an ownership interest in a corporation or other entity shall be regarded as having the "real or ultimate ownership" of the property of the corporation or other entity.

(g) Due Date of Returns–Closeout of Account on Yearly Reporting Basis. Where a person authorized to file tax returns on a yearly basis transfers the business to another person or discontinues it before the end of the yearly period, a closing return shall be filed with the Board on or before the last day of the month following the close of the calendar quarter in which the business was transferred or discontinued.

(h) Buying Companies–General

(1) Definition. For the purpose of this regulation, a buying company is a legal entity that is separate from another legal entity that owns, controls, or is otherwise related to, the buying company and which has been created for the purpose of performing administrative functions, including acquiring goods and services, for the other entity. It is presumed that the buying company is formed for the operational reasons of the entity which owns or controls it or to which it is otherwise related. A buying company formed, however, for the sole purpose of purchasing tangible personal property ex-tax for resale to the entity which owns or controls it or to which it is otherwise related in order to re-direct local sales tax from the location(s) of the vendor(s) to the location of the buying company shall not be recognized as a separate legal entity from the related company on whose behalf it acts for purposes of issuing it a seller's permit. Such a buying company shall not be issued a seller's permit. Sales of tangible personal property to third parties will be regarded as having been made by the entity owning, controlling, or otherwise related to the buying company. A buying company that is not formed for the sole purpose of so re-directing local sales tax shall be recognized as a separate legal entity from the related company on whose behalf it acts for purposes of issuing it a seller's permit. Such a buying company shall be issued a seller's permit and shall be regarded as the seller of tangible personal property it sells or leases.

(2) Elements. A buying company is not formed for the sole purpose of re-directing local sales tax if it has one or more of the following elements:

(A) Adds a markup to its cost of goods sold in an amount sufficient to cover its operating and overhead expenses.

(B) Issues an invoice or otherwise accounts for the transaction.

The absence of any of these elements is not indicative of a sole purpose to redirect local sales tax.

(i) Web Sites. The location of a computer server on which a web site resides may not be issued a seller's permit for sales tax purposes except when the retailer has a proprietary interest in the server and the activities at that location otherwise qualify for a seller's permit under this regulation.

Appendix A

Certification of Permit – Concessionaires

I certify that I operate an independent business at the premises of the following retailer and that I hold a valid seller's permit to operate at this location, as noted below. I further understand that I will be solely responsible for reporting all sales that I make on those premises and remitting all applicable sales and use taxes due to the Board of Equalization:

Name of retailer on whose premises I operate my business: _____

Location of premises: _____

I hereby certify that the foregoing information is accurate and true to the best of my knowledge: Certifier's Signature: _____ Date: _____

Certifier's Printed Name_____

Certifier's Seller's Permit Number: _____

Certifier's Business Name and Address * _____

Certifier's Telephone Number _____

§ 1700. Reimbursement for Sales Tax

(a) Reimbursement for Sales Tax.

(1) Addition of Sales Tax Reimbursement. Whether a retailer may add sales tax reimbursement to the sales price of the tangible personal property sold at retail to a purchaser depends solely upon the terms of the agreement of sale.

(2) Presumptions. Certain presumptions concerning the addition of sales tax reimbursement are created by Civil Code Section 1656.1. It shall be presumed that the parties agreed to the addition of sales tax reimbursement to the sales price of tangible personal property sold at retail to a purchaser if:

(A) The agreement of sale expressly provides for such addition of sales tax reimbursement;

(B) Sales tax reimbursement is shown on the sales check or other proof of sale; or

(C) The retailer posts in his or her premises in a location visible to purchasers, or includes on a price tag or in an advertisement or other printed material directed to purchasers, a notice to the effect that reimbursement for sales tax will be added to the sales price of all items or certain items, whichever is applicable.

It shall be presumed that the property, the gross receipts from the sale of which is subject to the sales tax, is sold at a price which includes tax reimbursement if the retailer posts in his or her premises, or includes on a price tag or in an advertisement (whichever is applicable) one of the following notices:

1. "All prices of taxable items include sales tax reimbursement computed to the nearest mill."
2. "The price of this item includes sales tax reimbursement computed to the nearest mill."

(3) Reimbursement Schedules. Each retailer who adds to the sales price of tangible personal property sold at

retail an amount from a consumer in reimbursement of the sales tax upon gross receipts shall compute the amount of reimbursement by reference to schedules prepared by the board pursuant to Civil Code Section 1656.1 or by mathematical computation as described below. Schedules are available from the local district board offices for the various applicable rates. Reimbursement on sales prices in excess of those shown in the schedules provided by the board may be computed by applying the applicable tax rate to the sales price, rounded off to the nearest cent by eliminating any fraction less than one-half cent and increasing any fraction of one-half cent or over to the next higher cent.

(b) Excess Tax Reimbursement.

(1) Definition. When an amount represented by a person to a customer as constituting reimbursement for sales tax is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the customer to the person, the amount so paid is excess tax reimbursement. Excess tax reimbursement is charged when reimbursement is computed on a transaction which is not subject to tax, when reimbursement is computed on an amount in excess of the amount subject to tax, when reimbursement is computed using a tax rate higher than the rate imposed by law, and when mathematical or clerical errors result in an overstatement of the reimbursement on a billing.

(2) Procedure upon Ascertainment of Excess Tax Reimbursement. Whenever the board ascertains that a person has collected excess tax reimbursement, the person will be afforded an opportunity to refund the excess collections to the customers from whom they were collected. In the event of failure or refusal of the person to make such refunds, the board will make a determination against the person for the amount of the excess tax reimbursement collected and not previously paid to the state, plus applicable interest and penalty.

(3) Evidence Sufficient to Establish that Excess Amounts have been or will be returned to Customer.

(A) If a person already has refunded to each customer amounts collected as reimbursement for tax in excess of the tax due, this may be evidenced by any type of record which can be verified by audit such as:

1. Receipts or cancelled checks.

2. Books of account showing that credit has been allowed the customer as an offset against an existing indebtedness owed by the customer to the person.

(B) If a person has not already made sales tax reimbursement refunds to each customer but desires to do so rather than incur an obligation to the state, the person must:

1. Inform in writing each customer from whom an excess amount was collected that the excess amount collected will be refunded to the customer or that, at the customer's option, the customer will be credited with such amount, and

2. The person must obtain and retain for verification by the board an acknowledgement from the customer that the customer has received notice of the amount of indebtedness of the person to the customer.

(4) Offsets. If a person who has collected excess tax reimbursement on a transaction fails or refuses to refund it to the customer from whom it was collected, the excess tax reimbursement shall be offset against any tax liability of the taxpayer on the same transaction. Any excess tax reimbursement remaining after the offset must be refunded to the customer or paid to the state. The offset can be made when returns are filed, when a determination is issued, or when a refund is claimed. Such offsets can be made only on a transaction by transaction basis. Tax reimbursement collected on a specific transaction can be used only to satisfy a tax liability arising from the same transaction. The “same transaction” means all activities involved in the acquisition and disposition of the same property. The “same transaction” may involve several persons, such as a vendor, a subcontractor, a prime contractor, and the final customer; or a vendor, a lessor, and a series of sublessors. Tax reimbursement can be offset against the tax liability of the taxpayer whether the liability was satisfied by paying sales tax reimbursement to a vendor, paying use tax to a vendor, or paying use tax to the state.

An offset of a taxpayer's own tax liability against tax reimbursement collected from a customer can be made only with respect to transactions in which possession of the property upon which the taxpayer's tax liability is based is transferred, either permanently or temporarily, to the customer, as in the case of construction contracts or leases. A taxpayer such as a repairman or printer who uses shop supplies or printing aids in performing a job for a customer cannot offset the tax liability arising from the use of the supplies or aids against tax reimbursement collected from the customer.

A person who claims that a tax liability on a transaction should be offset against tax reimbursement paid to the state by another person has the burden of proving that tax reimbursement was in fact paid to the state on the same transaction by the other person. In the absence of such proof no offset will be allowed.

The offset allowances explained above are procedural changes mandated by statute and apply to all proceedings pending before the board on and after September 7, 1982.

(5) Particular Applications. (Examples at 6 percent tax rate.)

(A) Discounts and trading stamps.

1. Discounts. A retailer who allows discounts on sales prices but charges customers tax reimbursement computed upon the prices before the discount is deducted is collecting excess reimbursement.

For example, a sale is made for $100 plus $6 as tax reimbursement. Upon payment for the item the purchaser is allowed a discount of 20 percent of the sales price of $100 but the $6 tax reimbursement is excluded from the computation. Since the retailer is deducting the amount of the discount, $20, from taxable gross receipts, the retailer is actually paying a tax of only $4.80, i.e., 6 percent of $80, and has retained excessive tax reimbursement of $1.20.

2. Trading Stamps. A retailer who issues trading stamps or similar evidences of patronage may deduct as cash discounts the cost to the retailer of the stamps or other indicia (hereinafter called “stamps”) issued in connection with taxable retail sales. A retailer who deducts the cost of stamps as a cash discount in computing the tax payable to the state, but who charges tax reimbursement on the full sales price of the goods, collects more tax reimbursement than the retailer pays to the state. The following illustration shows why this is true: If a retailer collects sales tax reimbursement of $6 on a $100 sale but gives the customer trading stamps which cost the retailer $2 and then deducts the $2 as a cash discount when reporting taxable receipts, the retailer will pay a tax of only $5.88 (6 percent of $98).

The retailer must follow one of the three following procedures:

a. Adjust the price upon which tax reimbursement is computed so it will correspond to the price upon which the retailer computes the tax paid by the retailer to the state.

b. Consider the price which determines the number of stamps to be given a customer as the total amount paid by the customer, inclusive of that portion charged as reimbursement for sales tax.

c. Take no deduction from gross receipts in computing tax to be paid to the state on account of the cost of stamps given to customers.

(B) Construction Contractors. (See Regulation 1521 (18 CCR 1521) for application of tax to construction contractors generally) A contractor furnishes and installs materials under a lump sum construction contract for the improvement of real property and collects tax reimbursement on the total contract price. As the contractor is the consumer of materials furnished and installed in the performance of the lump sum contract, the tax reimbursement collected on the total contract price constitutes excess tax reimbursement. Such excess tax reimbursement must be returned to the customer or paid to the state. However, offsets will be allowed as explained in (b)(4).

Under a lump sum contract to improve real property, a subcontractor furnishes and installs materials which were acquired without the payment of sales or use tax. The prime contractor collects tax reimbursement from the prime contractor's customer on the total contract price and pays all of the tax reimbursement collected to the state. The subcontractor's use tax liability on the materials consumed in performing the contract will be offset against the tax reimbursement paid to the state by the prime contractor, and the subcontractor has no further tax liability on the transaction. The tax reimbursement paid to the state by the prime contractor in excess of the use tax liability of the subcontractor will be refunded to the prime contractor only if it is returned to the customer.

(C) Lessors of Mobile Transportation Equipment. A lessor of mobile transportation equipment purchases such equipment under a resale certificate and collects tax reimbursement on the rental receipts, but pays no tax to the state. The lessor must pay tax on the purchase price of the equipment since a timely election to measure the tax by fair rental value was not made. The tax reimbursement collected on rental receipts is excess tax reimbursement. Such excess tax reimbursement must be returned to the lessee or paid to the state. However, offsets will be allowed as explained in (b)(4). (See Regulation 1661 (18 CCR 1661) for application of tax to leases of mobile transportation equipment)

(D) Other Lessors of Tangible Personal Property. A lessor purchases property and pays sales tax reimbursement to the vendor. The property is leased in the same form as acquired and tax reimbursement is collected on the rental receipts. Tax reimbursement collected on rental receipts must be returned to the lessee or paid to the state to the extent that it exceeds the tax liability measured by the purchase price. (See Regulation 1660 (18 CCR 1660) for application of tax to leases, generally)

(6) Rights of Customers. The provisions of this regulation with respect to offsets do not necessarily limit the rights of customers to pursue refunds from persons who collected tax reimbursement from them in excess of the amount due.

California Board of Equalization
Publication #47

Mobilehomes and Factory-Built Housing

Revised July 2008

<Excerpts>

<Not applicable for CM exams>

http://www.boe.ca.gov/pdf/pub47.pdf

TABLE OF CHAPTER CONTENTS

CALIFORNIA BOARD OF EQUALIZATION PUBLICATION #47 <Excerpts>

Dealer Sales and Leases of New Mobilehomes and Related Items
- Mobilehomes 175
- Sales for nonresidential use 176
- Sales for residential use 176
  - Dealer may be a “retailer-consumer” 176
  - Use tax applies—not sales tax 176
  - Certification of exemption 176
  - Date of sale 176
- Sales of accessories and other items 177
  - Items not attached to real property 177
  - Items attached to real property 177
  - Manufacturers as retailer-consumers 177
- Applying tax to sales-related charges 177
  - Transportation charges 177
  - Setup charges 178
  - Escrow fees 178
  - Leases of mobilehomes 178
  - Mobilehomes first leased before July 1, 1980 178
  - Mobilehomes first leased on or after July 1, 1980 178
  - Leases of used mobilehomes 179
  - For more information 179

Dealer Purchases and Use of New Mobilehomes and Related Items
- Purchases for resale, in general 179
- Furniture and furnishings used to enhance mobilehomes for sale 179
- Taxable use of a mobilehome 179

Consumer Purchases of New Mobilehomes from Out-of-State Dealers and Manufacturers
- In general 180
- Purchases for residential use 180
  - From dealers 180
  - From manufacturers 180
  - Purchases for nonresidential use 180
  - When is the use tax due? 180

Related Sales and Use Tax Exemptions
- Sales in interstate and foreign commerce 180
  - Shipments outside the state—when sales tax does not apply 180
  - Proof of exemption 180
  - Exports 181
  - Proof of exemption 181
  - Sales to the United States government 181
  - Sales to Indians living on reservations 181
  - Transfer of title (ownership) on the reservation 181
  - Claimed exempt sales to Indians require documentation 182
  - Use off the reservation 183
  - Married couples or registered domestic partners 183

Mobilehomes and Accessories Installed as Real Property
- Real property 183
- Mobilehome sales to construction contractors 183
- Dealers and manufacturers as construction contractors 184
- Dealers 184
- Manufacturers 184
- Contractors’ charges for work on real property 184
- Items that are not an integral part of the mobilehome 184
- Sales of materials 184
- Sales of fixtures 184
- Labor charges 184
- Subcontracted work on real property 185

Sales and Purchases of Used Mobilehomes
- Used mobilehome defined 185

TABLE OF CHAPTER CONTENTS

Sales of used mobilehomes that are subject to property taxes 185
Sales of used mobilehomes subject to annual license fees 185
Sales by dealers 185
Purchases from parties other than a dealer 185
Possible exempt sales 186
Sales within a family 186
Determining retail value 186
Current value guides 186
Other valuation methods 186
Factory-Built Housing
Factory-built housing 186
General application of tax 187
Certificate of Exclusion 187
Manufacturers and factory-built housing 187
Taxable uses of factory-built housing Purchaser or consumer owes tax 188
Seller owes tax 188
Items that are not part of factory-built housing 188
Sample factory-built housing transactions 188
Transaction A 188
Transaction B 188
Transaction C 188
General Tax Information
Sales tax reimbursement 189
Recordkeeping 189
Required records 189
Retaining business records 190
Bad debts—mobilehome sales 190
For More Information
Website 190
Taxpayer Information Section 190
Questions regarding your account 190
Verifying a permit/license (sales for resale) 190
Faxback service 191
Publications, forms, and regulations 191
Translated publications 191
Tax Information Bulletin 192
Written tax advice 192
Classes 192
Taxpayers' Rights Advocate 192
Field offices 192
Appendix
SAMPLE TRANSACTION 193
Dealer as a Retailer-Consumer Mobilehome Residence Not Installed on a Permanent Foundation 193
Computation of Mobilehome Dealer's Tax Liability 193
Sample Dealer Sales Invoice to the Customer 194
Sample 60% Exclusion Certificate 194
Reader Survey Information <NOT INCLUDED IN THIS OL STUDY GUIDE>

IMPORTANT NOTE: The page numbers including the term "next page" referenced in the text of this BOE publication have not been changed from the original text. The page numbers shown in the above Table of Contents correlates to the page numbers in this study guide. If you want to use the referenced numbers, you will need to view/download the BOE publication from their website or request a copy via email or call BOE to obtain a copy of this publication.

CALIFORNIA BOARD OF EQUALIZATION PUBLICATION #47

Preface

This publication explains how California's sales and use tax laws apply to mobilehomes and factory-built housing. We use the term "mobilehome" instead of "manufactured home" in this publication since that term is used in related state regulations. This publication does not address your obligations under property tax laws, mobilehome registration laws, building permits, and so forth. For example, if you are a mobilehome dealer, you are required to report the sale of a mobilehome to the assessor of the county where the mobilehome is to be installed, regardless of whether the mobilehome is subject to property tax or license fees. If you have questions about: Property tax, please contact your county assessor. Registration and licensing, please contact the Department of Housing and Community Development *(see www.hcd.ca.gov).* If you cannot find the information you are looking for in this publication, please call our Taxpayer Information Section (see page 247-248). Staff will be glad to answer your questions. This publication supplements publication 73, *Your California Seller's Permit.* That publication, provided to first-time applicants for seller's permits, includes general information about obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying, selling, or discontinuing a business; and keeping records. If you do not have a current copy, you may download the publication from our website, use our website ordering system to order a printed copy, or call our Taxpayer Information Section (see page 247-248). We welcome your suggestions for improving this or any other publication. If you would like to comment, please complete the reader survey on page 254 or send your suggestions to: Audit and Information Section, MIC:44 State Board of Equalization P.O. Box 942879 Sacramento, CA 94279-0044

Note: This publication summarizes the law and applicable regulations in effect when the publication was written, as noted on the cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, decisions will be based on the law and regulations.

To contact your Board Member, see *www.boe.ca.gov/members/board.htm*

Dealer Sales and Leases of New Mobilehomes and Related Items

This chapter provides basic information on dealer sales of new mobilehomes and related items. If after reading this chapter you need more information about new mobilehome sales, you may wish to obtain a copy of Regulation 1610.2, Mobilehomes and Commercial Coaches. Ordering information is found on page 31.

Mobilehomes

A "mobilehome" (often called a "manufactured home") is a structure that is:

- Transportable in one or more sections;
- Designed and equipped to contain not more than two dwelling units; and
- To be used with or without a foundation system.

A "dwelling unit" is:

- One or more rooms people can live in;
- Designed to be occupied by one family; and
- A living facility for sleeping, cooking, and eating purposes, with sanitation and utility fixtures, such as plumbing, heating, air conditioning, and electrical systems.

Recreational vehicles, commercial coaches, and factory-built houses are *not* considered mobilehomes.

For information on sales of factory-built housing, see page 23.

If you manufacture mobilehomes or manufactured homes and wish to have them approved for sale in California, please contact the Department of Housing and Community Development for more information. See *www.hcd.ca.gov*

For information on the sale or purchase of recreational vehicles and commercial coaches, you may wish to obtain *for Motor Vehicle Dealers* (see ordering information on page 31).

Sales for a copy of our publication 34, *Tax Tips* nonresidential use

As a mobilehome dealer, you are the retailer of a new mobilehome you sell for any use *other than* occupancy as a residence. For example, you might sell a mobilehome to a building contractor for use as an office on a construction site. As a retailer, if the new mobilehome is not sold for occupancy as a residence, you generally owe sales tax on the full selling price of the mobilehome unless the sale is otherwise exempt, such as a sale to the U.S. government.

Sales for residential use

Dealer may be a "retailer-consumer"

A mobilehome dealer is considered a "retailer-consumer" of any new mobilehome sold to a customer for occupancy as a residence when these two conditions apply:

- The mobilehome will be subject to property tax after its sale. All new mobilehomes sold for residential use are subject to local property tax. This is true whether they are installed on a permanent or temporary foundation; and
- The sales to your customer would ordinarily be subject to sales tax (for example, it is not a sale for resale, a sale to the U.S. government, or a sale in interstate or foreign commerce). For more exemptions and exclusions that may apply to mobilehome sales, see page 10.

Manufacturers can also be retailer-consumers under certain circumstances. See page 4 for more information.

Use tax applies—not sales tax

As a dealer who is a retailer-consumer of a mobilehome, use tax is imposed upon you, as the consumer. Sales tax does not apply to the amount you charge your customer for the mobilehome and integral items you attach to it such as carpeting, wall paneling, room partitions, and built-in appliances.

When sales tax does not apply as described above, you will owe *use tax* based on 75 percent of your purchase price which includes all of the following:

- The cost of the mobilehome;
- All items you purchase and attach as an integral part of the mobilehome before the sale or under the sales contract, such as carpeting, wall paneling, room partitions, and built-in appliances; and
- Draperies and freestanding refrigerators and ranges included in your sale of the mobilehome, if they were not included in the price you paid for it.

When you sell a mobilehome as a retailer-consumer, you cannot collect an amount for tax reimbursement from your customer.

Please note: Your purchase price of a new mobilehome also *includes any labor charges you paid another person or business* for installing any of the items listed above. For a sample transaction showing amounts subject to tax in a dealer sale of a mobilehome not installed as real property, see page 35.

Certification of exemption

As the "retailer-consumer," the dealer is required to declare and pay tax on 75 percent of the dealer's purchase price of the mobilehome. To qualify for this special tax exemption, you must obtain and keep written certification at the time of the sale confirming that your customer will use the mobilehome as a residence. An exemption certificate is provided in the appendix, on page 38 of this publication, and is available from our website at *www.boe.ca.gov* which may be used for this purpose.

Date of sale

Generally, you owe the use tax as of the date you sell the mobilehome. The date of sale is generally considered to be the date you transfer title (ownership) to the purchaser. However, if you retain title to the mobilehome as security for future payments, the date of sale is the date you transfer possession of the mobilehome to the buyer. *Sale with installation* When your sale includes installing the mobilehome on a permanent foundation, the date of sale is the date the installation is complete. Installation is complete when you deliver possession of the mobilehome to the purchaser or when escrow closes on the sale, whichever happens *first.*

Sales of accessories and other items

Items not attached to real property

Mobilehome dealers sometimes sell furniture and other accessory items that are not attached to the mobilehome or other real property. Those items are *not* an integral part of the mobilehome and do not qualify for the special tax treatment previously described. You are the retailer when you sell those items, so you owe sales tax based on their full selling price. If you sell these items with the mobilehome, you should list them separately on your customer invoice. And you should be careful to exclude the *cost* of these items when you calculate the 75 percent use tax on a mobilehome sale (see sample transaction on page 35).

Items attached to real property

You may also sell accessory items that *are* attached to real property, including mobilehomes that qualify as real property (see page 16). Typical items that fall in this category include:

- Window awnings
- Skirting
- Air-conditioning units
- Sunroom or patio additions

If you sell but *do not* attach or install accessory items of this type, you are the retailer of the items and owe sales tax on their sale. See the sample transaction on page 35.

But if you *do* attach the items to real property, you are considered a construction contractor, and additional sales and use tax rules apply. For more information, see chapter 5, page 16, “Mobilehomes and Accessories Installed as Real Property.”

Manufacturers as retailer-consumers

Under some circumstances, mobilehome manufacturers may also be retailer- consumers. If a manufacturer sells a new mobilehome directly to a purchaser for occupancy as a residence without going through a licensed dealer, the manufacturer becomes a retailer-consumer. When a manufacturer is a retailer-consumer, the manufacturer owes tax based on 75 percent of the price for which the manufacturer would sell a similar mobilehome, ready for installation, to a retailer-consumer in California.

Applying tax to sales-related charges

Transportation charges

Charges for transporting a mobilehome from supplier to retailer-consumer

When you are a retailer-consumer selling a mobilehome for residential use, you may need to include transportation costs in the purchase price on which you base your 75 percent use tax calculation. You should include transportation charges in your purchase cost when either of the following apply:

- The supplier sells you the mobilehome for a price that includes delivery; or
- The supplier charges you for delivery and delivers the mobilehome using the supplier’s own trucks and trailers rather than a common or contract carrier.
  Exception: The delivery charges are not taxable if title transfers to you before shipment and the supplier separately states the charges.

However, if all of the following conditions apply to a mobilehome shipped to you, you should not include the shipping charges in your taxable cost:

- The supplier stated the shipping charges separately from the price of the mobilehome;
- The mobilehome was delivered by contract or common carrier; and
- The shipping charges did not exceed the supplier’s delivery cost.

Charges for transporting a mobilehome from retailer to purchaser

As a mobilehome retailer, you may owe tax on your charges for transporting a mobilehome to a purchaser in either of the following situations:

- You sell the mobilehome for a purpose other than residential use; or
- You do not qualify as a retailer-consumer for the transaction.

However, your delivery charges are *not* taxable if you deliver the mobilehome using a common or contract carrier, list the charges separately, and charge your customer no more than your actual delivery cost. Any excess charges are taxable.

For more information, you may review Regulation 1628, *Transportation Charges*. (See page 31.)

Setup charges

The setup of a mobilehome ordinarily includes services such as site preparation, placing of supports, joining sections, leveling, carpet installation, and so forth. The setup may be done by the seller or another person.

Carpet installation

- When you are a retailer-consumer, tax does not apply to your cost for, or charges for labor when you install the carpet.
- When you are a retailer-consumer and pay someone else to install the carpet in a new mobilehome that is not attached to a permanent foundation (not real property), your 75 percent use tax calculation must include the amount you pay for that work.
- Charges for labor to install carpeting in a mobilehome already on a permanent foundation are not taxable. (See chapter 5, "Mobilehomes and Accessories Installed as Real Property," which begins on page 16.)

Joining sections

- A retailer-consumer's charges for joining sections of a mobilehome are not taxable when the retailer-consumer does the work.
- When a retailer-consumer pays someone to join sections of a mobilehome that is (1) not real property, but (2) sold as a residence, the retailer-consumer must include the cost for the work in their 75 percent use tax calculation.
- A retailer's charges for joining sections of a mobilehome that is *not real property* are taxable (as fabrication labor).

Miscellaneous

- **Jacks and pads.** Dealers are retailers of jacks and pads used as supports for mobilehomes. Their sale is subject to sales tax.
- **Other services.** Other costs or charges for services included in setting up mobilehomes generally are not taxable.

Escrow fees

Tax does not apply to separately stated charges for escrow fees for the sale of a new or used mobilehome.

Leases of mobilehomes

Tax does not apply to amounts you receive for lease payments on a mobilehome that is real property and subject to local property tax. However, tax may apply to the receipts from lease payments for a new mobilehome that is not real property.

Mobilehomes first leased before July 1, 1980

For mobilehomes that are not real property, use tax generally applies to the lease payments if the mobilehome was acquired *without payment of sales or use tax* and first leased before July 1, 1980. Generally, the lessor collects the use tax from the lessee and pays the tax to us. If that mobilehome becomes real property subject to local property tax, the lease payments will no longer be taxable. If sales or use tax *was* paid on a mobilehome when it was first acquired, and it is being leased in substantially the same form that existed at the time of purchase, the lease payments on the mobilehome are not taxable.

Mobilehomes first leased on or after July 1, 1980

Mobilehome leased for residential use Tax does not apply to lease payments you receive from a lessee who uses a new mobilehome as a residence. However, as a lessor, you owe use tax on the value of the mobilehome unless you paid sales or use tax when you bought it. Use tax is due at the time you lease the mobilehome, calculated as follows:

- If you obtained the mobilehome from a manufacturer, you owe use tax based on 75 percent of the amount you paid the manufacturer.
- If you obtained the mobilehome from a vendor, you owe use tax based on 75 percent of the amount the vendor paid for the mobilehome. When you don't have evidence of that amount, you should calculate the use tax based on 60 percent of the amount you paid the vendor.

Mobilehome leased for another purpose

Lessors owe tax on their full retail purchase price for new mobilehomes leased for a nonresidential use.

Leases of used mobilehomes

Tax does not apply to receipts from the lease of used mobilehomes that were first sold new in California on or after July 1, 1980.

For more information

For more information on the leasing of mobilehomes, you can request a copy of Regulation 1660, *Leases of Tangible Personal Property–in General,* or publication 46, *Tax Tips for Leasing of Tangible Personal Property in California.* See page 31 for ordering information.

Dealer Purchases and Use of New Mobilehomes and Related Items

This chapter describes common mobilehome dealer purchases, including purchases for resale. For more general information on purchases for resale and issuing resale certificates, see publication 73, Your California Seller's Permit, *and publication 42,* Resale Certificate Tips. *You may also obtain a copy of Regulation 1668,* Sales for Resale, *and Regulation 1669,* Demonstration, Display and Use of Property Held for Resale— General. *(See page 31.)*

Purchases for resale, in general

As a mobilehome dealer, you may issue resale certificates to manufacturers and suppliers when you buy items you will sell as a retailer or retailer-consumer. You may also issue resale certificates when you buy items that will become a physical part of products you sell. Common products you may purchase for resale include:

- Mobilehomes.
- Items you will attach to mobilehomes before you sell them, such as carpeting, wall paneling, room partitions, and built-in appliances.
- Mobilehome accessory items you will not attach to real estate.
- Furniture and home furnishings, under certain circumstances (see below).

Furniture and furnishings used to enhance mobilehomes for sale

You may purchase furniture and other home furnishings to enhance the appearance of a mobilehome while not offering the furnishings for resale. For example, you might furnish a model mobilehome to make it more appealing to potential buyers. However, you may buy furniture or accessories for resale if you do both of the following. You must:

- Regularly include the items with the sale of a mobilehome; and
- Offer the items for sale in your business and not use them before sale for any purpose other than demonstration and display.

Taxable use of a mobilehome

You owe use tax when you buy a new mobilehome for resale and then use it for a purpose other than for demonstration and display. For example, you might buy a new mobilehome and use it as an office.

When you use a mobilehome before you sell it or instead of selling it, you are considered the consumer of the mobilehome and use tax applies to your full purchase price. You should pay the use tax with your sales and use tax return for the period in which you first use the mobilehome as an office or other facility.

Example:

You are a mobilehome dealer who maintains an inventory of mobilehomes you purchased for resale. You take one of those mobilehomes out of inventory and give it to your daughter to use as a temporary residence while her home is under construction. The gift of the mobilehome is a taxable use. Since you did not pay tax on the mobilehome when you bought it, you now owe use tax based on its full purchase price. By withdrawing the mobilehome from your inventory and gifting it to your daughter, you are making a taxable use of the mobilehome. You are not regarded as a "retailer consumer" since you did not ***sell*** the mobilehome to your daughter for occupancy as a residence.

Consumer Purchases of New Mobilehomes from Out-of-State Dealers and Manufacturers

This chapter discusses the purchase of mobilehomes by consumers who have mobilehomes delivered to them in California. If a consumer takes possession of a mobilehome and then brings it into the state, other rules may apply. For more information on those situations, see our website: www.boe.ca.gov

In general

Consumers who buy new mobilehomes from out-of-state retailers for delivery and use in California generally owe use tax on their purchase. The use tax rate in a particular location is the same as the sales tax rate. The Department of Housing and Community Development collects the use tax when the mobilehome is first registered in the state.

Purchases for residential use

From dealers

The consumer owes use tax based on 75 percent of the price the out-of-state dealer paid for the mobilehome. When the purchaser does not have satisfactory proof of that price, such as a statement from the dealer or an invoice, the use tax is based on 60 percent of the amount paid to the dealer.

From manufacturers

If you obtain a mobilehome for use as a residence, from an out-of-state manufacturer, you owe use tax based on 75 percent of the amount you paid the manufacturer.

Purchases for nonresidential use

When a mobilehome is used for a nonresidential purpose, use tax is due on the full purchase price of the mobilehome.

When is the use tax due?

For purchases of mobilehomes, the use tax is due when the property is first used in California.

Related Sales and Use Tax Exemptions

There are a number of exemptions and exclusions in the California Sales and Use Tax Law. The retailer-consumer provisions apply only *when a dealer or manufacturer's sale would ordinarily be subject to sales tax. If after reading this chapter and related resources you're still not sure whether your transaction is taxable, please call our Taxpayer Information Section for help (see page 31).*

Sales in interstate and foreign commerce

Shipments outside the state—when sales tax does not apply

Sales tax does not apply when the contract of sale requires the mobilehome to be shipped to a point outside this state by you, the retailer, by means of:

1. Facilities operated by the retailer; or
2. Delivery by the retailer to a carrier, customs broker or forwarding agent, whether hired by the purchaser or not, for shipment to an out-of-state location.

The term "carrier" means a person or firm regularly engaged in the business of transporting for compensation tangible personal property owned by other persons, and includes both common and contract carriers. The term "forwarding agent" means a person or firm regularly engaged in the business of preparing property for shipment or arranging for its shipment. An individual or firm not otherwise engaged in this type of business does not become a "carrier" or "forwarding agent" simply by being designated by a purchaser to receive and ship goods to a point outside this state.

Proof of exemption

Bills of lading or other documentary evidence of the delivery of the property to a carrier, customs broker, or forwarding agent for shipment outside this state must be retained by the retailer to support exempt interstate sales.

Exports

When sales tax does not apply Sales tax does not apply when the property is sold to a purchaser for shipment abroad and is shipped or delivered by the retailer to a foreign country. To be exempt as an export:

- The property must be intended for a destination in a foreign country;
- It must be irrevocably committed to the exportation process at the time of sale; and
- The property must actually be delivered to the foreign country prior to any use of the property.

Movement of the property into the exportation process does not begin until the property has been shipped, or entered with a common carrier for transportation to another country, or has been started upon a continuous route or journey which constitutes the final and certain movement of the property to its foreign destination. There has been an irrevocable commitment of the property to the exportation process when the property is sold to a purchaser for shipment abroad and is shipped or delivered by the retailer in a continuous route or journey to the foreign country by means of:

- Facilities operated by the retailer;
- A carrier, forwarding agent, export packer, customs broker or other person engaged in the business of preparing property for export, or arranging for its export; or
- A ship, airplane, or other conveyance furnished by the purchaser for the purpose of carrying the property in a continuous journey to the foreign country, title to and control of the property passing to the purchaser upon delivery.

Proof of exemption

Bills of lading, import documents of a foreign country or other documentary evidence of export must be obtained and retained by retailers to support exempt exports.

For more information, see Regulation 1620, *Interstate and Foreign Commerce,* publication 101, *Sales Delivered Outside California,* and publication 61, *Sales and Use Tax Exclusions.* Forms BOE-447, *Statement Pursuant to Section 6247 of the California Sales and Use Tax Law*, and BOE-448, *Statement of Delivery Outside California*, are available to document your claimed exempt sales (see ordering information on page 31).

Sales to the United States government

Tax does not apply to sales and leases to any of the following:

- The United States or its unincorporated agencies and instrumentalities.
- Any incorporated agency or instrumentality of the United States that is wholly owned by either the United States or a corporation wholly owned by the United States.
- The American Red Cross, including its chapters and branches.

Examples of entities that qualify under this exemption are found in our publication 102, *Sales to the U.S. Government* (see ordering information on page 31).

This exemption does not extend to construction contracts with the United States government if under the contract, you supply a mobilehome and attach it to a foundation. For more information, you may wish to obtain a copy of Regulation 1521(c), *Construction Contractors.* Ordering information is on page 31. You must document all exempt sales to the U.S. government and retain the documentation in your records. Documentation should include the U.S. government purchase order or other documents demonstrating direct payment by the U.S. government. For more information, you may obtain a copy of Regulation 1614, *Sales to the United States and its Instrumentalities*, and publication 102, *Sales to the U.S. Government.* (See page 31.)

Sales to Indians living on reservations

Tax does not apply to the sale of a new mobilehome when all of the following conditions apply:

- The purchaser is an Indian who lives on a reservation. The terms *Indian* and *reservation* are defined in Regulation 1616, *Federal Areas*;
- The mobilehome is delivered to the Indian buyer on a reservation; and
- Title (ownership) to the mobilehome transfers to the Indian purchaser on a reservation.

Transfer of title (ownership) on the reservation

How tax applies to a particular sale or purchase by an Indian often depends on whether ownership of the item being sold or purchased transfers to the Indian purchaser on the reservation. *Sale by retailer not located on a reservation* Retailers located outside a reservation may sell to Indian buyers who request delivery on a reservation. For a sale to qualify as a transfer of title (ownership) on the reservation, all of the following conditions must apply:

- The contract of sale or other sales agreement cannot transfer ownership of the item to the Indian buyer before the item is delivered on the reservation; and
- The Indian buyer cannot take possession of the item before delivery on the reservation.

In addition, the retailer generally must deliver the product by:

- Using the retailer's vehicle; or
- By common carrier or contract carrier, when both of the following requirements are met:
  — The contract of sale or sales invoice must include a statement specifically requiring delivery at the reservation, and the bills of lading must have an F.O.B. destination clause.
  — The goods are in fact delivered to the Indian reservation.

When delivery does not take place as described here, ownership of the item being sold or purchased generally transfers to the Indian buyer off the reservation.

Please note: This is a general description of transfer of ownership on the reservation. Other specific rules may apply to certain types of sales and leases.

Claimed exempt sales to Indians require documentation

Retailers

When you make a claimed exempt sale to an Indian, you should keep copies of documents that BOE auditors can use to verify that your sale is exempt. You need:

- One or more documents that show the purchaser is an Indian, such as a tribal ID card, a letter from a tribal council, or a letter from the U.S. Department of the Interior (or Bureau of Indian Affairs);
- Documents to show that ownership of the merchandise transferred to the Indian buyer on the reservation and delivery occurred there, such as contracts of sale, invoices, bills of lading, delivery receipts, and freight invoices; and
- An exemption certificate from the Indian purchaser stating that the Indian purchaser lives on a reservation. You may obtain a copy of BOE-146-RES, *Statement of Delivery on a Reservation,* for this purpose. (See page 31) *Purchasers*

If you are an Indian who lives on a reservation, you will need to prove to the retailer that you qualify for the tax exemptions explained in this publication. You may need to give the retailer both of the following:

- A copy of a document showing that you are an Indian, such as a tribal ID card, a letter from your tribal council, or a letter from the U.S. Department of the Interior (or Bureau of Indian Affairs).
- An exemption certificate stating that you live on a reservation and other required contents (see next section).

If you are an Indian organization, you must also provide documents to prove that you qualify for the tax exemptions explained in this publication. You may need to give the retailer:

- Documents to show that all of your members or partners are Indians, such as articles of incorporation and partnership agreements;
- If your organization is a corporation, documents to show it is organized under tribal authority, such as the organization's articles of incorporation; and
- An exemption certificate containing certain other required content (see next section).

Exemption certificates

An *exemption certificate* based on an Indian's residency on a reservation must be in writing. A BOE-146-RES, *Statement of Delivery on a Reservation,* or a simple document in the form of a letter may be used. The certificate must include all of the following:

- *For individuals:* The date and the Indian purchaser's name, home address, and signature. *For Indian organizations:* The date, the organization's name and address, and the title and signature of the person completing the certificate;
- A description of the products or merchandise purchased under the certificate; and
- A statement that the property is being purchased for use on a reservation by an Indian who lives on a reservation. If you accept an exemption certificate from an Indian purchaser in good faith, our audit staff should not question the residency of the purchaser. However, if you have evidence or knowledge that the Indian may not live on a reservation (for example, if the Indian asked you to send the bill to a non-reservation address), you should not accept an exemption certificate in good faith unless the Indian buyer gives you other reliable documents to verify residency on a reservation.

Please note: The Indian buyer is not required to live on the same reservation where ownership transfers. In other words, a resident of Reservation A could qualify for the exemption even when taking ownership of merchandise

on Reservation B. Regulation 1667, *Exemption Certificates,* and BOE-146-RES, *Statement of Delivery on a Reservation,* are available from our website or by calling our Taxpayer Information Section. (See page 31)

Use off the reservation

A sale of a mobilehome to an Indian buyer who lives on a reservation and takes ownership and delivery on a reservation will not be exempt from tax if the mobile- home is used outside the reservation more than one-half of the time in the first 12 months after the sale. In this case, the Indian buyer owes the use tax and is responsible for paying it:

- By using the simple form found in our publication 79-B, *California Use Tax;*
- On the Indian buyer's California income tax return; or
- If the Indian buyer has a California seller's permit, when filing the *Sales and Use Tax Return.*

Married couples or registered domestic partners

When an off-reservation retailer makes a sale to both members of a married couple or registered domestic partners, and one of the couple is an Indian who resides on a reservation, the following rules apply:

- Tax does *not* apply to the one-half interest in the property attributable to the Indian partner or spouse who lives on a reservation if the ownership of the merchandise is transferred to the couple or partners on the reservation, and title to the merchandise transfers on the reservation. The Indian spouse or partner may be liable for use tax if the property is used off the reservation more than on the reservation during the first 12 months following delivery.
- Tax does apply to the one-half interest in the property attributable to the non Indian partner or spouse.

Mobilehomes and Accessories Installed as Real Property

Mobilehomes are considered real property when they are installed on permanent foundations. This chapter discusses sales and use tax issues related to mobilehomes and accessories that are considered real property after installation. You may obtain a copy of Regulation 1521, Construction Contractors, *or publication 9,* Tax Tips for Construction and Building Contractors *(see ordering information on page 31).*

Real property

Real property generally means land and improvements to land, including houses, and other structures, fences, orchards, and so forth. Generally, only mobilehomes *fastened or pinned to a "permanent foundation"* qualify as real property. A permanent foundation is considered to be an assembly of building materials that is all of the following:

- Constructed below or partly below ground level;
- Not intended to be removed from the installation site;
- Designed to support a structure; and
- Engineered to resist natural forces such as wind, rain, snow, and so forth.

Other foundation systems, including assemblies of steel or cement and block commonly called "piers" or "jacks and pads" are considered nonpermanent or temporary foundations. Mobilehomes on this kind of foundation are personal property rather than real property.

Mobilehome sales to construction contractors

A dealer or manufacturer is considered to be the retailer-consumer of a mobilehome sold to a construction contractor who will install the mobilehome on a permanent foundation for occupancy as a residence. For details on how tax applies if you are a retailer-consumer, see chapter 1, page 2, "Sales for residential use" and page 4, "Manufacturers as retail-consumers." The dealer's or manufacturer's tax liability is as follows:

- **If a manufacturer** sells a new mobilehome for occupancy as a residence to a construction contractor, directly to the customer, or without going through a licensed dealer, the manufacturer is the "retailer-consumer" and must report and pay tax computed on 75 percent of the sales price for which a similar mobilehome, ready for installation, would be sold by that manufacturer to a dealer who is a "retailer-consumer" in this state.
- **When a dealer** sells a mobilehome to a construction contractor to be affixed to land for occupancy as a residence, the dealer must report and pay use tax measured by 75 percent of his or her own purchase price of the mobilehome, including the cost of any accessory items that are an integral part of the mobile-home being sold.

A construction contractor who is not licensed as a mobilehome dealer may not issue a resale certificate for the purchase of a mobilehome that will be installed on a permanent foundation.

Dealers and manufacturers as construction contractors

You are considered a construction contractor for sales and use tax purposes when you furnish and install items that you are responsible to attach to real property. Please refer to publication 9, *Tax Tips for Construction and Building Contractors* (see ordering information on page 31).

Dealers

If you are both a construction contractor and a licensed mobilehome dealer for a transaction, you are a retailer-consumer when you sell a mobilehome that will be installed on a permanent foundation and you may issue a resale certificate for the purchase of the mobilehome. As a retailer-consumer, you must report tax on 75 percent of the cost of the mobilehome on the return for the period during which the mobilehome is installed on a permanent foundation. For more on how tax applies to your sale, see page 2.

Manufacturers

Manufacturers are considered construction contractors when they sell a mobilehome without going through a dealer and install the mobilehome on a permanent foundation. The manufacturer is the consumer of the materials and the retailer of any fixtures supplied and installed. (When the customer is the U.S. government, the manufacturer is the consumer of all related fixtures *and* materials and the retailer of furniture and unattached accessory items.) See the next section for information on sales of materials and fixtures.

Contractors' charges for work on real property

You may furnish and attach items that become a part of the mobilehome, either as part of its initial sale or as part of repairs. For sales and use tax purposes, work done on a mobilehome that is considered real property is the same as work done in any other construction contract.

Items that are not an integral part of the mobilehome

Construction contractors are retailers when they sell accessory items that are not an integral part of the mobilehomes, such as furniture or other home furnishings (see "Items not attached to real property," on page 3). The sale of those items is subject to sales tax.

Sales of materials

In general, construction contractors are consumers of materials which they furnish and install in the performance of lump-sum construction contracts. Either sales tax or use tax applies with respect to the sale of the materials or the use of the materials by the construction contractor. Examples include wall-to-wall carpeting, roofing, tile, hardware, flooring, wallboard, paint, concrete, fencing materials, decking, lumber, and so forth.

If you bill your customer one *lump-sum* amount for work done on real property, you are the consumer of any materials you purchase and install for the contract. Tax is due on your purchase of those materials. You should not collect any tax from your customer.

You are also generally considered the consumer in a *time-and-material* construction contract if you pay tax when purchasing your materials and do not separately state charges for tax to your customer. However, you are not a consumer in a time and materials contract when you bill a separate amount for the materials and one of the following is true:

- The contract explicitly states that ownership of the materials transfers to the customer before they are installed; or
- You charge your customer for "sales tax" computed on a marked-up billing for materials.

In either of these cases, you are considered the retailer of the materials you furnish for the job and your charges for them (their retail selling price) are taxable.

Sales of fixtures

Items that are accessory to a building or structure and that do not lose their separate identity and function after installation are considered *fixtures.* Examples include skirting, air conditioning units, plumbing fixtures, shutters, and window awnings.

Your sale of fixtures is generally taxable, but your charges for installing them are not.

Labor charges

Generally, tax does not apply to your charges for labor for work done on real property. However, some types of contractor labor are taxable. For more information, please see publication 9, *Tax Tips for Construction Contractors* (see page 31).

Subcontracted work on real property

When dealers hire contractors to perform work on real property, the contractor generally remains liable for the sales tax as explained on the previous page. The dealer's charges to the purchaser for the work are not taxable.

For example, you might sell a mobilehome to a purchaser and include a patio cover in the sale. You hire a contractor to furnish and install the patio cover. The contractor will install the patio cover by attaching its supports to a concrete slab and bill you for the work in one, lump-sum amount. A construction contractor may contract to sell materials and also to install the materials sold. In the case of a time and materials contract, if the contractor bills the customer an amount for "sales tax" computed upon a marked up billing for the materials, the contractor is considered to be a retailer of the materials.

The contract must explicitly provide for the transfer of title to the materials prior to their installation and separately state the sales price of the materials, from the charge for installation. The contractor's lump-sum charges to the dealer are not taxable.

Sales and Purchases of Used Mobilehomes

This chapter provides information about the sale of used mobilehomes by dealers and other sellers. It also includes information on purchases from other sellers. For more information, you may obtain a copy of Regulation 1610.2, Mobilehomes and Commercial Coaches*. See page 31 for ordering information.*

Used mobilehome defined

A "used mobilehome" is a mobilehome that was previously sold *and* registered or titled with any of the following:

- The Department of Housing and Community Development or with an appropriate agency or authority.
- Any other state, the District of Columbia, or a territory or possession of the Unites States.
- A foreign state, province, or country.

Sales of used mobilehomes that are subject to property taxes

Generally, neither sales tax or use tax applies to the sale or use of used mobile-homes that are considered real property and subject to property taxes. In general, property tax applies to a used mobilehome situated on a permanent foundation that meets either of the following conditions:

- It was originally sold new on or after July 1, 1980; or
- It was originally sold new before July 1, 1980, and later transferred to the property tax rolls.

Sales of used mobilehomes subject to annual license fees

In general, sales or use tax applies to the sale or purchase of a used mobilehome that is subject to annual license fees under the Health and Safety Code—in other words, mobilehomes that must be registered annually with the Department of Housing and Community Development (HCD). Mobilehomes that are considered real property are not subject to annual license fees.

Sales by dealers

Sales tax generally applies to a dealer's charges when not acting as a broker, for the sale of a used mobilehome that is subject to annual license fees (see "Dealers as brokers," next page). "Dealers," in this situation, include licensed manufacturers, dealers, distributors, or branches or representatives of manufacturers. The sales tax is based on the total price you charge for the mobilehome, including any separately listed charges for awnings, skirting, and other accessory items that are not attached to a mobilehome situated on a permanent foundation or otherwise attached to real property. However, if you sell a used mobilehome in place, tax does not apply to any existing real property improvements you list separately on your invoice or contract, such as cement and landscaping.

Dealers as brokers

Sometimes a mobilehome dealer will act as a broker and sell a used mobilehome on behalf of another person or business. In those situations, the *purchaser* of the mobilehome owes use tax on the *retail value* of the mobilehome determined by referencing a current recognized value guide. For information on what retail value means in this case, see "Determining retail value," on page 22.

Purchases from parties other than a dealer

When a person buys a used mobilehome from someone other than a dealer that is required to be registered annually under the Health and Safety Code, the *buyer* generally owes use tax on the purchase when you register the mobilehome with the Department of Housing and Community Development. Examples include sales by:

- Dealers who are acting as brokers rather than retailers.
- Licensed real estate brokers acting consistent with Business and Professions Code section 10131.6.
- Private parties.

The tax is based on the retail value of the mobilehome, as explained in “Determining retail value,” on page 22.

Possible exempt sales

Sales within a family

Tax may not apply to the sale or purchase of a used mobilehome when the seller and purchaser are family members and the seller is *not* in the business of selling mobilehomes.

For example, neither sales nor use tax applies to the sale or use of a mobilehome sold to the purchaser by the purchaser’s:

- Parent, grandparent, child, grandchild, spouse, or registered domestic partner.
- Brother or sister, provided both parties to the transaction are under age 18 and related by blood or adoption.

Purchasers who claim an exemption from use tax under this provision will need to provide proof of the family relationship when they register the mobilehome.

To qualify for a use tax exemption or tax clearance certificate see publication 52, *Vehicles and Vessels, How to Request a Use Tax Clearance for DMV Registration,* (see page 31), for the circumstances under which your purchase may qualify for a tax clearance and details on how to obtain one. While the publication does not specifically refer to mobilehomes, the publication does include a BOE-106, *Vehicle/Vessel Use Tax Clearance Request.* This form includes a specific line for mobilehomes. After fulfilling the requirements, we will issue you a BOE-111, *Certificate of Motor Vehicle or Mobilehome Use Tax Exemption,* allowing your use tax exemption.

If there is a question about whether your purchase qualifies for an exemption and you want the department to act on your application right away, you may pay the use tax at the time of registration and later apply to us for a refund. Please see publication 117, *Filing a Claim for Refund,* for instructions. (See page 31.)

Determining retail value

Current value guides

The use tax due on the purchase of a used mobilehome is based on the mobilehome’s retail value. That value is determined using either of the following current, recognized value guides covering the particular period in which the sale, storage, use, or other consumption occurs:

- The Kelley Blue Book Manufactured Housing and Mobilehome Guide; or
- The National Automobile Dealer Association’s (NADA) Mobilehome Manufactured Housing Appraisal Guide.

If the mobilehome is not listed in the guide or the sales price is lower than the listed value, other methods are used to determine the value.

Other valuation methods

If the actual sales price of a used mobilehome is less than the current value specified in the value guide, the tax will be based on the actual sales price of the mobilehome as shown in the purchase documents.

If the value guide does not list the model or manufacturer of a used mobilehome, the value will be determined by using the highest value in the guide according to age and size, or the actual sales price, whichever is lower.

“Actual sales price” means the total contract price, including but not limited to the value of the mobilehome, in-place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings, or other items not part of the mobilehome, and documentation fees.

Factory-Built Housing

This chapter describes sales and use tax issues for factory-built housing. For more information, you may obtain a copy of Regulation 1521, Construction Contractors, *Regulation 1521.4,* Factory-Built Housing, *and publication 9,* Tax Tips for Construction and Building Contractors. *See ordering information on page* 31.

Factory-built housing

Factory-built housing may include:

- A residential building. • Dwelling unit.
- An individual dwelling room or combination of rooms.
- A building component, assembly, or system, so manufactured that all of its parts cannot be inspected prior to affixation to realty without disassembly, damage, or destruction.

This definition includes units designed for use as part of an institution for resident or patient care, which is either wholly manufactured or is substantially manufactured at an offsite location. Units under this definition, generally must be wholly or partially assembled onsite in accordance with regulations adopted by the Commissioner of Housing and Community Development of the State of California or in accordance with applicable local building requirements if such factory-built housing is inspected and approved by the local enforcement agency authorized under contract with the department.

Factory-built housing may include:

- "Modular housing," which is a three dimensional box or cube-shaped structure or structures making up one or more rooms of a residential building, or an institution or part thereof for resident or patient care.
- "Sectionalized housing," which generally consists of two modules which form a total living unit of a residential building, or an institution or part thereof for resident or patient care.
- "Modular," "utility," or "wet cores," which are three dimensional habitable rooms or modules and which are generally comprised of a kitchen or a bathroom or bathrooms of a residential building, or an institution or part thereof for resident or patient care.
- "Factory-built housing," also includes panelized construction sold by the builder or manufacturer of the panelized construction and which consists of a package including wall panels, floors, and a roof that will form a complete housing structure.

Factory-built housing does *not* include any of the following:

- Mobilehomes, as defined by Regulation 1610.2, *Mobilehomes and Commercial Coaches.*
- Precut housing packages, where more than 50 percent of the package consists only of precut lumber.
- "Panelized construction," such as walls or components that may become one or more rooms of a building.
- Porches, awnings, materials, fixtures, or components which are not purchased as a part of the factory built housing package.
- Freestanding appliances, such as freestanding refrigerators, stoves, washers, and dryers, which are included in the sales or purchase price of, and installed as part of, the factory-built housing package.
- Rugs (except wall-to-wall carpets), draperies, freestanding cabinets, furniture, or other furnishings.

The term "consumer" as used herein means any person who purchases factory built housing for use in erecting or remodeling a building or other structure on land to be used for residential dwelling purposes or as an institution or part thereof for resident or patient care.

For more information, you may wish to obtain Regulation 1521.4, *Factory-Built Housing*.

General application of tax

The sale of factory-built housing to a "consumer" is subject to sales tax. However, under certain circumstances, 60 percent of the sales price is not taxable. Tax applies to only 40 percent of the sales price of factory-built housing when you sell the housing:

- Directly to a "consumer" to be used for residential dwelling purposes on land; or
- For use as an institution for resident or patient care.

Certificate of Exclusion

To pay tax on only 40 percent of the sales price, you must obtain a "60 percent exclusion certificate" from your customer (see Appendix, on page 37). You should keep the certificate in your records.

Consumers who buy factory-built housing in a transaction that appears to qualify for the partial exclusion from the tax owe use tax based on the entire purchase price if they use the housing for any purpose other than a residence or qualifying institution. See "Taxable uses of factory-built housing," on the next page.

Manufacturers and factory-built housing

If you are a manufacturer of factory-built housing, you can be a dealer, a construction contractor, or both. When you sell factory-built housing to a customer who will install it, you are the dealer. Tax applies to your sale as noted in the previous section.

A manufacturer who contracts to furnish and install factory-built housing is considered a construction contractor for sales and use tax purposes. You are generally the consumer of materials you use and the retailer of fixtures you install in or on the structure which were *not* sold or purchased as part of the factory-built housing package, and tax generally applies. (For more detailed information, see explanation of materials and fixtures on page 18.) For additional information on materials and fixtures, you may obtain a copy of publication 9, *Tax Tips for Construction and Building Contractors,* and Regulation 1521, *Construction Contractors* (see page 31).

Taxable uses of factory-built housing Purchaser or consumer owes tax

Tax applies to 40 percent of the sales price of factory-built housing when it is sold to a "consumer." If factory-built housing is purchased free of tax, for resale, and is then installed and assembled into buildings by the consumer or on his behalf, tax applies to 40 percent of the sales price of the factory-built housing provided these buildings are to be *used for residential dwelling purposes, or as an institution or part thereof for resident or patient care.* If any other use is made of the factory-built housing, tax applies to the full sales price (or to 60 percent of the sales price if purchased tax paid with tax measured by 40 percent of the sales price).

Seller owes tax

A seller of factory-built housing owes use tax on a factory-built house withdrawn from untaxed resale inventory and used for any purpose other than resale. The seller should report the taxable use and pay the tax with the sales and use tax return for the period in which the house was removed from inventory.

Items that are not part of factory-built housing

The installing contractor is the retailer of the following items even when they are included in a factory-built housing package. Tax applies to their selling price.

Such items include:

- Freestanding appliances
- Area rugs and throw rugs
- Draperies
- Freestanding cabinets
- Furniture and home furnishings

Sample factory-built housing transactions

Transaction A

A dealer purchases factory-built housing from a manufacturer. The dealer will either sell or lease the completed structure for use as factory-built housing, and install the factory-built housing on either their real estate or on the customer's real estate.

In this transaction the manufacturer is the retailer of factory-built housing. The manufacturer must report and pay sales tax based on 40 percent of the selling price to the dealer, in accordance with Regulation 1521.4, subdivision (c). The manufacturer must also obtain a 60 percent exclusion certificate from the dealer. The dealer's subsequent sale or lease of factory-built housing that is affixed to real estate is a real estate transaction.

Transaction B

A manufacturer sells factory-built housing to a dealer who will resell it to a rural health clinic for patient care. The clinic installs the structure on its own land.

In this transaction the sale by the manufacturer is an exempt sale for resale. The manufacturer should obtain a resale certificate from the dealer. The dealer is the retailer and owes sales tax based on 40 percent of the dealer's selling price to the clinic. The dealer must obtain a 60 percent exclusion certificate from the clinic.

Transaction C

A manufacturer furnishes and installs factory-built housing for a buyer on the buyer's land.

In this transaction Regulation 1521.4 does not apply, as the manufacturer is a construction contractor and tax applies under Regulation 1521. The manufacturer is the consumer of the materials used in building and installing the FBH and the retailer of the fixtures.

Factory-built school buildings

A contract to furnish and install a factory-built school building is not a construction contract, but rather is a sale of tangible personal property. ***For purposes of local tax allocation, the place of sale of a factory-built school building is the place of business of the retailer, not the jobsite location.***

In general, a factory-built school building is defined as any building which is designed or intended for use as a school building and is wholly or substantially manufactured at an offsite location for the purpose of being assembled, erected or installed on a site owned or leased by a school district or a community college district. Effective September 13, 1990, the term "factory-built school building" (relocatable classroom) means and includes any building:

- Designed or intended for use as a school building.
- Wholly or substantially manufactured at an offsite location for the purpose of being assembled, erected, or installed on a site owned or leased by a school district or a community college district.
- Designed and manufactured in accordance with building standards adopted and approved pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code and must be approved by the structural safety section in the office of the State Architect.

Buildings that are not licensed by either the DMV or the Department of Housing and Community Development are not factory-built school buildings.

Buildings that are licensed by either the DMV or the Department of Housing and Community Development are not factory-built school buildings.

Tax applies to 40 percent of the sales price at which the factory-built school building is sold to a consumer, excluding on-site installation labor. The following are examples of persons defined as consumers:

- A school district or a community college district.
- A contractor who purchases a factory-built school building for the purpose of fulfilling the requirements of an existing contract with a school district or a community college district to furnish and install such a building.

For information on the sale and installation of factory-built school buildings, as a construction contractor, please refer to Regulation 1521, *Construction Contractors,* subdivision (b)(4), and to publication 9, *Tax Tips for Construction and Building Contractors.* See page 31 for ordering information.

General Tax Information

This chapter provides general information on other tax issues that are common to the mobilehome and factory-built housing industry, including sales tax reimbursement, bad debts, and recordkeeping. For more information, you may obtain the regulations and publications noted in the chapter.

Sales tax reimbursement

Although you are liable for the sales tax on your taxable retail sales, you may collect an amount from your customer equal to the tax you will owe. We presume that your customer agrees to pay you an amount for sales tax if any of the following are true:

- The sales agreement or invoice specifically provides for the addition of an amount for sales tax or sales tax reimbursement;
- Your invoice or other proof of sale shows the amount of tax you will collect from your customer; or
- You post a visible sign at your business location, or include on price tags or advertisements, a notice that reimbursement for sales tax will be added to the sales price of all items or certain items (whichever applies).

If you collect more tax on a sale than you owe, you must return the excess amount to the customer or pay it directly to the BOE.

For more information, you may obtain a copy of Regulation 1700, *Reimbursement for Sales Tax.* (See page 31.)

Recordkeeping

Required records

You need to keep complete and accurate records of all of your business transactions. Our representatives may examine your books, papers, records, and other documents to verify the accuracy of any return you file. If you don't file tax returns, they will use your records to determine how much tax you owe. You must keep adequate records that show all of the following:

- Your gross receipts from all taxable and nontaxable sales or leases of goods and merchandise and any related labor charges.
- All deductions allowed by law and claimed in filing returns.
- The total purchase price of all items you purchased for sale, use, or lease. Your records must include all of the following:
- The normal books of account.
- All bills, receipts, invoices, orders, contracts, or other documents of original entry supporting the entries in the books of account.
- Certificates of exemption or exclusion described elsewhere in this pamphlet.
- All schedules or work papers used in preparing your tax returns.

If you do not maintain adequate records, we may consider that to be evidence of negligence or intent to evade the

tax and you may be subject to penalties.

Retaining business records

You should keep required records for at least four years unless we give you specific, written authorization to destroy them sooner. Exception: records that cover reporting periods before January 1, 2003, may be covered by an extended statute of limitations if you did not participate in the 2005 tax amnesty program, or if fraud or intent to evade tax is discovered during an audit. You must keep those records for at least ten years. If you are being audited, you should retain all records that cover the audit period until the audit is complete, even if that means you keep them longer than four years. In addition, if you have a dispute with us about how much tax you owe, you should retain the related records until that dispute is resolved. For instance, if you appeal the results of an audit or another determination, or you file a claim for refund, you should keep your records while that matter is pending.

Bad debts—mobilehome sales

Where the dealers are retailers, bad debt losses incurred are allowable in the same manner as bad debts from other types of retail sales as explained in the next paragraph and Regulation 1642, *Bad Debts.*

Some examples of sales where dealers are retailers of new mobilehomes sold for other than occupancy as a residence are sales of furniture, and sales of accessories which are not affixed to realty. In such cases, the dealer may claim a deduction for bad debts found to be uncollectible and charged-off for income tax purposes.

Should the uncollectible amounts include nontaxable charges, such as interest charges, and/or items in which the dealer is a consumer or retailer-consumer as well as taxable items, a bad debt deduction may be claimed only with respect to the unpaid amount upon which the dealer is the retailer and which the tax has been paid to us. In determining this amount, all payments and credits to the accounts must be apportioned to the taxable and nontaxable elements which make up the amount the purchasers agreed to pay.

If any amounts for which the bad debts have been deducted on the sales tax returns are subsequently collected in full or in part, the amount(s) so collected must be included in the first return filed after the funds are received.

If a repossession of merchandise for which the dealer is a retailer is involved, the value of the repossessed merchandise must be deducted in computing the allowable credit. See Regulation 1642 regarding the formula used in determining the amount of allowable credit on repossession losses. For instructions on obtaining Regulation 1642, please refer to page 31.

When dealers of mobilehomes are retailer-consumers or consumers of mobilehomes, accessories and other items which they sell, ***there is no basis for claiming any bad debts incurred on such transactions.*** Some common examples where the dealer is either the ***retailer-consumer*** or ***consumer,*** and cannot claim bad debt deductions are:

- New mobilehomes sold for occupancy as a residence on or after July 1, 1980.
- Sales of accessories such as carpeting affixed as an integral part of a mobilehome prior to its sale when the mobilehome is sold for occupancy as a residence.
- Sales of accessories such as window awnings affixed to a mobilehome situated on a permanent foundation or when the accessories are affixed directly to realty.

For More Information

Website

For publications, forms, regulations, and more: *www.boe.ca.gov*

Taxpayer Information Section

If you have a general tax question, please call our toll-free number and speak with a Customer Service Representative. Representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

Please call: 800-400-7115 TDD/TTY: 800-735-2929

In addition to English, assistance is available in other languages.

Questions regarding your account

Please call the office that maintains your records. The name and telephone number of the appropriate field office is printed on your tax returns. Field office telephone numbers are provided on page 34 and are also located on our website. We can help you faster if you have your account number on hand.

Verifying a permit/license (sales for resale)

If a customer gives you a resale certificate for a purchase, you may contact us to verify the customer's seller's

permit number.

Use the Internet: *www.boe.ca.gov* look for "Verify a Permit/License."

Call our toll-free automated verification service: 888-225-5263. You will need to provide the seller's permit number you want to verify.

Faxback service

Our faxback service, which allows you to order selected publications, forms, and regulations is available 24 hours a day. Call 800-400-7115 and choose the fax option. We'll fax your selection to you within 24 hours.

Publications, forms, and regulations

To obtain copies of publications, forms, and regulations:

- **Use the Internet:** Most publications, forms, and regulations are available on our website: *www.boe.ca.gov.*
- **Call our Taxpayer Information Section.** A Customer Service Representative will help you during working hours. If you know the name or number of the document you need, you may call outside working hours and leave a recorded message. Certain documents are also available on our faxback service, described above. Selected regulations and publications that may interest you are listed below. A complete listing of sales and use tax regulations and publications appears in publication 73, *Your California Seller's Permit.*

Regulations (list varies by publication)

1521 Construction Contractors
1521.4 Factory-Built Housing
1610.2 Mobilehomes and Commercial Coaches
1614 Sales to the United States and its Instrumentalities
1616 Federal Areas
1620 Interstate and Foreign Commerce
1628 Transportation Charges
1642 Bad Debts
1655 Returns, Defects and Replacements
1660 Leases of Tangible Personal Property—In General
1667 Exemption Certificates
1668 Sales for Resale
1669 Demonstration, Display, and Use of Property Held for Resale— General
1698 Records
1700 Reimbursement for Sales Tax
1821 Foreword, Transactions (Sales) and Use Tax Regulations
1823 Application of Transactions (Sales) Tax and Use Tax
1826 Construction Contractors

Publications *(list varies by publication)*

Translated publications

Some of our publications are available in languages other than English. The letters C, F, K, S, or V after a publication title below indicate that a translated version is available (C for Chinese, F for Farsi, K for Korean, S for Spanish, V for Vietnamese).

9 Tax Tips for Construction and Building Contractors
17 Appeals Procedures Sales and Use Taxes and Special Taxes (S)
42 Resale Certificate Tips (S)
44 Tax Tips for District Taxes (S)
51 Guide to Board of Equalization Services (C,K,S,V)
52 Vehicles and Vessels: How to Request a Use Tax Clearance for DMV Registration
61 Sales and Use Taxes: Exemptions and Exclusions
70 Understanding Your Rights as a California Taxpayer (C,K,S,V)
73 Your California Seller's Permit (C,F,K,S,V)
74 Closing Out Your Seller's Permit (C,S)
75 Interest and Penalties
76 Audits (F,K,S) 79B California Use Tax
101 Sales Delivered Outside California (S)
102 Sales to the United State Government (S)

BOE PUBLICATION #47 <Excerpts>

103 Do You need a California Seller's Permit? (C,K,S)
116 Sales and Use Tax Records (S)
117 Filing a Claim For Refund (S)

Tax Information Bulletin

As a registered seller, you will receive the quarterly *Tax Information Bulletin,* (TIB) which includes articles on the application of law to specific types of transactions, announcements about new and revised publications, and other articles of interest to you. If you electronically file (e-file) your sales and use tax return and are registered as an E-Client, your e-mail reminder to file will contain a link to the quarterly TIB. Otherwise, you will be mailed a copy with your paper returns. You can also find current and archived TIBs on our website: *www.boe.ca.gov/news/tibcont.htm* If you file returns on a yearly basis and would like to receive all four bulletins, please call our Taxpayer Information Section at 800-400-7115 to be placed on our mailing list, or write to:

Mail Services Unit, MIC:12, Attn: Addressing Systems; State Board of Equalization; P.O. Box 942879, Sacramento, CA 94279-0012. Ask to be added to Mailing List #15.

Written tax advice

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if we determine that we gave you incorrect written advice regarding the transaction and that you reasonably relied on that advice in failing to pay the proper amount of tax. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction. Please send your request to: Audit and Information Section, MIC:44, State Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0044.

Written tax advice is specific to individual taxpayers. You cannot obtain tax relief by relying on a written opinion given to another business, even if your transactions are similar. In addition, tax relief is not available if you incorrectly apply tax based on advice we give you verbally in person or over the telephone.

Classes

Some of our statewide field offices offer free basic sales and use tax classes. Check the Sales and Use Tax Section on our website at *www.boe.ca.gov* for a listing of classes and locations. You can also call your local field office for class information. We also offer an online Basic Sales and Use Tax tutorial that you can access on our website at any time.

Taxpayers' Rights Advocate

If you have been unable to resolve a problem through normal channels, we encourage you to contact the Taxpayers' Rights Advocate Office for help:

Taxpayers' Rights Advocate Office, MIC:70
State Board of Equalization
P.O. Box 942879 Sacramento, CA 94279-0070
Phone: 888-324-2798 toll-free 916-324-2798 Fax: 916-323-3319

Field offices

City	Area Code	Number
Bakersfield	661	395-2880
Chula Vista	619	409-7440
Culver City	310	342-1000
El Centro	760	352-3431
Eureka*	707	576-2100
Fresno	559	248-4219
Irvine	949	440-3473
Norwalk	562	466-1694
Oakland	510	622-4100
Rancho Mirage	760	770-4828
Redding	530	224-4729
Riverside	951	680-6400
Sacramento	916	227-6700
Salinas	831	443-3003
San Diego	619	525-4526
San Francisco	415	356-6600
San Jose	408	277-1231
San Marcos	760	510-5850
Santa Rosa	707	576-2100
Suisun City	707	428-2041
Van Nuys	818	904-2300
Ventura	805	677–2700
West Covina	626	480-7200

For Out-of-State Accounts

Chicago, IL	312	201-5300
Houston, TX	281	531-3450
New York, NY	212	697-4680
Sacramento, CA	916	227-6600

*Limited services are available in Eureka. See, *www.boe.ca.gov* or call the number listed above (Santa Rosa field office).

The field offices listed are current when the publication was written. Field office contact information is available on our website and from our Taxpayer Information Section (see page 31).

Appendix

SAMPLE TRANSACTION

Dealer as a Retailer-Consumer Mobilehome Residence Not Installed on a Permanent Foundation

TRANSACTION DETAILS

	COST TO DEALER	SELLING PRICE TO BUYER
Mobilehome unit (including refrigerator)	$ 20,000	$ 25,000
Delivery charge to dealer by common carrier	500	500
Redwood decking (anchored in cement)	2,500	3,000
Patio awning (attached by auger)	2,000	2,500
Window awning (attached only to mobilehome)	450	540 *
Labor to install window awning	50	60
Skirtings 950 1,180 * Labor to install skirtings	50	70
Landscaping	2,000	2,500
Cabana room to be placed on jacks and pads (not part of manufactured mobilehome)	2,000	2,500 *
Labor to install cabana room	100	150
Subtotals	**$ 30,600**	**$ 38,000**
Setup Labor Charges by Outside Contractor		
Installing carpets	$ 150	$ 200
Joining halves	300	400
Jacks and pads	100	133 *
Other setup labor	950	1,267
Total setup charges by contractor	**$ 1,500**	**$ 2,000**
Total charges	**$ 32,100**	**$ 40,000**

*Charges subject to tax

COMPUTATION OF MOBILEHOME DEALER'S TAX LIABILITY

MOBILEHOME ITEMS SUBJECT TO USE TAX BASED ON 75 PERCENT OF COST
(Please refer to page 2 under "use tax applies - not sales tax")

Mobilehome unit *(including refrigerator)*	$ 20,000.00
Labor to join halves	300.00
Labor—Install carpets	150.00
Total cost—Complete mobilehome	**$ 20,450.00**
Amount subject to tax ($20,450 x 75%)	**$ 15,337.50**
Use tax ($15,337.50 x 7.25%)	**$ 1,111.97**
Total Charges	**$ 21,561.97**

Accessories Subject to Sales Tax Based on Selling Price

[a] Retail Sales Portion of Transaction:

Window awning	$ 540.00
Skirtings	1,180.00
Cabana room	2,500.00
Jacks and pads	133.00
Accessories subject to tax	**$ 4,353.00**

Sales tax (7.25% x $4,353)	**$ 315.59**

Sample Dealer Sales Invoice to the Customer

DEALER SALES INVOICE TO THE CUSTOMER

Double-wide mobilehome unit	$ 25,000.00
Delivery charge	500.00
Accessories (awnings, skirtings, cabana, jacks and pads)	4,353.00
Labor to install accessories 280.00	
Improvements to location (decking, patio awning, and landscaping)	8,000.00
Setup (less charges for jacks and pads [$2,000-$133])	1,867.00
Subtotal	**$ 40,000.00**
Sales tax on accessories @ 7.25%	**$ 315.59***
Invoice Total	**$ 40,315.59**

* Note: This sample transaction uses the standard statewide sales and use rate as of July 2008. Be sure to use the correct tax rate for your sale and include any district taxes that apply.

[a] If the mobilehome were attached on a permanent foundation, the installer of accessory items attached to the mobilehome or directly attached to real estate is a construction contractor. See chapter 5 for more information.

SAMPLE 60% EXCLUSION CERTIFICATE

60% EXCLUSION CERTIFICATE

I hereby certify that the factory-built housing that I

_____
(PRINT NAME OF PURCHASER-CONSUMER)

am purchasing under the authority of this certificate from

_____
(PRINT NAME OF SUPPLIER)

will be consumed by me in erecting or remodeling a building or other structure on land to be used for residential purposes or as an institution or part thereof for resident or patient care. My seller's permit number if any is

_____

I further certify that I understand and agree that if the property purchased under the authority of this certificate is used by the purchaser for any purpose other than indicated above, the purchaser shall be liable for payment of tax to the State Board of Equalization measured by 60% of the sales price of the factory-built housing at the time of such use.

_____
Date Certificate Given

Signed by:

✍ _____
(NAME OF PURCHASER)

As:

_____
(PRINT NAME OF OWNER, PARTNER, PURCHASING AGENT, ETC.)

BOE-47 (2-08)

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

CERTIFICATION OF EXEMPTION FOR MOBILEHOME RESIDENCE PURCHASE

CERTIFICATION

I hereby certify that the mobilehome that I _____
(PRINT NAME OF PURCHASER)

am purchasing from _____
(PRINT NAME OF RETAILER-CONSUMER)

is being purchased for occupancy as a residence and that it will only be used for this purpose. I further certify and agree that if the property purchased under authority of this certificate is used for any other purpose, I shall be liable for payment of tax measured by the entire sales price or gross receipts from the sale to me less an amount equal to 75 percent of the sales price of gross receipts from the sale of the mobilehome to the retailer.

_____
DATE CERTIFICATE GIVEN

_____
SIGNATURE OF PURCHASER

✍
_____
CAPACITY

_____
DESCRIPTION OF PROPERTY

CERTIFICATION OF EXEMPTION

To qualify for this special tax treatment, the dealer is required to secure and retain written certification at the time of the sale that the mobilehome will be installed for occupancy as a residence.

If a purchaser issues such certification to a dealer and subsequently uses the property for other than a residence, the purchaser shall be liable for payment of tax measured by the purchaser's entire purchase price of the mobilehome, less 75 percent of the sales price paid by the dealer to the supplier for the mobilehome.

Reader Survey Information
<NOT INCLUDED IN THIS GUIDE OL STUDY GUIDE>

California State Board of Equalization
450 N Street, Sacramento, CA
(Mailing Address: P.O. Box 942879 • Sacramento, CA 94279-0001)LDA

CODE OF FEDERAL REGULATIONS

Manufactured Home Procedural and Enforcement Regulations — Part 3282

<Excerpts>

<Not applicable to CM Exams>

Title 24. Housing and Urban Development
http://www.gpoaccess.gov/cfr/index.html

HUD Website
http://www.hud.gov/offices/hsg/sfh/mhs/mhshome.cfm

TABLE OF CHAPTER CONTENTS

MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS
PART 3282
(FEDERAL REGULATIONS)

CODE OF FEDERAL REGULATIONS
Title 24. HOUSING AND URBAN DEVELOPMENT
Subtitle B. REGULATIONS RELATING TO HOUSING AND URBAN DEVELOPMENT
Chapter XX. OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Part 3282. MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

Subpart F—DEALER AND DISTRIBUTOR RESPONSIBILITIES
§ 3282.251. Scope and purpose 198
§ 3282.252. Prohibition of sale 198
§ 3282.253. Removal of prohibition of sale 198
§ 3282.254. Distributor and dealer alterations 199
§ 3282.255. Completion of information card 199
§ 3282.256. Distributor or dealer complaint handling 199

Subpart I—CONSUMER COMPLAINT HANDLING AND REMEDIAL ACTIONS
§ 3282.401. Purpose and scope 199
§ 3282.402. General principles 199
§ 3282.414. Manufactured homes in the hands of dealers and distributors 200

MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS — PART 3282
(FEDERAL REGULATIONS)

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Title 24. HOUSING AND URBAN DEVELOPMENT

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Part 3282. MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

Subpart F—DEALER AND DISTRIBUTOR RESPONSIBILITIES

§ 3282.251. Scope and purpose

(a) This subpart sets out the responsibilities which shall be met by distributors and dealers with respect to manufactured homes manufactured after the effective date of the standards for sale to purchasers in the United States. It prohibits the sale, lease, or offer for sale or lease of manufactured homes known by the distributor or dealer not to be in conformance with the standards, and it includes responsibilities for maintaining certain records and assisting in the gathering of certain information.

(b) The purpose of this subpart is to inform distributors and dealers when they may sell manufactured homes, when they are prohibited from selling manufactured homes, and what they may do in order to prepare a manufactured home for sale if it is not in conformance with the standards.

(c) For purposes of this part, any manufacturer or distributor who sells, leases, or offers for sale or lease a manufactured home to a purchaser shall be a dealer for purposes of that transaction.

§ 3282.252. Prohibition of sale

(a) No distributor or dealer shall make use of any means of transportation affecting interstate or foreign commerce or the mails to sell, lease, or offer for sale or lease in the United States any manufactured home manufactured on or after the effective date of an applicable standard unless:

(1) There is affixed to the manufactured home a label certifying that the manufactured home conforms to applicable standards as required by § 3282.205(c), and

(2) The distributor or dealer, acting as a reasonable distributor or dealer, does not know that the manufactured home does not conform to any applicable standards.

(b) This prohibition applies to any affected manufactured homes until the completion of the entire sales transaction. A sales transaction with a purchaser is considered completed when all the goods and services that the dealer agreed to provide at the time the contract was entered into have been provided. Completion of a retail sale will be at the time the dealer completes set–up of the manufactured home if the dealer has agreed to provide the set–up, or at the time the dealer delivers the home to a transporter, if the dealer has not agreed to transport or set up the manufactured home, or to the site if the dealer has not agreed to provide set–up.

(c) This prohibition of sale does not apply to manufactured homes which are placed in production prior to the effective date of the standards, and it does not apply to “used” manufactured homes which are being sold or offered for sale after the first purchase in good faith for purposes other than the resale.

§ 3282.253. Removal of prohibition of sale

(a) If a distributor or dealer has a manufactured home in its possession or a manufactured home with respect to which the sales transaction has not been completed, and the distributor or dealer, acting as a reasonable distributor or dealer, knows as a result of notification by the manufacturer or otherwise that the manufactured home contains a failure to conform or imminent safety hazard, the distributor or dealer may seek the remedies available to him under § 3282.415.

(b) When, in accordance with § 3282.415, a manufacturer corrects a failure to conform to the applicable standard or an imminent safety hazard, the distributor or dealer, acting as a reasonable distributor or dealer, may accept the remedies provided by the manufacturer as having corrected the failure to conform or imminent safety hazard. The distributor or dealer, therefore, may sell, lease, or offer for sale or lease any manufactured home so corrected by the manufacturer.

(c) When a distributor or dealer is authorized by a manufacturer to correct a failure to conform to the applicable

standard or an imminent safety hazard and completes the correction in accordance with the manufacturer's instructions, the distributor or dealer may sell, or lease or offer for sale or lease the manufactured home in question, provided that the distributor or dealer, acting as a reasonable distributor or dealer knows that the manufactured home conforms to the standards. A distributor or dealer and a manufacturer, at the manufacturer's option, may agree in advance that the distributor or dealer is authorized to make such corrections as the manufacturer believes are within the expertise of the dealer.

(d) If the corrections made under paragraphs (b) and (c) of this section do not bring the manufactured home into conformance or correct the imminent safety hazard, the provisions of § 3282.415 will continue in effect prior to completion of the sales transaction.

§ 3282.254. Distributor and dealer alterations

(a) If a distributor or dealer alters a manufactured home in such a way as to create an imminent safety hazard or to create a condition which causes a failure to conform with applicable Federal standards, the manufactured home affected may not be sold, leased, or offered for sale or lease.

(b) After correction by the distributor or dealer of the failure to conform or imminent safety hazard, the corrected manufactured home may be sold, leased, or offered for sale or lease.

(c) Distributors and dealers shall maintain complete records of all alterations made under paragraphs(a) and (b) of this section.

§ 3282.255. Completion of information card

(a) Whenever a distributor or dealer sells a manufactured home subject to the standards to a purchaser, the distributor or dealer shall fill out the card with information provided by the purchaser and shall send the card to the manufacturer. (See § 3282.211.)

(b) Whenever a distributor or dealer sells a manufactured home to an owner which was originally manufactured under the standards, the distributor or dealer shall similarly use one of the detachable cards which was originally provided with the manufactured home. If such a card is no longer available, the distributor or dealer shall obtain the information which the card would require and send it to the manufacturer of the manufactured home in an appropriate format.

§ 3282.256. Distributor or dealer complaint handling

(a) When a distributor or dealer believes that a manufactured home in its possession which it has not yet sold to a purchaser contains an imminent safety hazard, serious defect, defect, or noncompliance, the distributor or dealer shall refer the matter to the manufacturer for remedial action under § 3282.415. If the distributor or dealer is not satisfied with the action taken by the manufacturer, it may refer the matter to the SAA in the state in which the manufactured home is located, or to the Secretary if there is no such SAA.

(b) Where a distributor or dealer receives a consumer complaint or other information concerning a manufactured home sold by the distributor or dealer, indicating the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance in the manufactured home, the distributor or dealer shall refer the matter to the manufacturer.

Subpart I—CONSUMER COMPLAINT HANDLING AND REMEDIAL ACTIONS

§ 3282.401. Purpose and scope

(a) The purpose of this subpart is to establish a system under which the protections of the Act are provided with a minimum of formality and delay, but in which the rights of all parties are protected.

(b) This subpart sets out the procedures to be followed by manufacturers, State Administrative Agencies, primary inspection agencies, and the Secretary to assure that manufacturers provide notification and correction with respect to their manufactured homes as required by the Act. Notification and correction may be required to be provided with respect to manufactured homes that have been sold or otherwise released by the manufacturer to another party when the manufacturer, an SAA or the Secretary determines that an imminent safety hazard, serious defect, defect, or noncompliance may exist in those manufactured homes as set out herein.

(c) This subpart sets out the rights of dealers under section 613 of the Act, 42 U.S.C. 5412, to obtain remedies from manufacturers in certain circumstances.

§ 3282.402. General principles

(a) Nothing in this subpart or in these regulations shall limit the rights of the purchaser under any contract or applicable law.

(b) The liability of manufactured home manufacturers to provide remedial actions under this subpart is limited by the principle that manufacturers are not responsible for failures that occur in manufactured homes or components solely as the result of normal year and aging, gross and unforeseeable consumer abuse, or unforeseeable neglect of maintenance.

(c) The extent of a manufacturer's responsibility for providing notification or correction depends upon the seriousness of problems for which the manufacturer is responsible under this subpart.

(d) When manufacturers act under § 3282.404 of these regulations, they will not be required to classify the problem that triggered their action as a noncompliance, defect, serious defect, or imminent safety hazard.

(e) It is the policy of these regulations that all consumer complaints or other information indicating the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance should be referred to the manufacturer of the potentially affected manufactured homes as early as possible so that the manufacturer can begin to timely respond to the consumer and take any necessary remedial actions.

§ 3282.414. Manufactured homes in the hands of dealers and distributors

(a) The manufacturer is responsible for correcting any failures to conform and imminent safety hazards which exist in manufactured homes which have been sold or otherwise released to a distributor or dealer but which have not yet been sold to a purchaser. This responsibility generally does not extend to failures to conform or imminent safety hazards that result solely from transit damage that occurs after the manufactured home leaves the control of the manufacturer, unless such transit damage is reasonably foreseeable by the manufacturer when the home is released by the manufacturer. This section sets out the procedures to be followed by dealers and distributors for handling manufactured homes in such cases. Regardless of whether the manufacturer is responsible for repairing a manufactured home, no dealer or distributor may sell a manufactured home if it contains a failure to conform or an imminent safety hazard.

(b) Whenever a dealer or distributor finds a problem in a manufactured home which the manufacturer is responsible for correcting under paragraph (a) of this section, the dealer or distributor shall contact the manufacturer, provide full information concerning the problem, and request appropriate action by the manufacturer in accord with paragraph (c) of this section. Where the manufacturer agrees to correct, the manufacturer shall maintain a complete record of its actions. Where the manufacturer authorizes the dealer to make the necessary corrections on a reimbursable basis, the dealer or distributor shall maintain a complete record of its actions. Agreement by the manufacturer to correct or to authorize corrections on a reimbursable basis under this paragraph constitutes a determination of the Secretary for purposes of section 613(b) of the Act with respect to judicial review of the amount which the manufacturer agrees to reimburse the dealer or distributor for corrections.

(c) Upon a final determination by the Secretary or a State Administration Agency under § 3282.407, or upon a determination by a court of competent jurisdiction that a manufactured home fails to conform to the standard or contains an imminent safety hazard after such manufactured home is sold or otherwise released by a manufacturer to a distributor or a dealer and prior to the sale of such manufactured home by such distributor or dealer to a purchaser, the manufacturer shall have the option to either:

(1) Immediately furnish, at the manufacturer's expense, to the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such manufactured home, and the manufacturer shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than one per centum per month of the manufacturer's or distributor's selling price prorated from the date of receipt by certified mail of notice of noncompliance to the date such manufactured home is brought into compliance with the standards, so long as the distributor or dealer proceeds with reasonable diligence with the installation after the part or component is received; or

(2) Immediately repurchase, at the manufacturer's expense, such manufactured home from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than one per centum per month of such price paid prorated from the date of receipt by certified mail of notice of the imminent safety hazard, serious defect, defect or noncompliance to the distributor. The value of such reasonable reimbursements as specified in this paragraph shall be fixed by mutual agreement of the parties or by a court in an action brought under section 613(b) of the Act.

(d) This section shall not apply to any manufactured home purchased by a dealer or distributor which has been leased by such dealer or distributor to a tenant for purposes other than resale. In that instance the dealer or distributor has the remedies available to a purchaser under this subpart.