

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS**

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INFORMATION BULLETIN 2006-03 (OL, RT)

**TO: Manufactured Home Manufacturers and Dealers
 Commercial Modular Manufacturers and Dealers
 Occupational Licensing Course Providers and Instructors
 Escrow Agents
 Interested Parties
 Division Staff**

SUBJECT: 2006 LEGISLATIVE CHANGES

This Information Bulletin summarizes the 2006 legislative changes to the California Health and Safety Code (HSC) affecting manufactured home manufacturers, dealers, salespersons, consumers, and escrow agents. These changes become effective January 1, 2007. The information listed below may not reflect all the specifics to the applicable statutes. You may wish to review the bills at <http://www.leginfo.ca.gov/bilinfo.html> or the statutes on or after its effective date at <http://www.leginfo.ca.gov/calaw.html>.

Chapter 80, Statutes of 2006 (Assembly Bill No. 1203, Mullin) adds HSC Section 18035.26 and amends HSC Section 18080.5.

- HSC Section 18035.26 specifies new requirements related to the sale of manufactured homes, multi-unit manufactured housing or used mobilehomes both sold by a dealer and to be installed by the buyer (purchaser) on a foundation system pursuant to HSC section 185511((a).
- HSC Section 18035.26(b) clarifies that the sale shall be deemed completed at the close of escrow. Escrow shall be deemed closed when all of the following conditions have been met:
 1. A complying and completed "Declaration of Delivery Sale" document provided by the dealer and as described in this statute is signed by the buyer.
 2. All funds in escrow, other than escrow fees, undelivered accessories, and amounts mutually agreed upon by the buyer and dealer, are disbursed.
 3. The buyer takes delivery of the unit(s) at a location mutually agreed to as specified in the purchase agreement and the escrow instructions.

Additionally, the Declaration of Delivery Sale specifies that:

1. The purchaser is installing or is engaging the services of a licensed contractor to install the unit(s).

2. The purchaser understands that most manufacturers' warranties do not cover defects caused by improper site preparation or installation.
 3. The purchaser understands that upon delivery, the purchaser has full responsibility for the proper storage of the unit(s), including the support and weather protection of the unit(s).
 4. The purchaser has ensured that the home will be installed pursuant to HSC 18551(a) and the manufacturer's installation instructions.
 5. The purchaser should ensure that all permit and fee requirements can be met, including school development fees.
 6. The manufacturer's warranty expires one year after either the issuance of the certificate of occupancy or 120 days from the close of escrow, whichever occurs first. (See section 18035.26 (c)).
 7. The dealer must deposit with the escrow agent the original executed declaration prior to preparation of escrow instructions, and the escrow agent shall retain the original document.
 8. A copy of the original Declaration shall be submitted to the Department with other report of sale documents, and another copy of the original Declaration is to be provided to the manufacturer.
- HSC Section 18035.26(c) modifies the warranty period required by California Civil Code Section 1797 et seq., to expire either one year after either the issuance of a certificate of occupancy or 120 days from close of escrow, whichever occurs first.
 - HSC Section 18035.26(d) requires that the sale meet the requirements of HSC Section 18035.2 and the reporting requirements of HSC Section 18080.5. Additionally, the sale is null and void if the escrow documents are prepared prior to the escrow agent's receipt of the signed declaration.
 - HSC Section 18035.26(e) requires the department to designate its records as "pending installation" until the certificate of occupancy is issued, recorded with a HCD 433a form and the fees have been paid.
 - HSC Section 18080.5(e) was amended to specifically exclude transactions subject to HSC Section 18035.26 from the requirement that a certificate of occupancy is needed to deem the transaction completed.

IMPORTANT NOTES:

- (1) The requirements listed in HSC Section 18035(e)(1) for units to be installed by the purchaser pursuant to HSC Section 18613 or as chattel pursuant to HSC Section 18551(b) have not changed and remain in effect.
- (2) The Department's legal opinion interpreting the effective date of this measure is that the new procedural and disclosure requirements apply to any sale for which escrow is not closed by December 31, 2006. Thus, even if a Purchase Agreement or other sales document is signed before December 31, 2006, if the transaction is a dealer sale with purchaser responsible for installation on a foundation system, the Disclosure documents and other procedures apply and the Department will not register ownership or lien documents after January 1, 2007, unless the escrow closed on or before December 31, 2006, or there is full compliance with HSC sections 18035.26 and 18080.5.

Chapter 789, Statutes of 2006 (Assembly Bill No. 2587, Liu), amends various sections in the Methamphetamine Contaminated Property Clean-Up Act of 2005”, H&SC sections 25400 and following.

Under existing law enacted in 2005, mobilehome parks were exempted from the “Methamphetamine Contaminated Property Clean-Up Act of 2005” and special occupancy parks were covered by the Act and treated like conventional property structures. Chapter 789 changed the Act to cover mobilehome parks and special occupancy parks, and the manufactured homes in those parks. These amendments may impact the sale and title records of manufactured homes before, during, and after clean-up or remediation of the contamination.

* HSC Sections 25400.11, 25400.18, 25400.19, 25400.20, 25400.22, 25400.25, 25400.26, 25400.27, 25400.28, 25400.30, 25400.36, 25400.37, 25400.45, and 25400.46 were amended; Section 25400.47 was added; and other provisions of the Act now apply to manufactured homes.

* In addition to a local health officer posting notices and making determinations of responsibility for remediation, HSC Section 25400.22 permits that officer to amend a manufactured home’s permanent title record with a “restraint” indicating that the home has a methamphetamine contamination whether the home is inside or outside of a mobilehome park.

* HSC Section 25400.27 provides for release of the restraint upon remediation or if the home is salvaged.

* HSC Section 25400.28 prohibits sale, occupancy, or rental of the unit until a specified disclosure notice has been provided by the seller or lessor.

* Although a lien is permitted for certain costs of remediation for real property, no lien for those costs is permitted for manufactured homes or mobilehomes, but special authority is granted in HSC Section 25400.47 for a warehouseman’s lien and sale of the home.

This summary of legislative changes is not represented to be a complete digest of all new laws affecting persons regulated by the Mobilehomes-Manufactured Housing Act or other California law. Anyone may include a copy of this Information Bulletin in any periodic publications you distribute to your customers, employees, members, and clients. If you have any questions or wish to discuss this Information Bulletin, please contact the Occupational Licensing Program at (916) 323-9803 or the Registration and Titling Program at (800) 952-8356.



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