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DIVISION OF CODES AND STANDARDS
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INFORMATION BULLETIN EH 93-01

**TO: LOCAL ENFORCEMENT AGENCIES
EMPLOYEE HOUSING OPERATORS
INTERESTED PARTIES (EH)
DIVISION STAFF**

SUBJECT: LEGISLATIVE CHANGES TO THE EMPLOYEE HOUSING ACT

This Information Bulletin announces changes to state law affecting the activities of employee housing enforcement agencies and operators.

Assembly Bill 3526 (AB 3526), author, Assembly Member Polanco, was signed into law by Governor Wilson and is effective January 1, 1993. The bill amends the entire Employee Housing Act contained in the California Health and Safety Code (HSC), Division 13, Part 1, commencing with Section 17000.

Following is a brief summary of the bill's most significant changes. Enclosed for reference are two new sections 17021.5 and 17021.6. Also enclosed is a copy of the Revenue and Taxation Code Section 17274.

1. The definitions contained in existing Sections 17006, 17008, 17009, 17010 and 17011 have been amended. Existing Section 17008 defines "Labor Camp". AB 3526 amends Section 17008 to define "Employee Housing". Existing references to "Labor Camp" have been replaced with the new definition "Employee Housing" throughout the Employee Housing Act. Section 17009.5 has been added to define "Person" as used in the Employee Housing Act.
2. HSC Section 17021.5 has been added to create provisions for employee housing providing accommodations for six or fewer employees and designates a single family structure as residential land use requiring no local conditional use permit, zoning variance, or zoning clearance.

3. HSC Section 17021.6 has been added to provide accommodation for 12 or fewer employees and designates agricultural land use requiring no local conditional use permit, zoning variance, or zoning clearance.
4. HSC Section 17036 is amended to provide the Department the authority to adopt additional regulations to facilitate the development of employee housing pursuant to new Sections 17021.5 and 17021.6.
5. HSC Section 17038 has been amended to require that an operating telephone number be posted in a conspicuous place for the purposes of emergencies and complaints in all employee housing.
6. HSC Section 17040 has been amended to allow the enforcement agency to process violations in accordance with Sections 17274 and 24436.5 of the Revenue and Taxation Code (see #15).
7. HSC Section 17041 is amended to allow the Department to provide for the waiver or reduction of fees during construction or substantial rehabilitation that is not the result of a notice from an enforcement agency where funding is received from a public entity. The Department shall waive the operating permit fees for the first three years of operation after new construction or substantial rehabilitation that is not the result of a notice from an enforcement agency.
8. HSC Section 17055 is amended to allow a person residing in employee housing to file an administrative complaint either orally or in writing with the enforcement agency. The enforcement agency shall deliver a summary or copy of the complaint, by mail or in person to the owner or operator at the time of filing of the complaint. This section also changes the time in which a civil action may be filed by the enforcement agency from 30 days to 34 days.

New provisions are added to Section 17055 so that a prevailing private person or entity may be granted reasonable attorney's fees and costs in a civil action brought pursuant to the part. If the court finds that residents of employee housing were in imminent peril as a result of serious violations, the complainant is not required to wait more than five days for the enforcement agency to bring civil action and may do so after five days and be entitled to all rights and remedies pursuant to the Employee Housing Act.

9. HSC Section 17060 is amended to make it unnecessary for a complainant to provide or file any undertaking or bond for the issuance of any preliminary or permanent injunction. The complainant need not allege or prove actual damages or the threat thereof, or actual injury or the threat thereof to the plaintiff as long as a violation is alleged and proven.
10. HSC Section 17060.2 is amended so that the owner or operator of employee housing is required to provide an explanation of an anticipated response to a notice of violation issued by an enforcement agency along with the written copy in English and Spanish of every order or notice of violation. The notices shall also advise the residents of the right to a hardship deferral and the procedure for obtaining a deferral.

HSC Section 17060.2 is amended so that an enforcement agency may require repair, vacating or demolition of a building if the repair work is not completed as scheduled or cannot be completed within a reasonable period of time and there is significant threat to the residents or public health and safety. Prior to vacation or demolition, the enforcement agency shall use every reasonable effort to obtain or cause repairs. If vacation orders are issued by the enforcement agency, it shall cooperate in an effort to obtain compensation from the owner or operator to compensate the displaced residents for relocation expenses.

11. HSC Section 17061 is amended to increase the fine for violations of the Employee Housing Act from \$1000 to \$2000 and the length of imprisonment from 60 to 180 days. A provision has been added indicating that a person causing personal injury to another person can be fined between \$4000 to \$10,000. The civil penalty may be doubled to a maximum of \$10,000 for each violation or each day of a continuing violation. Any person or entity affected by a violation may institute court action to collect any civil penalties and be awarded reasonable costs and attorney's fees.
12. HSC Section 17061.5 is amended to provide for the \$6000 fine or civil penalty to be applicable for each violation or day of a continuing violation. A person found in contempt of a court order or injunction may be subject to a judgement for reasonable enforcement costs, including investigative costs, court costs, and attorney's fees.

13. HSC Section 17061.7 is amended so that a person ordered to house confinement may be placed there for a period not to exceed one year. Also, a defendant ordered to pay the costs of a police officer or guard to stand guard outside the area shall not pay an amount exceeding \$2000 for any period of house confinement.
14. HSC Section 17062 is amended so that the fines and civil penalties collected and payable to the enforcement agency may be payable to a private person or entity if the action were brought pursuant to Section 17055.

HSC Section 17062 is amended to provide that if a court finds the employee housing in a condition which substantially endangers the health and safety of the residents, the court shall order the owner to pay reasonable and actual costs of the enforcement agency, order the local enforcement agency to provide the tenants with notice of the court order or judgement, and order that the owner shall provide or pay relocation benefits if the employee housing is not habitable during repairs. Relocation compensation shall be an amount equal to the differential between the contract rent and the fair market rental determined by HUD and shall not exceed 120 days.

If the court finds that a tenant has been substantially responsible for causing or substantially contributing to the substandard conditions, relocation benefits shall not be paid to that tenant.

This section also adds provision that requires the court to determine the date when the tenant is to relocate, order the tenant to notify the enforcement agency and the owner of the address to which he or she has relocated within 5 days, orders the owner to offer the first right to occupancy of the premises to each tenant who received benefits, and orders that failure to comply shall be punishable by civil contempt penalties. The term owner is defined to include any public entity who owns residential real property and has actual or constructive knowledge of the notice, order or prosecution.

15. HSC Section 17274 of the Revenue and Taxation Code is amended to disallow deductions for interest, taxes, depreciation, or amortization paid or incurred by an operator of employee housing which has not been brought into compliance within 30 days of the date of a written notice of violation or the date specified by the enforcement agency.

If additional information is required regarding these changes, please contact the Employee Housing Program Manager at (916) 445-9471.

A handwritten signature in black ink, appearing to read "Travis Pitts", with a large, stylized flourish above the name.

Travis Pitts
Deputy Director