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DIVISION OF CODES AND STANDARDS
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INFORMATION BULLETIN 96-01 (EH)

**TO: LOCAL EH ENFORCEMENT AGENCIES
EH FACILITY OPERATORS
EH INTERESTED PARTIES
DIVISION STAFF**

SUBJECT: 1995 LEGISLATIVE CHANGES - EMPLOYEE HOUSING PROGRAM

This Information Bulletin summarizes 1995 legislative changes to the California Health and Safety Code, (HSC), Division 13, Part 1, commencing with Section 17000, known as the Employee Housing Act. The amended HSC Sections are listed below with a brief summary of the substantive changes. These new provisions of the HSC became effective January 1, 1996.

1. Chapter 376 of the 1995 Statutes (SB 305, Polanco):

- (a) Amends HSC Section 17021.6, copy attached. The new provision provides that if an owner invokes the exemption from local land use regulations and fails to maintain a permit to operate throughout the first 10 years following the exemption, the enforcement agency shall notify the local government entity. The local entity may act to recover the amount of those taxes, fees, assessments, or charges previously waived, less 10% of that amount of each year that a valid permit to operate was issued.

The above provisions would not apply to an owner of any prospective, planned, or unfinished employee housing facility who has applied for a permit to construct or a permit to operate pursuant to Employee Housing Act, prior to January 1, 1996.


2. Chapter 561 of the 1995 Statutes (SB 851, Costa):

- (a) Amends HSC Section 17008, copy attached. The definition of "Employee Housing" is amended to exclude hotels, motels, inns, tourist hotels, multifamily dwellings, or single-family housing under specified conditions.



- (b) Amends HSC 17031.8, copy attached. The amendment requires local agency enforcing the Employee Housing Act to submit their annual statistical reports by March 31 rather than June 30th of each year. The statistical information required to be reported by local agencies was substantially revised by this amendment and the annual statistical reports are now required to be submitted on forms provided by the Department. These forms will be provided to local enforcement agencies during the month of February, 1996.
- (c) Adds HSC 17052 (d), copy attached. This amendment exempts employee housing facilities from an annual inspection, when the employee housing was inspected the prior year and found to be without violations or complaints. Without regard to violations or complaints, each facility must be inspected no less than biennially.

If further information is needed, please contact the Employee Housing Program at (916) 445-9471.



Travis Pitts
Deputy Director

Attachments

17008. (a) "Employee housing," as used in this part, means any portion of any housing accommodation, or property upon which a housing accommodation is located, if all of the following factors exist:

(1) The accommodations consist of any living quarters, dwelling, boardinghouse, tent, bunkhouse, maintenance-of-way car, mobilehome, manufactured home, recreational vehicle, travel trailer, or other housing accommodations, maintained in one or more buildings or one or more sites, and the premises upon which they are situated or the area set aside and provided for parking of mobilehomes or camping of five or more employees by the employer.

(2) The accommodations are maintained in connection with any work or place where work is being performed, whether or not rent is involved.

(b) (1) "Employee housing," as used in this part, also includes any portion of any housing accommodation or property upon which housing accommodations are located, if all of the following factors exist:

(A) The housing accommodations or property are located in any rural area, as defined by Section 50101.

(B) The housing accommodations or property are not maintained in connection with any work or workplace.

(C) The housing accommodations or property are provided by someone other than an agricultural employer, as defined in Section 1140.4 of the Labor Code.

(D) The housing accommodations or property are used by five or more agricultural employees of any agricultural employer or employers for any of the following:

(i) Temporary or seasonal residency.

(ii) Permanent residency, if the housing accommodation is a mobilehome, manufactured home, travel trailer, or recreational vehicle.

(iii) Permanent residency, if the housing accommodation is subject to State Housing Law and is more than 30 years old and at least 51 percent of the structures in the housing accommodation, or 51 percent of the accommodation if not separated into units, are occupied by agricultural employees.

(E) "Employee housing" does not include a hotel, motel, inn, tourist hotel, multifamily dwelling, or single-family house if all of the following factors exist:

(i) The housing is offered and rented to nonagricultural employees on the same terms that it is offered and rented to agricultural employees.

(ii) None of the occupants of the housing are employed by the owner or property manager of the housing or any party with an interest in the housing.

(iii) None of the occupants of the housing have rent deducted from their wages.

(iv) The owner or property manager of the housing is not an agricultural employer as defined in Section 1140.4 of the Labor Code, or an agent, as it relates to the housing in question, of an agricultural employer.

(v) Negotiation of the terms of occupancy of the housing is conducted between each occupant and the owner of the housing or between each occupant and a manager of the property who is employed by the owner of the housing.

(vi) The occupants are not required to live in the housing as a condition of employment or of securing employment and the occupants are not referred to live in the housing by the employer of the occupants, or an agricultural employer as defined in Section 1140.4 of the Labor Code.

(vii) The housing accommodation was not at any time prior to January 1, 1984, employee housing as defined in subdivision (a).

(2) "Employee housing," as defined by this

subdivision, does not include a hotel, motel, inn, tourist hotel, or permanent housing as defined by subdivision (d) of Section 17010, which has not been maintained, prior to January 1, 1984, or is not maintained on or after that date, as employee housing, as defined in subdivision (a).

(3) If at any time prior to January 1, 1984, a housing accommodation was employee housing, as defined in subdivision (a), and on or after January 1, 1984, was employee housing, as defined in this subdivision, the owner and operator shall comply with all requirements of this part. The owner and operator of any other housing accommodation which is employee housing pursuant to this subdivision shall be subject to the licensing and inspection provisions of this part and shall comply with all other provisions of this part, except that if any portion of the housing accommodation is held out for rent or lease to the general public, the construction and physical maintenance standards of the housing accommodation shall be consistent with the applicable provisions of the State Housing Law, Part 1.5 (commencing with Section 17910), the Mobilehome-Manufactured Homes Act, Part 2 (commencing with Section 18000); or the Mobilehome Parks Act, Part 2.1 (commencing with Section 18200). The owner or operator of the employee housing shall designate all units or spaces which are employee housing, as defined in this subdivision, for the purpose of inspection and licensing by the enforcement agency, subject to confirmation by the enforcement agency, based on all relevant evidence.

(c) "Employee housing" does not include employee community housing, as defined by Section 17005.5, which has been granted an exemption pursuant to Section 17031.3; housing, and the premises upon which it is situated, owned by a public entity; or privately owned housing, including ownership by a nonprofit entity, and the premises upon which it is situated, financed with public funds equaling 50 percent or more of the original development or purchase cost.

(d) "Employee housing" means the same as "labor camp," as that term may be used in this or other codes and, notwithstanding any local ordinance to the contrary in a general law or charter city, county, or city and county, shall be deemed a residential use if it exists in structures that are single-family houses or apartment houses as those terms are used in the State Housing Law (Part 1.5 (commencing with Section 17910)).

17021.6. (a) The owner of any employee housing who has qualified, or is intended to qualify, for a permit to operate pursuant to this part may invoke the provisions of this section.

(b) Any employee housing providing accommodations for 12 or fewer employees shall be deemed an agricultural land use designation for the purposes of this section. For the purpose of all local ordinances, employee housing shall not be deemed a use that implies that the employee housing is an activity that differs in any other way from an agricultural use. No conditional use permit, zoning variance, or other zoning clearance shall be required of employee housing that serves 12 or fewer employees that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in an agricultural zone shall include agricultural employees who do not work on the property where the employee housing is located.

(c) Except as otherwise provided in this part, employee housing that serves 12 or fewer employees shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other agricultural

activities in the same zone are not likewise subject. Nothing in this subdivision shall be construed to forbid the imposition of local property taxes, fees for water services and garbage collection, fees for normal inspections, local bond assessments, and other fees, charges, and assessments to which other agricultural activities in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee to the owner, operator, or any resident for enforcing fire inspection regulation pursuant to state law or regulation or local ordinance, with respect to employee housing that serves 12 or fewer persons.

(d) For the purposes of any contract, deed, or covenant for the transfer of real property, employee housing which serves 12 or fewer employees shall be considered an agricultural use of property, notwithstanding any disclaimers to the contrary. For purposes of this section, "employee housing" includes employee housing defined in subdivision (b) of Section 17008, even if the housing accommodations or property are not located in a rural area, as defined by Section 50101.

(e) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers and types of employee housing facilities as are commensurate with local need. This section shall apply equally to any charter city, general law city, county, city and county, district, and any other local public entity. For the purposes of this section, "12 or fewer employees" does not include the family members of any employee.

(f) If any owner who invokes the provisions of this section fails to maintain a permit to operate pursuant to this part throughout the first 10 consecutive years following the issuance of the original certificate of occupancy, both of the following shall occur:

(1) The enforcement agency shall notify the appropriate local government entity.

(2) The public agency that has waived any taxes, fees, assessments or charges for employee housing pursuant to this section may recover the amount of those taxes, fees, assessments, or charges from the landowner, less 10 percent of that amount for each year that a valid permit has been maintained.

(g) Subdivision (f) shall not apply to an owner of any prospective, planned, or unfinished employee housing facility who has applied to the appropriate state and local public entities for a permit to construct or operate pursuant to this part prior to January 1, 1996.

17031.8. (a) An agency which exercises the responsibility for the enforcement of this part pursuant to Section 17050 shall submit to the Department of Housing and Community Development, on forms provided by the department, the information specified in subdivision (c) by March 31 of each year regarding the previous calendar year.

(b) The Department of Housing and Community Development shall gather the information specified in subdivision (c) for all permittees for which it acts as the enforcement agency and include a summary of the information from the permittees and enforcement agencies in the annual report submitted pursuant to Section 50408 regarding housing programs administered by the department.

(c) The following information shall be provided for purposes of subdivisions (a) and (b) for the reporting year:

(1) The number and location of employee housing accommodations, including the number of permits to operate issued for employee housing accommodations.

(2) The number and location of inactive employee

housing accommodations.

(3) The number and location of employee housing accommodations found operating without a permit.

(4) The number of employees occupying employee housing accommodations with a permit.

(5) The number of employees occupying accommodations found to be operating without a permit.

(6) The number and types of inspections and reinspections performed.

(7) A schedule of fees charged, the amount of fees collected for each type of fee charged and the total amount of fees collected.

(8) The number of complaints received during the reporting year and the character of any violations found for each accommodation operating under permit, operating without a permit, or inactive.

(9) The number and character of violations of this part and regulations adopted pursuant to this part found during inspection of each accommodation operating under permit, or operating without permit.

(10) The number of violations of this part and regulations adopted pursuant to this part that resulted in civil citations.

(11) The number of cases referred to prosecutorial agencies such as the Attorney General or local district attorneys, the number of cases filed to enforce this part, and the amounts of all fines and civil penalties collected as a result of the enforcement of this part.

(12) The number of staff hours dedicated to the implementation of the Employee Housing Act (Part 1 (commencing with Section 17000)).

(13) The number and location of employee housing receiving an exemption pursuant to Section 17031.3, 17031.4, or 17033.

(d) The information specified in subdivision (c) shall be maintained by the department and provided to members of the public who have requested it in writing.

17052. The enforcement agency shall annually enter and inspect, and reinspect as necessary, all employee housing accommodations for compliance with the provisions of this part and regulations adopted pursuant to this part, except:

(a) Accommodations for employee housing consisting only of permanent single family housing that have been granted an exemption as provided in Section 17031.

(b) Accommodations for employee housing that have been issued a multiyear permit to operate pursuant to Section 17030.5.

(c) Accommodations for employee housing that are inactive.

(d) Accommodations for employee housing inspected in the prior calendar year with no violations identified or complaints received by the enforcement agency, which shall be inspected at least biennially.

The enforcement agency shall make every effort to complete the inspection prior to the occupancy of the employee housing.