

INITIAL STATEMENT OF REASONS

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT DIVISION OF CODES AND STANDARDS

TITLE 25, CALIFORNIA CODE OF REGULATIONS, CHAPTER 5 ARTICLE 3.5, SECTIONS 5535, 5535.5, 5536, AND 5536.5 ON THE SUBJECT OF FEE AND TAX WAIVER PROGRAM FOR MANUFACTURED HOMES AND MOBILEHOMES THAT ARE NOT PROPERLY TITLED AND/OR REGISTERED

The Department of Housing and Community Development's (Department) Registration and Titling Program (R&T Program) is responsible for the economic and orderly transfer of registration and titling of manufactured homes, mobilehomes, commercial modular, floating homes and truck campers. The R&T Program annually renews registrations for approximately 121,000 manufactured homes and 39,000 commercial modulars; performs other types of transactional changes for 35,500 registrations and over 3,500 loan security filings; and maintains records and files that establish the existence and ownership of manufactured homes, mobilehomes, commercial modulars, floating homes, and truck campers. Additionally, the R&T Program performs continual updates to registration and titling documents, including issuance of updated documents to owners; secures and perfects the security interest of manufactured homes and mobilehomes through its registration and titling system; and maintains the initial reporting documents, which are imaged as permanent historical records.

With this action, the Department proposes to permanently adopt the above noted new Article 3.5 and regulation sections into Title 25, California Code of Regulations (CCR), Chapter 5.

INFORMATIVE DIGEST

Summary of Existing Laws and Regulations

Fees and taxes on mobilehomes and manufactured homes are either based on a Local Property Tax (LPT) system (for homes first sold on or after July 1, 1980) for which taxes are paid to the applicable local tax collector, or an In Lieu Taxation (ILT) system (for homes first sold prior to July 1, 1980) for which owners pay annual registration renewal fees directly to the Department.

Under current law, prior to transferring title of a manufactured home/mobilehome subject to LPT, a transferee must obtain a Tax Clearance Certificate from the county tax collector's office indicating that all outstanding taxes have been paid in full. Without this Tax Clearance Certificate, the Department is unable to transfer ownership of a home.

Under current law, the Department is unable to transfer ownership of ILT units or make amendments to a permanent title of record if there are delinquent Department fees and penalties.

**Department of Housing and Community Development
Division of Codes and Standards – Registration and Titling Program
Initial Statement of Reason**

Beginning January 1, 2017, AB 587 authorizes the transfer of title under both the LPT and ILT systems when the transferee pays only those amounts of taxes and fees not waived by the new law in addition to other Department processing fees. The amendments in Health and Safety Code (HSC) Section 18116.1 and Revenue and Taxation Code (RTC) Section 5832 established stringent eligibility requirements subject to Department approval before the proper amount of taxes and fees may be waived and the title transferred.

RATIONALE FOR PROPOSED AMENDMENTS

The proposed regulations are necessary to implement the Fee and Tax Waiver Program authorized by Chapter 396, Statutes of 2016 (AB 587) which amended HSC Section 18116.1 and RTC Section 5832 in order to encourage owners of manufactured homes/mobilehomes not currently registered to obtain registration by granting waivers or abatements of specified fees and taxes.

AB 587 requires the Department to establish a Fee and Tax Waiver Program, within its R&T Program which allows owners of manufactured homes and mobilehomes to register the home into the current homeowners' name(s) and be eligible for a fee and tax waiver of outstanding fees and taxes. This program will permit those homeowners who otherwise have not been able to transfer title of ownership to their names due to delinquent fees and taxes accrued by previous owners. If applicants are able to complete the Fee and Tax Waiver Program process, the Department may:

- release all Department liens related to delinquent fees/taxes;
- waive all outstanding Department registration fees based on certain dates as mandated by statute;
- provide applicant(s) a conditional certificate of title and record conditional ownership for manufactured homes/mobilehomes that are subject to local property tax which will authorize the homeowners to request property tax abatements from the applicable local county tax collector;
- accept a tax liability certificate or a tax clearance certificate issued to applicants by local property tax collectors if they have been deemed eligible for tax waiver from the county tax collector;
- record the applicant(s) as the registered owner(s) once the requirements of registration with fee and tax waiver relief have been satisfied; and
- provide the new registered owner with the appropriate registration and titling documentation.

AB 587 did not, and the Fee and Tax Waiver Program will not, exempt the applicant from all other requirements of Chapter 5 (commencing with 25 CCR Section 5510) governing the administrative process for obtaining registered owner status. The only changes in the registration process are those promulgated in this new Article.

SUMMARY OF SECTIONS AFFECTED

The specific sections of 25 CCR, Division 1, Chapter 5 to be added by this proposed action are a new Article 3.5, with new sections 5535, 5535.5, 5536, and 5536.5.

AUTHORITY AND REFERENCE

The Department proposes to adopt these regulations under the authority granted by HSC Section 18015.

The purpose of these regulations is to implement, interpret, and make specific the provisions of HSC Section 18116.1 and RTC Section 5832, relating to the processing of obtaining registration for a manufactured home or mobilehome which the applicant has obtained an ownership interest in, including the waiving or abating of certain fees and taxes for past due annual renewal fees and other outstanding charges due to the Department or property taxes due to the local county tax collector.

SUMMARY OF EFFECT OF PROPOSED REGULATORY ACTION

Article 3.5: Article 3.5 is added to Chapter 5 of Title 25 of the CCR to provide orderly and systematic implementation of the manufactured home/mobilehome registration Fee and Tax Waiver Program. The regulations of the Fee and Tax Waiver Program are for the convenience of the regulated public, including both homeowners and local tax collectors, while exercising their obligations and responsibilities under the AB 587 Fee and Tax Waiver Program. While the registration process incorporates many requirements in other provisions of HSC codifying the R&T Program chapter, its unique fee and tax waiver or abatement characteristics are appropriately set aside in a separate Article for easy reference and to avoid confusion with other registration requirements. The new title, “Registration of Manufactured Homes or Mobilehomes with Fee and Tax Waiver Program” summarizes the contents of the Article, indicating that it applies both to registration and the fee waiver program, which must be coupled according to the new law, and that it applies to unregistered manufactured homes and mobilehomes.

Section 5535(a): This subsection, as a whole, establishes eligibility requirements for the Fee and Tax Waiver Program. It also establishes December 31, 2019, as the end date of the Fee and Tax Waiver Program as prescribed by HSC Section 18116.1. It makes clear that a “person” or “entity” (e.g., a corporation or partnership such as a mobilehome park operator) may utilize the new program. It also clarifies that the applicant for the Fee and Tax Waiver Program must be a person “who asserts an ownership interest” of a home, eliminating mere lessees of a home desiring to acquire it; proof of the chain of activities resulting in potential ownership is addressed in subsequent sections and the provision of meeting other specific Fee and Tax Waiver Program requirements. The term “an ownership interest” has replaced the term “ownership” in the emergency regulations, to address the ambiguity between a person who asserts an ownership interest and the current record owner on title. The Fee and Tax Waiver Program only applies to manufactured homes/mobilehomes previously

registered in California since any other such unit would not have an R&T Program registration and titling record nor be in arrears of fees or taxes..

Section 5535(b): This subsection specifies that a person or entity may not apply more than more than once to the Fee and Tax Waiver Program, as mandated by HSC Section 18116.1.

Section 5535(c): This subsection is necessary to clarify that the Fee and Tax Waiver Program does not apply to new manufactured homes. There is a special process required for these homes, and they would not have arrears with property taxes. The reference in the emergency regulations to “or mobilehomes” is removed because no “mobilehomes” were produced after June 16, 1976; all manufactured homes produced after that date are “manufactured homes”. (See HSC Sections 18007 and 18008).

Section 5535(d): This subsection is necessary to ensure that only manufactured homes or mobilehomes previously registered in California qualify for the fee and tax waiver. The purpose for limiting the Fee and Tax Waiver Program to units previously registered in California is two-fold: 1) they are the most impacted by lack of registration, and 2) units not previously registered with the Department do not exist in the registration and titling records.

Section 5535(e) and (f): These subsections are necessary in order for the Department to educate the public about the Fee and Tax Waiver Program. These subsections permit the Department to create informational and educational materials to assist the public in understanding the requirements for this program; to provide that the Department will translate these documents into Spanish, or other commonly used languages, to the extent that resources are available, in order to assure all stakeholders that the Department is maximizing its efforts to solicit applicants and to ensure that applicants can complete as much of the application requirements as possible prior to seeking assistance from the Department.

Section 5535(g): This subsection is necessary in order to define the terms used in this article.

In paragraph (1), “waiver” is defined. Although AB 587 deals with both fee waivers and tax abatements, the Department has sought to use the generic term “waiver” as the term that commonly is used by the regulated public who are seeking to become owners of their mobilehomes and manufactured homes. It also is translated in a manner more understandable to the regulated public. The regulation does not waive or abate property taxes that are the responsibility of the local tax collectors; that was achieved by the Legislature’s enactment of AB 587.

In paragraph (2), “registering” or “registration” is defined to expressly include the manufactured homes or mobilehomes being registered pursuant to the Fee and Tax Waiver Program.

In paragraph (3), “processing fee” is defined to clarify that the Fee and Tax Waiver Program \$50 fee is in lieu of regular processing fees [transfer fee (\$35 per section), an informal title search fee in order to determine whether there are various liens on the unit (\$25), duplicate certificate of title fee (\$25), and duplicate registration card fee (\$25)]. The Fee and Tax Waiver Program processing fee does not include state mandated fees and costs, e.g., the Mobilehome Recovery Fund Fee, Board of Equalization use tax and penalties, bonding entity fees, any reproduction costs, etc.

In paragraph (4) “Conditional Certificate of Title” is defined to clarify that this document is a temporary titling document issued as part of the Fee and Tax Waiver Program to show conditional ownership of a manufactured home or mobilehome and permits the home to be registered in the name of the applicant. The definition also prohibits the document to be used to demonstrate ownership for purpose of resale or transfer of title, securing a loan or lien, or any other purpose.

Section 5535(h): This subsection is necessary in order to establish an overall application fee for the Fee and Tax Waiver Program. Under the existing Chapter 5 and the emergency regulations, a number of processing fees are required, depending on the nature of the applicant’s claim to ownership. That claim may be based on an informal purchase; an intra-family transfer; an acquisition as a result of the death of a spouse, parent, or other relative; a gift or compensation for work performed; or other circumstances. Chapter 5 requires a variety of procedures and steps which include various fees paid to the Department in order to achieve registration. These fees, when explained in advance to an applicant, may deter further processing and thus undermine one purpose of the program which is to encourage applications for registration. The most common processing fees will be the transfer fee (\$35 per section), an informal title search fee in order to determine whether there are various liens on the unit (\$25), duplicate certificate of title fee (\$25), and duplicate registration card fee (\$25). The Department has determined that since there is one on-going transaction, starting with one application, and since the goal is to achieve as many new registrations as possible, that it can reduce to total processing fee to only \$50.

The fee reduction prescribed by this subsection only applies to “processing” fees, and not other fees and costs expressly prescribed by law. Depending on whether the home is an ILT home or an LPT home, other fees required by law need to be paid including the Mobilehome Recovery Fund Fee (\$10 per section), the Board of Equalization use tax and penalties (varies by sale price), the Mobilehome Park Purchase and Rehabilitation Fund fee (\$5 per section), bonding entity fees for bonds related to prior owners still on record (varies), any reproduction costs for copying requested by the applicant (\$5 per side of a document), escrow fees, etc.

Section 5535.5: This section, as a whole, specifies the procedural requirements needed for the Department to efficiently and effectively enforce and administer the provisions of the Fee and Tax Waiver Program as it applies to manufactured homes and mobilehomes subject to the in-lieu tax fee (ILT) annual fees. A new separate section, Section 5536, is added for those subject to local property taxes (LPT) because the

requirements and procedures are different for those homes. For clarity, the applicable statutory and regulatory sections are specified for the convenience of the regulated public. It also establishes the compliance requirements for an applicant in the Fee and Tax Waiver Program.

Section 5535.5(a)(1): This subparagraph is added to specify the information which will be necessary for the new ILT Waiver Program application. It introduces the requirements by specifically stating that the applicant will have to comply with both this Article's requirements with regard to the Fee and Tax Waiver Program and this Article's registration requirements, which cross-reference other applicable provisions of Chapter 5 governing registration procedures. This subsection also states that the applicant will have to complete an application form and identifies the information which will be necessary in this new form. The application form is necessary so that the applicant understands what information is necessary and so that the R&T Program can efficiently and effectively respond to the specific situation governing the applicant's registration process.

Section 5535.5(a)(1)(A): This subparagraph specifies that particular individualized information about the applicant is necessary so that the R&T Program can efficiently and effectively identify and communicate with the applicant. It requires the applicant's name, company name (if applicable), mailing address, telephone number, email address, and other unique identifying information which ensures the applicant is not abusing the limits of the Fee and Tax Waiver Program benefits discussed above.

Section 5535.5(a)(1)(B) and (C): These subparagraphs require specific unit information in order to establish the unit identifying information such as the decal number, trade name, serial numbers, and the physical location to ensure that the R&T Program and the applicant have the correct information for the manufactured home/mobilehome, allowing the home to be identified properly in the R&T Program records. The name, address, telephone, and email address, if any, are necessary both for communicating with the applicant, and to ensure there are no duplicate applications for benefits submitted. The term "unit identifying information" is a specifically defined term in Title 25 CCR Section 5511(bbbb).

Section 5535.5(a)(1)(D): This subparagraph requires the date of sale to establish one factor in the applicant's claim of ownership of the home. This date will determine the amount of waived fees and taxes which the applicant is entitled. The purchase price is required in order to calculate the amount of use tax as a result of the acquisition of the home. The date of sale and purchase price will be verified by the documents that the applicant provides to show proof of a chain of transactions which resulted in the applicant's claim of ownership. The paragraph also allows for the applicant to present information regarding the date of "transfer", since a transfer (gift, addition of a co-owner, etc.) is not a "sale" and therefore no use tax would be due.

Section 5535.5(a)(E)(1.) and (2.): This paragraph requires the applicant to complete a "statement signed by the applicant to the best of his or her knowledge". This is a

standard format used throughout this Chapter for registration and titling transactions under the Fee and Tax Waiver Program. The requirement to sign “to the best of his or her knowledge” is added because it assists in ensuring that the critical information is truthfully provided and also allows for administrative suspension of a fraudulently issued certificate of title under HSC Section 18122 or civil or criminal prosecution under HSC Section 18124.5. Clauses 1. through 3. address the specific critical information provided in other provisions of this section: the applicant is applying for the Fee and Tax Waiver Program; the date of application is before the statutory deadline; and that the applicant has not previously obtained registration and fee benefits under the Fee and Tax Waiver Program. Each of these factors is required by HSC Section 18116.1 or elsewhere in Title 25, CCR Chapter 5.

Section 5535.5(a)(2): This paragraph clarifies and directs that the applicant must comply with the requirements of either Title 25 CCR Section 5530 or 5531, whichever is applicable. This direction is necessary to ensure that the applicant understands that it must also comply with all standard registration requirements involved in changes to registration of used manufactured homes or mobilehomes, as well as this Article. The choice between the sections 5530 and 5531 depends on whether or not a manufactured home dealer is involved in the transaction, which is clear by the terms of those sections.

Section 5535.5(a)(3): This paragraph introduces actions necessary for the applicant to register its home in addition to those in this Article and subsection (c), above. It specifies fees, procedures, and documents otherwise required for all transfers of ownership (new registration) set forth in Article 4 of this Chapter, commencing with Section 5540. It does not identify all such requirements, but highlights the most important and common issues.

Section 5535.5(a)(3)(A) through (C): These clauses identifies the most common fees and payments that the applicant will have to pay prior to a transfer of ownership of the unit and issuance of a new title.

Clause (A) relates to the vehicle license fees required by Title 25 CCR Section 5660.

Clause (B) relates to the registration fees that must be paid, but as required by HSC Section 18116.1, allows for the waiver of fees based on the date the unit was transferred, the date of the application, or December 31, 2015, whichever is later.

Clause (C) relates to the payment of use taxes as required by Title 25 CCR Section 5667. Other fees are waived pursuant to subsection (h) of Section 5535.

Section 5535.5(a)(3)(D): This clause specifically requires the applicant to provide proof of the chain of ownership from the current owner on record with the R&T Program to the current applicant through items such as original bill of sale, certificate of title, or application for duplicate certificate of title. This requirement is consistent with the general title transfer requirements of Chapter 5. It protects the existing recorded registered owner who may not have intended to transfer to the applicant, and also is a

means to ensure that the date of acquisition, sales price, etc. are consistent with the general information provided pursuant to subsection (1). Depending on the nature of the proof of the acquisition, Chapter 5 allows alternative means of replacing a prior registered owner if that owner's written release cannot be obtained, such as a statement under penalty of perjury and a bond; for the clarity of the regulated user, that option is repeated in this subsection.

Section 5535.5(a)(3)(E): This clause specifically requires the applicant to provide proof of release, assumption or satisfaction (payment) by each legal owner (equivalent of a first mortgage) or junior lienholder (equivalent to second mortgage or other authorized liens) recorded against the title of the manufactured home/mobilehome. This requirement is consistent with the general title transfer requirements of Chapter 5, and protects the vested interests of these lenders and lienors. Depending on the nature of the liens and the lienholders, Chapter 5 allows alternative means of eliminating some liens if the lienholder cannot be located or refused to release the lien or provide a satisfaction (for the clarity of the regulated user, that option is repeated in this subsection).

Section 5535.5(a)(3)(F): This clause specifically requires the applicant to provide documentation proving the existence of other prerequisites to a transfer required in Chapter 5, including, but not limited to, the most common: proof of operative and properly installed smoke alarms (Title 25 CCR Section 5545) and carbon monoxide alarms installed pursuant to Title 25 CCR Sections 4326 and 4328.

Section 5535.5(a)(4): This paragraph clarifies the prerequisites to the Department issuing a certificate of title and other titling documents. They include receipt of all documents required by this Article, payment of all fees, and the Department's determination that there has been compliance with the requirements of this Article. Upon compliance with this paragraph, the Department will issue the new certificate of title and other titling documents.

Section 5535.5(a)(5): This subparagraph authorizes the Department to: 1) develop and use a form for this final transaction; 2) obtain unique identifying information regarding the applicant and the unit so that proper information is recorded on the title, and 3) request further information required by Chapter 5 if needed to ensure that the applicant submitting the documents has met all requirements in Chapter 5 other than payment of waived fees and taxes in order to complete the final transfer of title into the applicant's name.

Section 5535.5(b)(1) and (b)(2): This subsection is added to clarify that the applicant must provide the Department information or documentation demonstrating ownership of the unit or how the applicant received ownership (e.g., the chain of transactions); and the date of applicant's acquisition of the unit (in order to calculate the amount of fees waived).

Section 5536: This section, as a whole, specifies the procedural requirements needed for the R&T Program to efficiently and effectively enforce and administer the provisions of the Fee and Tax Waiver Program as it applies to manufactured homes and mobilehomes subject to local property tax (LPT) payments. The prior section, Section 5535.5, is added for those subject to in lieu fees (ILT) because the requirements and procedures are different for those ILT registered homes. For clarity, the applicable statutory and regulatory sections are specified for the convenience of the regulated public and because the county tax collectors will make specific decisions according to the laws that govern their activities. It also establishes the requirements for an applicant in the Tax and Fee Waiver Program.

Section 5536(a)(1): Subsection (a) paragraph (1) is added to specify the information which will be necessary for the new LPT Fee and Tax Waiver Program application. It introduces the requirements by specifically stating that the applicant will have to comply with both this Article's requirements with regard to the fee and tax waiver and this Article's registration requirements, which cross-reference other applicable provisions of Chapter 5 governing registration procedures. This subsection also states that the applicant will have to complete an application form and identifies the information necessary in this new form. The application form is necessary so that the applicant understands what information is necessary and so that the R&T Program can efficiently and effectively respond to the specific situation governing the applicant's registration process.

Section 5536(a)(1)(A): This subparagraph specifies the particular individualized information about the applicant necessary for the R&T Program to efficiently and effectively identify and communicate with the applicant. It requires the applicant's name, company name, if applicable, address, telephone number, email address, and other unique identifying information which ensures the applicant is not abusing the limits of the Fee and Tax Waiver Program benefits discussed above.

Section 5536(a)(1)(B) and (C): These subparagraphs require specific unit information: the decal number, trade name, serial numbers and the physical location to ensure that the R&T Program and the applicant have the correct information for the manufactured home/mobilehome, allowing the home to be identified properly in both the R&T Program's and local property tax collector's records. The name, address, telephone, and email address, if any, are necessary both for communicating with the applicant and to ensure there are no multiple applications for benefits. The term "unit identifying information" is a specifically defined term in 25 CCR Section 5511(bbbb).

Section 5536(a)(1)(D): This subparagraph requires the date of sale to establish the applicant's claim of ownership of the home. This date will determine the amount of waived fees and taxes to which the applicant is entitled. The date of sale and purchase price will be verified by the documents that the applicant provides to show proof of a chain of transactions which resulted in the applicant's claim of ownership. This paragraph also allows for the applicant to present information regarding the date of "transfer", since this is another common means of acquiring a right of ownership.

Section 5536(a)(1)(E)(1.) through (4.): This paragraph requires the applicant to complete a “statement to the best of his or her knowledge.” This is a standard format used throughout this Chapter for registration and titling transactions. The requirement to sign “to the best of her or his knowledge” is added because it assists to ensure that the critical information is truthfully provided and also allows for administrative suspension of a fraudulently issued certificate of title under HSC Section 18122 or civil or criminal prosecution under HSC Section 18124.5. Clauses 1. through 4. address the specific critical information provided in other provisions of this section: the applicant is applying for the Fee and Tax Waiver Program; the applicant has satisfied any state lien imposed pursuant to Section 16182 of the Government Code; the date of application is before the statutory deadline; and the applicant has not previously obtained registration and fee benefits under the Fee and Tax Waiver Program. Each of these factors is required by either HSC Section 18116.1 or elsewhere in Title 25 CCR Chapter 5.

Section 5536(a)(2): This paragraph clarifies and directs that the applicant must comply with the requirements of Title 25 CCR Section 5530 if the transfer involved a licensed manufactured home dealer. This direction is necessary to ensure that the applicant understands that it must also comply with all standard registration requirements involved in changes to registration of used manufactured homes/mobilehomes, as well as this Article. It specifically exempts the tax clearance certificate requirement because that requirement is modified by the new Fee and Tax Waiver Program.

Section 5536(a)(3): This paragraph clarifies that the applicant must comply with the requirements of Title 25 CCR Section 5531 if the transfer did not involve a licensed manufactured home dealer. This direction is necessary to ensure that the applicant understands that it must also comply with all standard registration requirements involved in changes to registration of used manufactured homes/mobilehomes, as well as this Article. It specifically exempts the tax clearance certificate requirement because that requirement is modified by the new Fee and Tax Waiver Program.

Section 5536(a)(4): This paragraph introduces actions necessary for the applicant to register their home in addition to those in this Article and subsections (2) and (3), above. It specifies fees, procedures, and documents otherwise required for all transfers of ownership (new registration) set forth in Article 4 of this Chapter, commencing with Section 5540. It does not identify all such requirements, but highlights the most important and common issues.

Section 5536(a)(4)(A): This subparagraph clarifies for the benefit of the regulated user that the applicant must pay the applicable transfer fees indicated in Title 25 CCR Section 5660.

Section 5536(a)(4)(B): This subparagraph clarifies that a releasing document is required if there is a State Controller’s Office Tax Postponement Lien as provided in Government Code Section 16180. This is a requirement to transfer title for any manufactured home/mobilehome pursuant to Title 25 CCR Chapter 5.

Section 5536(a)(4)(C): This subparagraph specifically requires the applicant to provide proof of the chain of ownership from the current owner on record with the Department to the current applicant through items such as original bill of sale, certificate of title, or application for duplicate certificate of title. This requirement is consistent with the general title transfer requirements of Title 25 CCR Chapter 5, it protects the existing recorded registered owner who may not have intended to transfer to the applicant, and also is a means to ensure that the date of acquisition, sales price, etc. are consistent with the general information provided pursuant to subsection (1). Depending on the nature of the proof of the acquisition, Title 25 CCR Chapter 5 allows alternative means of replacing a prior registered owner if that owner's written release cannot be obtained, such as a statement under penalty of perjury and a bond; for the clarity of the regulated user, that option is repeated in this subsection.

Subsection 5536(a)(4)(D): This subparagraph specifically requires the applicant to provide proof of release, assumption or satisfaction (payment) by each legal owner (equivalent of a first mortgage) or junior lienholder (equivalent to second mortgage or other authorized liens) recorded against the title of the manufactured home/mobilehome. This requirement is consistent with the general title transfer requirements of Title 25 CCR Chapter 5, and protects the vested interests of these lenders and lienors. Depending on the nature of the liens and the lienholders, Title 25 CCR Chapter 5, allows alternative means of eliminating some liens if the lienholder cannot be located or refused to release the lien or provide a satisfaction. For the clarity of the regulated user, that option is repeated in this subsection.

Section 5536(a)(4)(E): This subparagraph specifically requires the applicant to provide documentation proving compliance with the other prerequisites to a transfer required by Title 25 CCR Chapter 5, including, but not limited to: proof of operative and properly installed smoke alarms pursuant to Title 25 CCR Section 5545, and carbon monoxide alarms pursuant to Title 25 CCR Sections 4326 and 4328.

Section 5536(a)(5): This paragraph clarifies the prerequisites for the Department to issue a conditional certificate of title. The prerequisites include: receipt of all documents required by this Article, payment of all fees, and the Department's determination that there has been compliance with the requirements of this Article. Upon compliance with this paragraph, the Department will issue the conditional certificate of title. The LPT process differs from the ILT process because the Department still cannot issue a standard certificate of title until the local property tax collector issues either a tax clearance certificate (the requirement under current law) or a tax liability certificate (a new requirement under AB 587).

The local tax collector in each of California's 58 counties does not have to consider a request from an applicant for a property tax waiver until receipt of the Department's conditional certificate of title. Upon receipt of the Department's conditional certificate of title, the local tax collector is mandated to act on that waiver and issue the tax waiver or tax liability form to the applicant. In order to protect the interests of the local tax

collectors, the Department will develop and use a unique document titled “Conditional Certificate of Title”. The information in that document is set forth in paragraphs (A) and (B) of this section.

Section 5536(a)(5)(A): This subparagraph describes the type of information on the face of the conditional certificate of title. Specifically, it includes both the applicant and the unit in order for the local tax collector to ensure that the tax waiver is provided to the correct person and with regard to the correct unit at the correct address. It also makes clear that the document is a conditional certificate of title rather than a regular certificate of title.

Section 5536(a)(5)(B): This subparagraph describes a disclosure statement on the face of the conditional certificate of title. This disclosure statement is established by HSC Section 18116.6 for one purpose: to require the local tax collector to calculate the amount of property tax to be waived on behalf of the applicant, and the amount still due from the applicant, based on the dates of acquisition provided for in AB 587. In order to protect possible buyers or transferees of that unit, and persons or entities who might be solicited to provide loans to the applicant whom believe a loan could be secured by the conditional certificate of title, the disclosure statement makes it clear that the conditional certificate of title may not be used for purposes of a resale or transfer of title to secure a loan or lien, or for any other purpose other than what is specified in AB 587.

Section 5536(a)(5)(C): This subparagraph provides that an authenticating seal or other unique identifier from the Department shall be imprinted on the conditional certificate of title to affirm authenticity.

Section 5536(a)(6): This paragraph provides clear direction to the applicant as to what must be submitted to the Department in order to receive the final certificate of title and related title documents.

Section 5536(a)(6)(A) and (B): These subparagraph implements Title 25 CCR Chapter 5 requirements, as amended by HSC Section 18116.1, by requiring either a Tax Clearance Certificate or a Tax Liability Certificate issued from the local tax collector. In addition, the applicant must submit the conditional certificate of title provided by the Department in order to ensure that it cannot be used for another purpose.

Section 5536(a)(7): This paragraph authorizes the Department to: 1) develop and use a form for this final transaction; 2) obtain unique identifying information regarding the applicant and the unit so that proper information is recorded on the title; and 3) request further information if needed to ensure that the applicant submitting the documents has met all requirements to complete the final transfer of title into the applicant’s name.

Section 5536(b): This subsection is added to clarify that the applicant must provide the Department information or documentation demonstrating ownership of the unit or how the applicant received ownership (e.g., the chain of transactions); and the date of applicant’s acquisition of the unit (in order to calculate the amount of fees waived).

Section 5536.5(a) and (b): These subsections establish beginning and ending dates for the Fee and Tax Waiver Program. Subsection (a) states that the initial date of effectiveness of this new Article depends upon approval from the Office of Administrative Law (OAL). Although AB 587 takes effect on January 1, 2017, the Department's Fee and Tax Waiver Program commencement depends upon OAL's approval of these emergency regulations. Subsection (b) provides a clear termination date provided by AB 587 (January 1, 2019), but allows the Department to complete processing of applications that were received prior to December 31, 2019, as required by law, until December 31, 2020.

POLICY STATEMENT OVERVIEW

The R&T Program is responsible for adopting and enforcing preemptive state regulations for recording the ownership of, and the security interest in, a manufactured home, mobilehome, commercial modular, floating home, or truck camper; and providing titling and registration documents which evidence ownership, security interest and registration status.

The Department is proposing to add regulations relating to the Manufactured Housing Act of 1980, Sections 18000 through 18153 and Revenue and Taxation Code Section 5832.

COMPARABLE FEDERAL STATUTES OR REGULATIONS

NONE

DISCLOSURE REGARDING PROPOSED ACTION

- Mandate on local agencies and school districts: NONE
- Costs or savings to any state agency: NONE
- Costs or savings to local agencies or school districts which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code: NONE
- Other non-discretionary costs or savings imposed upon local agencies: NONE
- Costs or savings in federal funding to the state: NONE

BUSINESS IMPACT STATEMENT

The Department has made an initial determination that the proposed adoptions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. However, there exists the need to adopt these regulations to alleviate a potential adverse economic impact on business. If homeowners do not properly register their homes, they are prohibited from obtaining permits to repair their homes; thus, affecting licensed contractors and home improvement stores.

SMALL BUSINESS IMPACT STATEMENT

The Department has made a determination that small businesses will not be adversely affected by this regulatory action.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

HSC Section 18611.1 establishes a fee waiver program which waives a portion of the specified Department taxes and fees due upon transfer of a manufactured home/mobilehome based on the date the title or interest in the home was transferred to the applicant or December 31, 2015, whichever is later. RTC Section 5832 establishes a property tax waiver program in which the applicant will pay only the taxes reasonably owed from the date of sale that is shown on the conditional certificate of title. The Department anticipates an increase in registration applications that must be individually reviewed and processed as a result of these statutory changes, culminating in an overall increase in homeowners registered with the Department.

These proposed regulations will have no significant cost to private businesses. The new regulations encourage registration of manufactured homes/mobilehomes. If a business (such as a mobilehome park) owns a manufactured home/mobilehome, it will be able to register one home under this new program and obtain the benefit of waived taxes or fees. Once a homeowner obtains registration, that homeowner will be able to obtain permits for repairs, thus benefitting licensed contractors and home improvement businesses and retail stores. Homeowners will also be able to obtain property and liability insurance on their home, thus benefitting insurance agents and companies. In addition, those applicants who cannot obtain releases from existing (often old) lenders and lienholders will have to pay off those loans and liens before their home can be properly registered. This may generate revenue for the lenders and lienholders. Since the secured status of existing mobilehomes is so varied, it is impossible to estimate the amount of repayments which may be made.

On the other hand, if the regulations are not approved, there will be significant negative impacts on businesses. The lack of a systematized process for the Fee and Tax Waiver Program will affect the current R&T Program by severely impacting the Department's ability to assist the other 40,000 owners of manufactured homes/mobilehomes and other types of units who seek timely transaction assistance. These applications, in addition to the Fee and Tax Waiver Program applications, will be delayed by the case-by-case processing afforded by AB 587. Specifically, manufactured home/mobilehome owners will not be able to sell or buy their units, obtain financing, demonstrate full payment, or add spouses and other family members to the unit's ownership. The current owner of an unregistered home will have to continue paying loan payments on that home until the new buyer is registered. In many cases, a manufactured home is moved into an empty lot in a mobilehome park, but cannot be moved or occupied until registration is complete, resulting in the loss of rent payments to mobilehome park owners. Buyers of existing manufactured homes/mobilehomes that are not properly registered will not be able to obtain permits for repairs or improvements until registration is complete, thus exposing them to hazards and reducing potential business for contractors and home improvement businesses and retail stores. Therefore, the

necessity of efficient operation of the AB 587 Fee and Tax Waiver Program commencing January 1, 2017, affects the financial health and safety of more than 40,000 owners of manufactured homes and businesses that rely on them.

The Department anticipates that there will be little to no new costs to individuals in the private sector due to these regulations. These regulations make it easier for a homeowner who is not properly recorded on title with the Department to become the recorded owner, reducing the financial burden of the previous owners' unpaid taxes and arrears. On the other hand, there will be costs to applicants who are confronted with an existing loan or lien on their home; if so, they will have to comply with existing regulations. If they cannot obtain satisfaction or waiver, they will have to pay off the existing loan or lien or, in some cases, they can bond around and eliminate the liens if the liens are not from financial institutions (although this costs the applicant approximately ten percent of the amount of the lien as a bond fee). The homeowner also benefits financially by being able to sell their home at full value, since title can be transferred, rather than "underground" sales which do not include actual title and promote fraudulent sales. However, as noted above, there will be significant costs to private individuals if these regulations are not adopted. Due to the varied nature of all ownerships, it is impossible to estimate the amounts of these private costs.

While there will be some applicant costs involved in applying for and receiving Department approval for registration, no new fees are being added and existing requirements are incorporated in the process. Instead, the monetary responsibility on an applicant is dramatically reduced from participation in the Fee and Tax Waiver Program. The Department has estimated that the Fee and Tax Waiver Program will generate approximately 40,000 additional applications, with approximately 16,000 submitted in the first year. It is reasonable to assume that after the Fee and Tax Waiver Program ends, the number of homeowners that are properly registered and pay their annual renewals or property taxes will substantially increase. If the application is submitted during the first year of the Fee and Tax Waiver Program, the applicant would only owe one year of Department fees; if the application is submitting during the third year of the Fee and Tax Waiver Program, they would owe three years of Department renewal fees. This Fee and Tax Waiver Program will dramatically reduce the amount of fees owed by a homeowner not currently registered with the Department.

Based on a 2013 Department survey, approximately 126,000 manufactured homes/mobilehomes subject to Department annual registration renewal fees were current for the year. In contrast, there were approximately 97,000 manufactured homes/mobilehomes that had Department registration fee liens of which a small portion could benefit from this Fee and Tax Waiver Program. The larger portion of that number is likely to be homes that did not remember to pay their registration renewal. In 2014, approximately 4,500 manufactured home/mobilehome renewals expired with an outstanding amount due of \$3.5 million. The cumulative outstanding amount for all manufactured homes/mobilehomes in which registration renewal is delinquent through 2014 is approximately \$51.5 million.

The proposed regulations relate to registration practices of homes and do not impact the core service provided by manufacturers or dealers of manufactured homes/mobilehomes, or mobilehome park managers, except to the extent noted above if the regulations are not approved as an emergency.

Furthermore, existing businesses will not be eliminated as the registration requirements and fees imposed on applicants seeking registration with the Department are minor and absorbable. There is no indication that these regulations will result in any job creation or job losses outside of the Department. The Department anticipates that the fees generated from participation in this Fee and Tax Waiver Program will be sufficient to cover Department costs, including increasing staff and overhead to process additional applications. For example, a typical transfer for a manufactured home/mobilehome subject to local property taxation will cost \$101 for a double-wide home and \$73 for a single-wide home. The ratio between homes subject to in lieu tax versus local property tax is 2:3. If we anticipate a total of 40,000 applications to begin the Fee and Tax Waiver Program, we can anticipate that 26,400 of those applications will be for local property tax homes.

However, due to the complexities of the existing registration process and the necessity to pay off existing private loans and liens or bond around them, we anticipate only 30 percent will complete the process and obtain registration. Although the ratio of triple- to double- to single-wide homes is unknown, the double-wide is the most common. If all completed applications are assumed to be single-wide transfers, the Department can anticipate an additional \$5.97 million in additional revenue over the three-year period from Department fees related to homes registered under the Fee and Tax Waiver Program.

While these regulations have some impact on the cost to register and title a home properly, the process does not have any direct effect on the actual value of a home. However, completing the registration process through the Fee and Tax Waiver Program allows for a substantial waiver of delinquent fees/taxes and immediately increases the homeowner's equity. Once properly recorded on title, a homeowner can sell their home at full value and title can be properly transferred.

ECONOMIC IMPACT ANALYSIS

The Department has made an initial determination that the proposed adoptions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposed adoptions affect manufactured home or mobilehome owners who have not been able to transfer title of ownership to their names due to delinquent fees and taxes accrued by previous owners. Manufactured homes and mobilehomes are registered and titled similar to a motor vehicle. It is the homeowners' responsibility to ensure the home is properly registered annually. Once the home is properly registered, the homeowner is able to apply for permits to alter the home. Thus, the adoption of these regulations will alleviate a potential adverse economic impact on

business because homeowners will be able to contract licensed contractors and buy supplies through home improvement businesses and retail stores.

Assessment of Effect of Regulations upon Jobs Elimination or Creation within California

This proposed regulatory action will not have a significant impact on the creation or elimination of jobs in the State of California. The proposed regulatory action affects manufactured home or mobilehome owners who have not been able to transfer title of ownership to their names due to delinquent fees and taxes accrued by previous owners not actual businesses. However, a homeowner who obtains registration will be able to obtain permits for repairs, thus benefitting licensed contractors, home improvement businesses, and retail stores.

Health and Welfare Benefits for California Residents, Worker Safety and the State's Environment

HCD has determined that these proposed regulations present no benefits to worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES:

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific. The proposal merely implements the new law by creating a systematic and orderly implementation of the Fee and Tax Waiver Program coupled with a systematized forms-based process that ensures compliance with the new law and protects the fiscal interests of both the state and local property tax collectors in order to avoid negligence or fraud in the requests for tax and fee waivers.

ANTICIPATED BENEFITS OF THE PROPOSAL

The proposal makes it easier for unregistered homeowners to become properly registered and titled without having to bear the full financial responsibility of tax, fee and penalty arrears from former delinquent owners. Once properly registered on title, a homeowner is able to obtain permits to repair hazards, dilapidations, mold and other defects harmful to health on the property, obtain property liability insurance to better protect themselves and others, and put themselves in a better position to perfect their legal interest in the home.

STUDIES, REPORTS, AND SIMILAR DOCUMENTS

The Department has relied upon the following sources of information when developing the proposed regulations:

- informal ad hoc Codes and Standards Automated System reports;
- anecdotal and informal surveys of mobilehome parks and title records; and
- Legislative analyses for the Governor, which are not available for public review or release.