

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

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**NOTICE OF PROPOSED RULEMAKING****TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
(MANUFACTURED HOUSING PROGRAM)**

**NOTICE IS HEREBY GIVEN** that the California Department of Housing and Community Development (HCD), proposes to permanently adopt existing emergency regulations governing the Fee and Tax Waiver Program (Waiver Program) administered by HCD's Registration and Titling Program (R&T Program).

**PUBLIC HEARING**

A public hearing has been scheduled at which time any interested party may present statements, verbal or written, about this proposed regulatory action. The hearing will continue until all oral comments are received, and will be held as follows:

Date: June 5, 2017  
Location: Department of Housing and Community Development  
2020 W. El Camino, Conference Room 402 a/b  
Sacramento, CA 95833  
Time: 9:00 a.m.

Pre-hearing registration will be conducted prior to the hearing. Those registered will be heard in order of their registration. Anyone else wishing to speak at the hearing will be afforded an opportunity after those registered have presented their oral comments. The time allowed for each person to present oral comments may be limited if a substantial number of people wish to speak.

Individuals presenting oral comments are requested, but not required, to submit a written copy of their statements. The hearing will be adjourned immediately following the completion of the oral comments.

**SUBMISSION OF WRITTEN COMMENTS**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to HCD. All written comments must be received by HCD at this office no later than 5:00 p.m. on June 5, 2017, in order to be considered. Written comments may be submitted by mail, e-mail, or facsimile as follows:

By mail to: Department of Housing and Community Development  
Division of Codes and Standards  
P. O. Box 1407  
Sacramento, CA 95812-1407  
ATTN: AB 587 – Registration and Titling Program

By e-mail to: [ruth.ibarra@hcd.ca.gov](mailto:ruth.ibarra@hcd.ca.gov)

By facsimile to: (916) 263-4712 ATTN: AB 587 – Registration and Titling Program

### **PERMANENT ADOPTION OF REGULATIONS**

Following the public comment period, HCD may adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of minor technical or grammatical changes, the text of any modified proposal will be available for at least 15 days prior to its adoption from the contact person(s) designated in this Notice, and will be mailed to those persons who have submitted written or oral testimony related to this proposal or who have requested notification of any changes to the proposal. HCD will accept written comments on the modified regulations during the 15-day period.

### **AUTHORITY AND REFERENCE**

Health and Safety Code section 18015 grants HCD the authority to adopt regulations relating to titling and registration of manufactured homes, mobilehomes, and commercial modulars. The actual text of these statutes is available on the official California Legislative information website and at <http://www.legislature.leginfo.ca.gov>.

The purpose of these regulations is to implement, interpret, and make specific the provisions of Health and Safety Code (HSC) Section 18116.1 and Revenue and Taxation Code (RTC) Section 5832, relating to the waiving of certain fees and taxes for past due annual renewal fees and other outstanding charges due to the Department or outstanding property taxes due to the local county tax collectors.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

#### **Summary of Existing Laws**

**HSC Section 18015** – Existing law makes titling and registration of manufactured homes, mobilehomes, multifamily manufactured homes, and commercial modulars adopted pursuant to Part 2 (commencing with section 18000) of the Health and Safety Code, applicable to all parts of the state and supersedes conflicting local ordinances. It authorizes HCD to promulgate regulations to interpret and make specific the provisions of this part relating to titling and other related or specifically enumerated activities. Under this authority, HCD proposes to permanently adopt the Fee and Tax Waiver Program (Waiver Program) for mobilehomes and manufactured homes that were not properly registered and/or titled with the Department's R&T Program.

#### **Summary of Existing Regulations**

Existing law establishes two systems of fees and taxes on mobilehomes and manufactured homes: Local Property Tax (LPT) and In-Lieu Tax (ILT). The LPT system

is for homes first sold after July 1, 1980 for which taxes are paid to the applicable local tax collector. The ILT system is 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 fees and penalties.

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. The amendments made to HSC Section 18116.1 and RTC Section 5832 establish stringent eligibility requirements subject to Department-approval before the proper amount of taxes and fees may be waived and the title transferred to the new record owner.

### **Summary of Effect of Proposed Regulatory Action**

The purpose of these proposed regulations is to permanently establish requirements for the Fee and Tax Waiver Program, which allows owners of manufactured homes/mobilehomes to register the home into the current homeowners' name(s) and participate in the Waiver Program. 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 from previous owners and/or themselves. If applicants complete the Waiver Program process, the Waiver Program will:

- release all Department liens related to delinquent fees/taxes;
- waive all outstanding Department charges 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 that will authorize property tax waivers with the local county tax collector;
- accept a tax liability certificate or a tax clearance certificate issued to applicants that 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 approved registered owner with the appropriate registration and titling documentation.

Those sections within Title 25, California Code of Regulations (CCR), affected by this rulemaking (see "Summary of Sections Affected," above), and the specific purpose for each requirement in these proposed regulations is described in the Initial Statement of Reasons.

### **SECTIONS AFFECTED:**

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

## **POLICY STATEMENT OVERVIEW:**

The R&T Program is responsible for the economic and orderly transfer of registration and titling of manufactured/mobilehomes, commercial modular, floating homes and truck campers. In fulfilling this responsibility, the R&T Program annually renews registrations for approximately 121,000 manufactured homes and 39,000 commercial modulars; processes documentation and performs other types of programs transactions, transactional changes for 35,500 registrations including 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. Additional R&T Program responsibilities include continual updates to ownership or registrations reported amendments of registration and titling documents, and the issuance of updated documents to the owners. The R&T Program is also responsible for securing and perfecting the security interest of manufactured homes/mobilehomes through its registration and titling system and for the maintenance and upkeep of the initial reporting documents that are individually imaged as permanent historical records.

HCD is proposing to adopt permanent regulations relating to the Manufactured Housing Act of 1980, sections 18000 through 18153, to incorporate the Fee and Tax Waiver Program.

## **ANTICIPATED BENEFITS OF THE PROPOSED ACTION**

The objective of this regulation is to make 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.

## **EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS**

The Department evaluated whether there were any other regulations concerning the Fee and Tax Waiver Program and found that these are the only regulations in this area. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations

## **SMALL BUSINESS IMPACT STATEMENT**

Small businesses will not be affected by these regulations. (See “Cost Impact on Representative Private Person or Business” paragraph, below)

## **DISCLOSURES REGARDING THE 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.

Significant effect on housing costs: SOME.

### **BUSINESS IMPACTS**

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 businesses and retail stores.

### **COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

HSC Section 18611.1 establishes a the 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, 2016, 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 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 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 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. Therefore, the necessity of efficient operation of the AB 587 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 Waiver Program. The Department has estimated that the 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 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 Waiver Program, the applicant would only owe one year of Department fees; if the application is submitted during the third year of the Waiver Program, the applicant would owe three years of Department renewal fees. This 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 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.

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 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. The Department anticipates that a total of 40,000 applications will be submitted to begin the Waiver Program and anticipates that 26,400 of those applications will be for outstanding local property tax on manufactured 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, the Department anticipates that only 30 percent of the manufactured homeowners with outstanding fees will complete the process and obtain registration. Although the ratio of triple- to double- to single-wide homes is unknown, the double-wide home 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 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 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 the home at full value and title can be properly transferred.

### **RESULTS OF THE ECONOMIC IMPACT ANALYSIS**

The Department has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California, and will not result in the elimination of existing businesses nor create or expand business in the State of California.

Benefits of the Proposed Action: The proposed regulation will benefit California manufactured home/mobilehome homeowner who are now able to register their homes because they will be able to obtain permits to repair hazards, dilapidations, mold and other defects harmful to health

and safety 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. It is even possible that this may lead to a slight increase of construction/repair jobs.

### **CONSIDERATION OF ALTERNATIVES**

The Department **must determine** that no alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law

The proposal merely implements the new law by creating a systematic and orderly implementation of the 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.

### **AVAILABILITY OF DOCUMENTS AND CONTACT PERSON**

HCD has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, the rulemaking file, the Final Statement of Reasons (when available) and other information, if any, may be obtained upon request from HCD at the following location or from the contact person listed below:

Department of Housing and Community Development  
Division of Codes and Standards  
2020 W El Camino, Room 250  
Sacramento, CA 95833

Fax (916) 263-4712

In addition, the Notice, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the Department's website at the following address:

**<http://www.hcd.ca.gov/>**

Questions regarding the regulatory process may be directed to:

Ruth Ibarra, Associate Governmental Program Analyst  
Telephone Number: (916) 263-3262/ Fax (916) 263-4712  
E-mail: [ruth.ibarra@hcd.ca.gov](mailto:ruth.ibarra@hcd.ca.gov)

Carrie Paine, Staff Services Manager I  
Telephone Number: (916) 263-3282/ Fax (916) 263-4712  
E-mail: [carrie.paine@hcd.ca.gov](mailto:carrie.paine@hcd.ca.gov)

Written comments may be submitted by any of the following methods:

By mail to: Department of Housing and Community Development  
Division of Codes and Standards  
P. O. Box 1407  
Sacramento, CA 95812-1407  
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