

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

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January 6, 2017

NOTICE OF PROPOSED EMERGENCY ACTION

SUBJECT: MANUFACTURED HOME/MOBILEHOME FEE AND TAX WAIVER PROGRAM

The Department of Housing and Community Development (HCD) is proposing to adopt emergency regulations that, if approved, would create and implement procedures for a fee and tax waiver program of manufactured homes or mobilehomes that are not properly registered with HCD's Registration and Titling Program.

The proposed emergency regulations will be filed with the Office of Administrative Law (OAL) at least five (5) days after issuance of this Notice. Upon filing, OAL will have ten (10) calendar days within which to review and make a decision to accept as an emergency rule. Upon posting this Notice on its website, OAL shall allow interested persons five (5) calendar days to submit comments on the proposed emergency regulations. Comments should be submitted directly to OAL. If approved, OAL will file the regulations with the Secretary of State, and the emergency regulations become effective immediately for one hundred and eighty (180) days.

Attached to this Notice are copies of the specific regulatory language of HCD's proposed emergency action and HCD's Finding of Emergency for your review.

The proposed regulatory language and Finding of Emergency may also be reviewed at HCD's website: <http://www.hcd.ca.gov/codes/>

A handwritten signature in blue ink, appearing to read "Richard Weinert".

Richard Weinert
Deputy Director

AB 587 Proposed Emergency Regulations

1. Article 3.5 (commencing with Section 5535) is added to Title 25, Division 1, Chapter 5, as follows:

Article 3.5. Registration of Manufactured Homes or Mobilehomes with Fee and Tax Waiver Program

5535. (a) On or before December 31, 2019, a person or entity who asserts ownership of a manufactured home or mobilehome previously registered in California, as a result of a purchase or transfer of that home, but who has not registered that home with the Department, may apply for registration of that home in a manner consistent with this Article, the Fee and Tax Waiver Program, and upon satisfaction of the requirements, shall be eligible for relief through a waiver of a portion of the Department fees and penalties outstanding on that home or waive all or a portion of local property taxes and late fees due on that home.

(b) A person or entity may not obtain more than one registration fee, tax and penalty waivers pursuant to this Article.

(c) This Article does not apply to registration of new manufactured homes or mobilehomes.

(d) This Article does not apply to registration of manufactured homes or mobilehomes not previously registered in California and subject to Article 2 (commencing with Section 5520).

(e) The Department may develop and provide informational and educational materials regarding the various procedures required by this Article.

(f) The Department will provide informational materials in other commonly used languages to the extent that resources are available to do so.

Note: Authority: Section 18075, Health and Safety Code. Reference: 18116.1, Health and Safety Code; Section 5832, Revenue and Taxation Code

5535.5. If the manufactured home or mobilehome is subject to annual renewal fees, including the annual registration fee, the in-lieu tax fee or vehicle license fee, and the Mobilehome Park Rehabilitation and Purchase Fund fee, the applicant shall comply with this Article's registration and Fee and Tax Waiver Program requirements. Each application shall include:

(a) Request for relief pursuant to this Article containing the following information:

(1) Name(s), mailing address, telephone, and email address if any, of the applicant(s);

(2) Unit identifying information;

(3) Unit location;

(4) Date of sale or transfer and purchase price, if any; and

(5) A statement of facts signed under penalty of perjury by the applicant providing the following statements and information:

(A) Applicant is applying for the fee and tax waiver program;

(B) Applicant is providing a description or documentation demonstrating ownership or how the applicant received ownership;

(C) Applicant's date of acquisition of, or ownership interest, pursuant to Sections 18100.5 or 18102.5;

(D) Applicant request for the fee and tax waiver program is being made prior to December 31, 2019; and

(E) Applicant(s) has not previously obtained a registration and fee and tax waiver relief subject to this Article.

(b) The applicant shall comply with the applicable registration requirements and submit required documents pursuant Sections 5530 or 5531.

(c) In addition to the other requirements of this section, the applicant(s) shall comply with all requirements in Article 4 (commencing with Section 5540) including but not limited to the following:

(1) Payment of all fees required by the fee schedule in Section 5660 for registration of a manufactured home or mobilehome;

(2) Payment of all annual renewal fees assessed from the time the applicant took ownership interest or December 31, 2015, whichever is later, and the time that the applicant applied for fee and tax relief pursuant to Section 18116.1.

(3) Payment of use taxes;

(4) Proof of transfer by the registered owner of record by means of a signed certificate of title or an alternative authorized by this chapter including but not limited to a bond or other undertaking authorized by Section 5547;

(5) Proof of release, assumption, or satisfaction by each legal owner or junior lienholder on the title record, or alternatives authorized by this chapter, and applications and fees related thereto; and

(6) Other documents required by law or this chapter necessary for a transfer of a manufactured home or mobilehome, including but not limited to, a smoke alarm and carbon monoxide alarm pursuant to Sections 4326 and 4328.

(d) Upon receipt and the Department's determination of compliance with this chapter of the fee and tax waiver program application, payment of all fees due, and all required documents, the Department shall issue a standard certificate of title and other required titling documents.

Note: Authority: Section 18075, Health and Safety Code. Reference: 18116.1, Health and Safety Code; Section 5832, Revenue and Taxation Code; California Code of Regulations Sections 4326 and 4328.

5536. If the manufactured home or mobilehome is subject to local property taxation, the applicant shall comply with the requirements of the registration and fee and tax waiver program as required by this Article.

(a) The application for registration pursuant to this Article shall include a request for fee and tax waiver relief which contains the following information:

(1) Name(s), mailing address, telephone, and email address if any, of the applicant(s);

(2) Unit identifying information;

(3) Unit location;

(4) Date of sale or transfer and purchase price, if any; and

(5) A statement of facts signed under penalty of perjury by the applicant providing the following statements and information:

(A) Applicant is applying for the fee and tax waiver program;

(B) Applicant is providing a description or documentation demonstrating ownership or how the applicant received ownership;

(C) Applicant's date of acquisition of or ownership interest, pursuant to Sections 18100.5 or 18102.5;

(D) Applicant declares, to the best of their knowledge, that any lien pursuant to Government Code Section 16182 has been satisfied;

(E) Applicant declares a request for the fee and tax waiver program is being made prior to December 31, 2019; and

(F) Applicant(s) has not previously obtained registration and fee and tax waiver relief subject to this Article.

(b) The applicant shall comply with the applicable registration requirements and submit required documents pursuant to Section 5530 when a licensed dealer was involved in the sale, lease or, transfer, with the exception of 5530(b)(4) if applicable.

(c) The applicant shall comply with the applicable registration requirements and submit required documents pursuant Section 5531 with the exception of 5531(c)(4) if the applicant obtained the home other than by or through a licensed dealer.

(d) In addition to the other requirements of this section, the applicant(s) shall comply with all requirements in Article 4 (commencing with Section 5540) including but not limited to all of the following:

(1) Payment of all fees required by the fee schedule in Section 5660 for registration of a manufactured home or mobilehome;

(2) Release from the State Controller's Office of any Government Code Section 16182.1 tax postponement liens;

(3) Proof of transfer by the registered owner of record by means of a signed certificate of title or an alternative authorized by this chapter, including but not limited to, a bond or other undertaking authorized by Section 5547;

(4) Proof of release, assumption, or satisfaction by each legal owner or junior lienholder on the title record, or alternatives authorized by this chapter and applications and fees related thereto; and

(5) Other documents required by law or this chapter necessary for a transfer of a manufactured home or mobilehome, including but not limited to, a smoke alarm and carbon monoxide alarm pursuant to Sections 4326 and 4328.

(e) Upon receipt and the Department's determination of compliance with this chapter of the fee and tax waiver program application, payment of all fees due, and all required documents, the Department shall issue a conditional certificate of title. The conditional certificate of title issued by the Department shall contain, but not limited to, all of the following:

(1) Information substantially similar to that required on the registration application as provided in Health and Safety Code Section 18085 that will show conditional registered title status in lieu of registered ownership; and

(2) A statement that a conditional certificate of title may not be used to demonstrate registered owner status for the purposes of a resale or transfer of title, to secure a loan or lien, or for any other purpose.

(f) The Department shall issue a new certificate of title and other titling documents when the applicant(s) provides the Department with all of the following:

(1) Tax Liability Certificate or Tax Clearance Certificate from the applicable county tax collector's office; and

(2) The conditional certificate of title previously issued per the fee and tax waiver program; and

(3) The Department may designate a form which may request the name(s) of the applicant(s), unit identifying information, and any other information necessary to ensure applicant(s) meets all of the requirements of this Chapter not related to nonpayment or late payment of the Department charges or fees and penalties related to registration and titling.

Note: Authority: Section 18075, Health and Safety Code. Reference: 18116.1, Health and Safety Code; Section 5832, Revenue and Taxation Code; California Code of Regulations Sections 4326 and 4328.

5536.5. (a) This Article takes effect on January 1, 2017, or the effective date thereafter approved by the Office of Administrative Law.

(b) This Article is repealed on December 31, 2020, unless a law or regulation promulgated prior to or on that date removes or amends this section or the termination dates in Chapter 396 of the Statutes of 2016.

Note: Authority: Section 18075, Health and Safety Code. Reference: 18116.1, Health and Safety Code; Section 5832, Revenue and Taxation Code.

**FINDING OF EMERGENCY
FOR
PROPOSED FEE AND TAX WAIVER PROGRAM BY THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS**

**REGARDING THE PROPOSED ADDITIONS TO
TITLE 25, CALIFORNIA CODE OF REGULATIONS, CHAPTER 5
ARTICLE 3.5, SECTIONS 5535, 5535.5, 5536, AND 5536.5**

The Department of Housing and Community Development (Department) proposes to adopt the above noted new Article 3.5 and regulation sections into the California Code of Regulations (CCR) Title 25, Chapter 5. Government Code Section 11346.1 requires the finding of emergency include a written statement which contains the information required by paragraphs (2) through (6), inclusive, of subsection (a) of Section 11346.5 and a description of the specific facts showing the need for immediate action.

FINDING OF EMERGENCY

The following information is evidence that adoption by emergency of the new Article 3.5, as proposed by the Department, is necessary for the immediate preservation of the public peace, health and safety and general welfare of the public.

Chapter 396, Statutes of 2016 (Assembly Bill (AB) 587) effective January 1, 2017, amends Health and Safety Code (HSC) Section 18116.1 and Revenue and Taxation Code (RTC) Section 5832. AB 587 creates a Fee and Tax Waiver Program (Waiver Program) relating to the waiving of certain fees, taxes and penalties for past due annual renewal fees and other outstanding charges due to the Department or property taxes due to the local county tax collectors.

Rationale for Emergency

AB 587 authorizes a three-year Waiver Program, beginning January 1, 2017, and ending December 31, 2019, for manufactured home/mobilehome owners who have not registered their homes with the Department as required by law due to unpaid and accumulated taxes and penalties either from previous homeowners or during the current term of ownership. In 2015, the Department performed an informal survey reviewing the registration and titling of manufactured homes/mobilehomes in a significant number of mobilehome parks under its jurisdiction. The survey results estimated that as many as 160,000 manufactured homes/mobilehomes are not properly registered and titled in the name of the current owner. Approximately half of these unregistered homes are in parks that provide housing for lower income and non-English speaking households and are sold in substandard condition. The survey also suggests that homeowners often did not register their homes because they could not afford to pay the past due charges and accumulated fees, taxes and penalties.

It is important to note that an unregistered or improperly registered manufactured home/mobilehome presents a homeowner, as well as a mobilehome park owner and

surrounding residents, with numerous critical health and safety issues that can affect the peace and general welfare of the surrounding communities. The following are examples of the breach of peace and impact on health and safety that occurs when mobilehomes are not properly registered and titled:

- a. A homeowner cannot obtain Department-issued construction or alteration permits to repair critical health and safety defects without proof of registration, which can result in bodily harm or even death. For example, the Department investigated a fire blaze of a mobilehome located inside a mobilehome park that killed an infant child and destroyed two neighboring mobilehomes. Since mobilehome was not registered and titled in the owner's name and the Park-Seller refused to make repairs of the substandard conditions, the owner was unable to obtain a permit to repair, construct, or alter an inoperable heater and a faulty electrical system that ultimately took the life of a child residing within the home.
- b. In the event of a death of a homeowner living within a mobilehome park, the surviving spouse occupying an improperly registered and titled home is subject to eviction from the mobilehome park because ownership documentation cannot be provided. This impacts the general welfare of low-income Californians and California generally as evictions will only exacerbate California's already excessive homeless population and lack of affordable housing.
- c. A homeowner cannot obtain property and liability insurance to protect themselves, neighbors, and visitors in the event of a serious injury to people and property.
- d. A homeowner cannot sell the home at its full value due to lack of registration and tilting, therefore impacting commerce and affordable housing options for California's low income and homeless populations.

As demonstrated above in the specific examples, the impact of improperly registered and titled manufactured homes/mobilehomes has on a person's physical safety, financial security and quality of life is detrimental. The Department has determined that any further delay in implementing AB 587 would delay the immediate protection of peace, health and safety, and general welfare of manufactured home/ mobilehome owners, both inside and outside of parks. The death of an infant reflects the ultimate gravity of what happens when mobilehome sales go unchecked, substandard sales occur over and over, unless the homes are registered and titled in the current owner's name.

The proposed regulations implementing the Waiver Program will provide the medium to stop the violation of peace, health, safety, and general welfare immediately and stop the environment that permits these sales to go unchecked.

The proposed regulations provide an immediate and orderly systematic process designed to bring immediate relief to, and rectify damage of, those homeowners who are unable to register and title their home into their name. Qualifying homeowners will

have immediate relief upon application to the program. Upon filing the application, homeowners will receive a conditional certificate of title. This certificate of title permits unregistered homeowners to obtain a permit to repair substandard conditions, which will prevent any further harm similar to what occurred with the perished infant.

The Department has estimated that it will receive as many as 16,000 applications during the first year of the Waiver Program commencing on January 1, 2019. The Department anticipates that applicants will require extensive, individual, hands-on personal assistance to complete the process as the proposed emergency regulations establish a systematic process that specifies the procedures required by the applicants to participate in the Waiver Program and requires the filing of specific documentation including Department forms and providing a description of or demonstrating the means of ownership, and the acquisition date of the ownership interest. Hence the statutory requirements alone to implement the Waiver Program will not suffice to provide quick and efficient customer service to remediate the problems caused by the owner's inability to register and title in the owner's name.

In 2014, approximately 35,500 registration change transactions and over 3,500 loan security filings were processed. The Department estimate of an increase of 16,000 applications in the first year following implementation of AB 587 will significantly increase the already impacted Department workload and backlog by almost 50 percent. Currently, the Department does not have the staff in place to accommodate the anticipated high volume of Waiver Program applicants and without detailed processes and procedures outlined by these emergency regulations, especially if individualized service is necessary, the Department will be unable to properly provide the public service of economical, orderly and efficient registration and titling nor achieve the goals and legislative intent of AB 587. The additional workload will only further complicate the already existing transaction processing backlog.

This workload increase will severely impact the other 40,000 owners of manufactured homes/mobilehomes and other types of units financially who seek timely transaction assistance from the Department in order 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 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 the homeowners to health and safety 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 units.

Finally, these must be emergency regulations in order to protect county tax collectors and county tax rolls. The statutory intent of the Waiver Program is that applicants, upon meeting proof requirements, will be issued a “conditional certificate of title” so that the homeowner can register and title the unit in their name to obtain permits to construct or repair their home, obtain property insurance or protect their interest in the event of death. The conditional certificate of title is issued by the Department for presentation to the county tax collector by the applicant/homeowner. At the time of presentation, the county tax collector must calculate the amount of waived property taxes, and allow the applicant to pay the limited amounts authorized by statute. The Waiver Program also prescribes the use of a specific new form to be issued only by the Department for the “conditional certificate of title” which will be received by the 58 different county tax collecting agencies subject to the Waiver Program. The specific form will be used in order to protect the county tax collecting agencies from fraudulent or negligent acts or omissions resulting in the County approving an inappropriate property tax waiver, prior to the homeowner’s completion of the requirements of the Waiver Program imposed by the statute and regulations. Hence, it is necessary to provide and make specific the requirements of the contents of the conditional certificate of title form. Without regulations that detail the contents of a conditional certificate of title, the county tax collectors cannot rely on an official Department document that mandates them to consider and grant the waivers.

BACKGROUND:

Registration and Titling Program

The Registration and Titling Program (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 Program annually renews registrations for approximately 121,000 manufactured homes and 39,000 commercial modulars; processes documentation and 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. Additional 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 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.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

Fees and taxes on mobilehomes and manufactured homes are either based on a Local Property Tax (LPT) system (for homes first sold 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 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 in HSC Sections 18116.1 and R&TC 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.

AUTHORITY AND REFERENCE

The Department proposes to adopt these regulations under the authority granted by HSC Sections 18015, 18020(a), 18028(a), 18029, and 18029.5.

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 waiving 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 collectors.

STATEMENT OF SPECIFIC PURPOSE AND RATIONALE

Chapter 396, Statutes of 2016 (AB 587) amended HSC Section 18116.1 and RTC Section 5832 in order to encourage owners of manufactured homes/mobilehomes not currently registered to obtain registration. The Department has determined that some homeowners are not properly recorded on the registration and title. This is due to a significant financial burden current homeowner's face as a result of past due and accumulated fees and taxes owed by either the previous homeowners and/or themselves.

AB 587 requires the Department to establish a program, within its Division of Codes and Standards' Registration and Titling 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.

INFORMATIVE DIGEST

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 Waiver Program. The regulations of the 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 Waiver Program. While the registration process incorporates many requirements in other provisions of HSC codifying the Registration and Titling Program chapter, its unique fee and tax waiver 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 both manufactured homes and mobilehomes.

Section 5535(a): This subsection, as a whole, establishes eligibility requirements for the Waiver Program. It also establishes December 31, 2019, as the end date of the 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 Waiver Program must be a person “who asserts ownership” of a home, eliminating mere lessees of a home desiring to acquire it; proof of the chain of activities comprising potential ownership is addressed in subsequent sections and the provision of meeting other specific Waiver Program requirements. The Waiver Program only applies to manufactured homes/mobilehomes previously registered in California since any other such unit would not have a registration and titling record nor be in arrears of fees or taxes; and clearly provides that compliance with this new Article is the sole means of achieving an amendment to, or transfer of, the registration and titling records coupled with the fee and tax waiver of dues owed to either the Department or the County.

Section 5535(b): This subsection specifies that a person or entity may not obtain more than one fee and tax waiver in this new program, as mandated by HSC Section 18116.1. It also makes clear that a person who initially applies for the waiver program for a specific unit, and subsequently abandons that application for any reason, may apply again during the statutory period for the same home without being disqualified.

Section 5535(c): 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 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(d): This subsection is necessary in order for the Department to educate the public about the Waiver Program. This allows the Department to create informational and educational materials to assist the public in understanding the requirements for this program. It also provides 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 5535.5: This section, as a whole, specifies the procedural requirements needed for the Department to efficiently and effectively enforce and administer the provisions of the Waiver Program as it applies to 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 Waiver Program.

Section 5535.5(a): Subsection (a) is added to specify the information which will be necessary for the new ILT Waiver Program application. This subsection also identifies the information which will be necessary in this new form.

Section 5535.5(a)(1): This paragraph specifies that particular individualized information about the applicant is necessary so that the Department 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 Waiver Program applications discussed above.

Section 5535.5(a)(2) and (3): These paragraphs 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 Department and the applicant have the correct information for the manufactured home/mobilehome, allowing the home to be identified in the Department's records.

Section 5535.5(a)(4): This paragraph 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 the applicant is entitled to, as well as the amount of use tax due. 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 chain 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)(5)(A) through (E): Subsection (a) requires the applicant to complete a “statement of facts signed under penalty of perjury”. This is a standard format used throughout this chapter for registration and titling transactions. The requirement to sign under penalty of perjury is added because it assists in ensuring that the critical information is truthfully provided and also allows for administrative suspension of a fraudulent title under HSC Section 18122 or civil or criminal prosecution under HSC Section 18124.5. Subparagraphs (A) through (E) address the specific critical information provided in other provisions of this section: the applicant is applying for the Waiver Program; the applicant is providing information demonstrating ownership of the unit or how the applicant received ownership; the date of applicant’s acquisition of the unit; the date of application is before the statutory deadline; and that the applicant has not previously obtained registration and fee benefits under the Waiver Program. Each of these factors is required by HSC Section 18116.1 or Title 25, CCR Chapter 5.

Section 5535.5(b): This subsection 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(c): This subsection introduces information 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(c)(1) through (3): This paragraph 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. Subparagraph (1) relates to the vehicle license fees required by Title 25 CCR Section 5660. Subparagraph (2) 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. Subparagraph (3) relates to the payment of use taxes as required by Title 25 CCR Section 5667.

Section 5535.5(c)(4): This subsection 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 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 (a). 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; for the clarity of the regulated user, that option is repeated in this subsection.

Section 5535.5(c)(5): This subsection 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(c)(6): This subsection 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(d): This subsection 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 5536: This section, as a whole, specifies the procedural requirements needed for the Department to efficiently and effectively enforce and administer the provisions of the Waiver Program as it applies to manufactured homes/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 waiver program.

Section 5536(a): Subsection (a) is added to specify the information which will be necessary for the new LPT Waiver Program application. This subsection also identifies the information necessary in this new form.

Section 5536(a)(1): This paragraph specifies the particular individualized information about the applicant necessary for the Department 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 Waiver Program applications discussed above.

Section 5536(a)(2) and (3): This paragraph requires specific unit information: the decal number, trade name, serial numbers and the physical location to ensure that the Department and the applicant have the correct information for the manufactured home/mobilehome, allowing the home to be identified in both the Department's and local property tax collector's records.

Section 5536(a)(4): This paragraph 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 chain 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)(5)(A) through (F): Subsection (a)(5) requires the applicant to complete a "statement of facts signed under penalty of perjury." This is a standard format used throughout this chapter for registration and titling transactions. The requirement to sign under penalty of perjury is added because it assists to ensure that the critical information is truthfully provided and also allows for administrative suspension of a fraudulent title under HSC Section 18122 or civil or criminal prosecution under HSC Section 18124.5.

Subparagraphs (A) through (F) address the specific critical information provided in other provisions of this section: the applicant is applying for the Waiver Program; the applicant is providing information demonstrating ownership of the unit or how the applicant obtained ownership; the date of applicant's acquisition of the unit; 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 Waiver Program. Each of these factors is required by either HSC Section 18116.1 or Title 25 CCR Chapter 5.

Section 5536(b): This subsection 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 Waiver Program.

Section 5536(c): This subsection 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 Waiver Program.

Section 5536(d): This subsection introduces information necessary for the applicant to register their home in addition to those in this Article and subsections (b) and (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 5536(d)(1): This paragraph 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(d)(2): This paragraph 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(d)(3): This subsection 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 (a). 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. For the clarity of the regulated user, that option is repeated in this subsection.

Subsection 5536(d)(5): This subsection 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(d)(6): This subsection 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(e): This subsection 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 full 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 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 (1) and (2).

Section 5536(e)(1): This paragraph 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(e)(2): This paragraph 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(f): This subsection 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(f)(1) and (2): This paragraph 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(f)(3): 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 5536.5(a) and (b): These subsections establish beginning and ending dates for the 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 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 Registration and Titling 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.

SMALL BUSINESS IMPACT STATEMENT

Small business will be affected by these regulations. See "Costs Impact on Representative Private Person or Business" below.

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 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 stores.

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, 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 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 as an emergency, there will be significant negative impacts on businesses. The lack of a systematized process for the Waiver Program will affect the current Registration and Titling 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 as emergency regulations. 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 submitting during the third year of the Waiver Program, they would owe three years of Department renewal fees. This 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 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 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 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 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 their home at full value and title can be properly transferred.

ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

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.

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 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.

SPECIFIC TECHNOLOGIES OR EQUIPMENT:

This regulation does not mandate the use of specific technologies or equipment.