

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, 2017. 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 modulares; 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 modulares, 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