

Date of Hearing: April 29, 2015

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Ed Chau, Chair

AB 999 (Daly) – As Amended April 20, 2015

**SUBJECT:** Abandoned mobilehomes: disposal

**SUMMARY:** Establishes due process requirements for mobilehome park owners (park management) seeking to dispose of an abandoned mobilehome without first being required to pay any unpaid property taxes on the mobilehome. Specifically, in order for park management to dispose of an abandoned mobile home, **this bill:**

- 1) Requires park management to file a petition for judicial declaration of abandonment and in the petition, declare its intent to not seek a tax clearance certificate, and then notify the county tax collector and the Department of Housing and Community Development (HCD) by mailing a copy of the petition by first-class mail.
- 2) Requires park management, within ten days following a judgment of abandonment, to enter the mobilehome, make an inventory of the contents, and submit the inventory to the court.
- 3) Requires park management to post and mail a notice of intent to dispose of the abandoned mobilehome and its contents under this section, and announcing the date of disposal, in a specified manner. Further requires the management to provide notice to the county tax collector and HCD.
- 4) Authorizes park management to dispose of the abandoned mobilehome following a judgment of abandonment, but not less than ten days following the above notice of intent to dispose.
- 5) Defines "dispose" to mean the removal and destruction of an abandoned mobilehome from a mobilehome park, thus making it unusable for any purpose.
- 6) Authorizes any person having right to possession of the abandoned mobilehome to recover and remove it from the premises at any time prior to disposal upon payment to the management of all rent or other charges due, including reasonable costs of storage and other costs awarded by the court. Requires the management to immediately file an acknowledgment of satisfaction of judgment upon receipt of such payment and removal of the mobilehome.
- 7) Requires park management, within 30 days of the date of the disposal of an abandoned mobilehome and its contents, to submit to the court, the county tax collector, and HCD a statement that the abandoned mobilehome and its contents were disposed of, with supporting documentation. Alternatively, if the contents of the mobilehome were sold at a public sale instead of being disposed of along with the mobilehome, then management shall also submit an accounting of the moneys received from the sale and the disposition of the money and the items contained in the inventory.
- 8) Provides that, notwithstanding any other law, park management shall not be required to obtain a tax clearance certificate, as set forth in Section 5832 of the Revenue and Taxation

Code, to either dispose of an abandoned mobilehome and sell its contents, or dispose of an abandoned mobilehome and its contents.

**EXISTING LAW:**

- 1) Defines "abandoned mobilehome" to mean a mobilehome that is unoccupied, is located in a mobilehome park on a site for which no rent has not been paid to the management for the preceding 60 days, and is in such condition that a reasonable person would believe it to be abandoned.
- 2) Establishes a specified procedure for determining the abandonment of a mobilehome, which includes posting a notice of belief of abandonment on the mobilehome for a minimum of 30 days and mailing copies of the notice to the homeowner and any known holder of a security interest in the mobilehome.
- 3) Establishes a court-supervised process to petition for a judicial declaration of abandonment, which includes serving the petition upon the homeowner and known lienholders in a manner specified.
- 4) Provides for a hearing whereby a court may enter a judgment of abandonment in favor of the petitioner, and allow him or her to recover various costs and charges, plus attorney's fees, against the owner of the mobilehome.
- 5) Establishes due process requirements for park management seeking to sell an abandoned mobilehome and/or its contents, including various notice provisions, a public sale requirement, and specifying the division of proceeds from the sale.
- 6) Requires management to provide the purchaser of the mobilehome at the public sale with a copy of the judgment of abandonment and evidence of the sale, and requires either HCD or the Department of Motor Vehicles to subsequently register title of the abandoned mobilehome in the name of the purchaser upon presentation thereof. Further provides that the sale shall pass title to the purchaser free of any prior interest, including any security interest or lien, except as specified (Civil Code Section 798.61).
- 7) Provides that property taxes due on mobilehomes are entered on the secured roll for collection, but if they go unpaid and become delinquent, shall be transferred from the secured roll to the unsecured roll. Further provides that unpaid property tax amounts transferred to the unsecured roll continue to be subject to delinquent penalties until the amounts are paid, and are collectible from either the person from whom the property was acquired or the public entity that acquired the property (Revenue and Taxation Code Section 2921.5).

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

Background: Under existing law, owners of mobilehome parks must follow a specified court-supervised abandonment proceeding to dispose of a mobilehome when the homeowner has not only stopped paying rent on the site, but apparently abandoned the mobilehome itself, leaving it unoccupied and in a condition rendering it uninhabitable and unattractive for resale. In many cases, the property is burdened with unpaid property taxes owed by the homeowner—taxes

which create an obstacle to disposal and removal of the home by park management because current law requires the unpaid taxes to be paid off before title to the mobilehome can be transferred to the park management, even for the purpose of disposal.

Need for this bill: This bill, sponsored by the Western Manufactured Housing Communities Association (WMA), seeks to establish procedures for mobilehome park owners that if satisfied, would allow them to dispose of an abandoned mobilehome without first being required to pay the unpaid property taxes on the home. In justifying the need for the bill, the author states:

"Manufactured homes and mobilehomes are regularly abandoned in mobilehome communities. Disposal of an abandoned mobilehome entails the filing of a petition in court by a landlord in order to establish a lien and seize ownership of the property (Civil Codes § 798.56a and 798.61). However, before a landlord can complete the lien, he or she must pay any past due personal property taxes owed by the mobilehome's previous owner.

"With abandoned mobilehomes, frequently the registered owner has failed to pay the required personal property taxes for an extended period of time. Normally when an owner is delinquent, the respective county tax collector would place a lien on the mobilehome and sell it. However, tax collectors are reluctant to pursue this course of action when a mobilehome lacks value, as is the case with many abandoned properties.

"Abandoned mobilehomes negatively impact the community, the landlord, and tax collectors. They are unsightly and potentially hazardous, thus depreciating the value of nearby mobilehomes and impacting the health of residents. Landlords cannot rent out the space occupied by an abandoned mobilehome, thus decreasing revenue and also precluding the collection of taxes.

"This bill (AB 999) will help expedite the removal of abandoned mobilehomes by allowing a landlord to dispose of the property without the unjust burden of paying the delinquent resident's taxes. Importantly, AB 999 ensures that the registered owner remains responsible for the personal property taxes, thus avoiding tax abatement."

Definitions of "abandoned" and "disposal": Under existing law, an abandoned mobilehome means a mobilehome about which all of the following are true: (1) it is unoccupied; (2) it is located in a mobilehome park on a site for which no rent has been paid to the management for the preceding 60 days; and (3) a reasonable person would believe it to be abandoned. Existing law also provides that if all three of these conditions are true, then a mobilehome "that is uninhabitable because of its total or partial destruction that cannot be rehabilitated" shall also be included in the definition of "abandoned mobilehome." Under this provision, even homes that have been completely destroyed may not be deemed abandoned under the statute unless all three criteria are met, including nonpayment of rent on the site for 60 days.

This bill does not modify the definition of "abandoned mobilehome," but it does define "disposal," specifically that to dispose of an abandoned mobilehome means "the removal and destruction of an abandoned mobilehome from a mobilehome park, thus making it unusable for any purpose." Under this definition, a park owner using the procedure authorized by this bill to dispose of an abandoned mobilehome must destroy it upon removal from the park, and may not use the home for any other purpose, including salvage or resale to others.

Disposal procedures for abandoned mobilehomes: This bill establishes due process procedures for the disposal of abandoned mobilehomes and their contents—provisions that largely track those currently governing the sale of abandoned mobilehomes. As a prerequisite, the management must first post a notice of belief of abandonment on the mobilehome for a minimum of 30 days and mail copies of the notice to the homeowner and any known lienholders. Existing law requires the management to file a petition for judicial declaration of abandonment and serve it upon the homeowner, as well as any known lienholders on the home. Because the bill seeks to relieve park management from clearing unpaid taxes on the home, the bill requires management to declare its intent in the petition to not seek a tax clearance certificate, and then requires notification to the county tax collector and HCD by mailing first-class a copy of the petition. If at the hearing on the petition, the petitioner shows sufficient evidence that the criteria for abandonment are satisfied and no party establishes a right to possession or security or ownership interest in the mobilehome, then the court shall enter a judgment of abandonment.

At this point, the bill requires park management, within ten days following the judgment of abandonment, to enter the mobilehome, inventory the contents, and submit the inventory to the court. Subsequently, management shall post and mail to the homeowner and any known lienholders a notice of intent to dispose of the abandoned mobilehome and its contents, including the planned date of disposal. The notice must also be provided to the county tax collector and HCD. The bill authorizes park management to dispose of the abandoned mobilehome and its contents following a judgment of abandonment, but not less than ten days following the notice of intent to dispose. Finally, within 30 days of the date of the disposal, the bill requires management to submit to the court, the county tax collector, and HCD a statement that the abandoned mobilehome and its contents were disposed, with supporting documentation. Alternatively, if management elected to sell the contents of the mobilehome at a public sale instead of disposing of them along with the mobilehome, then the bill requires management to also submit an accounting of the moneys received from the sale and the disposition of the money and the items contained in the inventory.

Liability for unpaid taxes follows the registered former owner of the abandoned mobilehome: According to the author, this bill does not result in any tax abatement because under existing law, the registered owner of the home ultimately remains responsible for unpaid taxes after those taxes are transferred from the secured roll to the unsecured roll for tax collection. Section 2921.5 of the Revenue and Taxation Code provides that property taxes due on mobilehomes are entered on the secured roll for collection, but if they go unpaid and become delinquent, are transferred to the unsecured roll. The law also provides that unpaid property tax amounts transferred to the unsecured roll continue to be subject to delinquent penalties until the amounts are paid, and are collectible from either the person from whom the property was acquired or the public entity that acquired the property.

This bill simply allows mobilehome park owners to dispose of abandoned mobilehomes without being required to pay a homeowner's unpaid property taxes, as long as specified due process procedures are satisfied. Because the bill does not change procedures for the sale of abandoned mobilehomes, current law dictating priority for the proceeds of the sale still applies when the park owner elects to sell an abandoned mobilehome, thus ensuring that proceeds may go towards paying off tax liens or other obligations on the home.

Related legislation:

AB 587 (Chau): Creates a tax abatement program for mobilehome owners who cannot transfer title into their names due to delinquent taxes and fees that may have been incurred by prior owners. AB 587 is currently pending hearing in the Assembly Judiciary Committee.

AB 682 (Williams): Would authorize a person to have specified alterations, conversions, and repairs made to a mobilehome without filing an application with HCD. AB 682 is currently pending hearing in the Assembly Committee on Housing and Community Development.

SB 69 (Kelley) Ch. 446, Statutes of 1995: Provided that an interest in a mobilehome is established by evidence of a right to possession of the mobilehome or a security or ownership interest in the mobilehome.

AB 743 (Nolan) Ch. 564, Statutes of 1991: Revised due process requirements for mobilehome owners seeking to obtain a court order declaring the abandonment of a mobilehome.

Double-referral: This bill was double-referred to the Assembly Judiciary Committee, where it passed 10-0 on April 14, 2015.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Western Manufactured Housing Communities Association (Sponsor)  
California Mobilehome Parkowners Alliance (CMPA)

##### **Opposition**

None on file

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