

Date of Hearing: May 9, 2018

**ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT**

David Chiu, Chair

AB 1943 (Waldron) – As Introduced January 29, 2018

**SUBJECT:** Manufactured housing: foundation systems: installation: common interest developments

**SUMMARY:** Provides that written evidence that a manufactured home, mobilehome, or commercial modular owner owns a separate interest in a common interest development (CID) complies with requirements in existing law for the purpose of installing a manufactured home, mobilehome, or commercial modular on a foundation system. Specifically, **this bill:**

- 1) Provides that written evidence that the manufactured home, mobilehome, or commercial modular owner owns a separate interest in a CID complies with requirements in existing law to demonstrate ownership or purchase of the real property in order to obtain a building permit from the appropriate enforcement agency prior to installation of a manufactured home, mobilehome, or commercial modular on a foundation system.
- 2) Provides that no reimbursement is required by this Act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this Act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
- 3) Includes an urgency clause.

**EXISTING LAW:**

- 1) Requires the California Department of Housing and Community Development (HCD) to establish regulations for manufactured home, mobilehome, and commercial modular foundation systems that shall be applicable throughout the state.
- 2) Provides that a manufactured home, mobilehome, or commercial modular may be installed on a foundation system as either a fixture or improvement to the real property, as specified, or a manufactured home or mobilehome may be installed on a foundation system as a chattel, as specified.
- 3) Notwithstanding any other law, prior to a manufactured home, mobilehome, or commercial modular being deemed a fixture or improvement to the real property, the installation shall comply with all of the following:
  - a) Prior to installation of a manufactured home, mobilehome, or commercial modular on a foundation system, the manufactured home, mobilehome, or commercial modular owner or a licensed contractor shall obtain a building permit from the appropriate enforcement agency. To obtain a permit, the owner or contractor shall provide the following:

- i) Written evidence acceptable to the enforcement agency that the manufactured home, mobilehome, or commercial modular owner owns, holds title to, or is purchasing the real property where the mobilehome is to be installed on a foundation system. A lease held by the manufactured home, mobilehome, or commercial modular owner, that is transferable, for the exclusive use of the real property where the manufactured home, mobilehome, or commercial modular is to be installed, shall be deemed to comply with this paragraph if the lease is for a term of 35 years or more, or if less than 35 years, for a term mutually agreed upon by the lessor and lessee, and the term of the lease is not revocable at the discretion of the lessor except for cause, as described in subdivisions 2 to 5, inclusive, of Section 1161 of the Code of Civil Procedure;
  - ii) Written evidence acceptable to the enforcement agency that the registered owner owns the manufactured home, mobilehome, or commercial modular free of any liens or encumbrances or, in the event that the legal owner is not the registered owner, or liens and encumbrances exist on the manufactured home, mobilehome, or commercial modular, written evidence provided by the legal owner and any lienors or encumbrancers that the legal owner, lienor, or encumbrancer consents to the attachment of the manufactured home, mobilehome, or commercial modular upon the discharge of any personal lien, that may be conditioned upon the satisfaction by the registered owner of the obligation secured by the lien;
  - iii) Plans and specifications required by department regulations or a department-approved alternate for the manufactured home, mobilehome, or commercial modular foundation system;
  - iv) The manufactured home, mobilehome, or commercial modular manufacturer's installation instructions, or plans and specifications signed by a California-licensed architect or engineer covering the installation of an individual manufactured home, mobilehome, or commercial modular in the absence of the manufactured home, mobilehome, or commercial modular manufacturer's instructions;
  - v) Building permit fees established by ordinance or regulation of the appropriate enforcement agency; and
  - vi) A fee payable to the department in the amount of \$11 for each transportable section of the manufactured home, mobilehome, or commercial modular, that shall be transmitted to the department at the time the certificate of occupancy is issued with a copy of the building permit and any other information concerning the manufactured home, mobilehome, or commercial modular that the department may prescribe on forms provided by the department.
- 4) Provides that, notwithstanding any other provision of law, the registered owner of a manufactured home or mobilehome in a mobilehome park, converted or proposed to be converted to a resident-owned subdivision, cooperative, condominium, or nonprofit corporation formed pursuant to Section 11010.8 of the Business and Professions Code, may, if the registered owner is also a participant in the resident ownership, apply for voluntary conversion of the manufactured home or mobilehome to a fixture and improvement to the underlying real property without compliance with subdivision (a) of Section 18551.

- 5) Requires a city, including a charter city, county, or city and county, to allow the installation of manufactured homes certified under the National Manufactured Housing Construction and Safety Standards Act of 1974 on a foundation system, as specified, on lots zoned for conventional single-family residential dwellings.
- 6) Defines, under the Davis-Stirling CID Act, a “CID” to mean a community apartment project, a condominium project, a planned development, or a stock cooperative.
- 7) Defines, under the Davis-Stirling CID Act, a “separate interest” to have the following meanings:
  - a) In a community apartment project, “separate interest” means the exclusive right to occupy an apartment;
  - b) In a condominium project, “separate interest” means a separately owned unit;
  - c) In a planned development, “separate interest” means a separately owned lot, parcel, area, or space; and
  - d) In a stock cooperative, “separate interest” means the exclusive right to occupy a portion of the real property.

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

Background: According to the U.S. Census Bureau’s 2016 American Community Survey, there were approximately 517,000 mobilehomes in California in 2016. Mobilehomes (also known as manufactured homes) may be located within a mobilehome park or, in other cases, may be located on private property outside a park, like other traditional “stick-built” homes. About 70% of California’s mobilehomes are currently located in a mobilehome park, down from 80% in 1979. The residents of California’s nearly 5,000 mobilehome parks typically own their mobilehomes and rent the spaces in the park in which the homes are placed. For various reasons, mobilehome park residents in some parks have decided to join together and buy the park or their individual spaces within it. This is referred to as a conversion to resident ownership.

Resident-owned parks can take several different legal forms, including nonprofit corporations or CIDs. Resident-owned parks that operate as nonprofit corporations have the corporation purchase the park as a single property, and residents become shareholders or members of the corporation, as well as members of the board of directors of the corporation if they choose to run for those positions. Parks converted to CIDs are generally converted into a subdivision, condominium, planned development, or stock cooperative. These parks are subject to the provisions of the Davis-Stirling Common Interest Development Act, and must have an elected governing board (homeowners association) to fulfill some financial and legal requirements, including managing the common area in the development. Residents in a CID park will own either a separate interest in the park (in a condominium or subdivision), the actual parcel of land (in a planned development), or an exclusive right to occupy a portion of real property and a share of stock or membership (in a stock cooperative).

Personal vs. real property: Health and Safety Code (HSC) Section 18551 establishes the procedures under which a mobilehome may be installed on and become a fixture to real property. These procedures are important both for tax purposes for local governments and for the financing of manufactured homes. Because mobilehomes are considered to be personal property (chattel) and not real property at the time of purchase, the financing of these homes is different than with “stick-built” homes. Owners cannot finance these homes with a traditional mortgage, and cannot obtain reverse mortgages at a later point in order to finance repairs or improvements. However, very few mobilehomes are relocated once they have been installed on a site, and attaching to a permanent foundation is safer in case of earthquakes.

To convert a mobilehome to real property under HSC 18551, the mobilehome owner must affix their mobilehome to a permanent foundation. The owner must first obtain a building permit from the appropriate local agency by showing that either: 1) they own, hold title to, or are purchasing the real property where the mobilehome will be installed, or 2) they have a lease for the exclusive use of the real property where the mobilehome will be installed. After submitting certain documents and an \$11 fee to the enforcement agency, the agency must record a document (a 433A form) stating that the mobilehome has been affixed to the real property, and the owner must surrender the certificate of title in order to cancel the registration of the mobilehome with HCD.

Conversely, HSC Section 18555 sets out a process by which an owner of a manufactured home or mobilehome in a resident-owned park may apply for voluntary conversion of that home to a fixture and improvement to the underlying real property—without actually attaching the home to a foundation system. HSC 18555 was an attempt to permit conversion to real property for mobilehome park residents in a way that would allow them to access traditional home financing, like what is available to owners using HSC 18551. However, the form that is generated under HSC 18555, referred to as a 433C form, is not sufficient for most lenders to provide traditional financing options. Instead, the few lenders that will lend on a 433C will offer chattel loans.

According to the author, San Diego County—the local enforcement agency—had been issuing mobilehome park owners who lived in CID parks the 433A form up until three years ago, when they became concerned that the ownership of a separate interest in a CID did not constitute real property as was required under HSC 18551. This bill would clarify that written evidence that a manufactured home, mobilehome, or commercial modular owner owns a separate interest in a CID complies with the requirements under HSC 18551 for providing written evidence that an owner owns, holds title to, or is purchasing the real property where the mobilehome is to be installed on the foundation system.

Urgency clause: This bill includes an urgency clause necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are: “Due to a gap in existing law, 75 homeowners who lost their homes in the recent Lilac Fire and other natural disasters are unable to secure affordable financing to rebuild their homes. In order to ensure prompt recovery as a result of the widespread damage caused by the Lilac Fire, as well as other recent disasters, it is necessary for this act to take effect immediately.”

Need for the bill: According to the author, “The definition of real property in the current statute became an issue for the first time approximately three years ago. The initiating entity for raising this issue is the County of San Diego. The County ceased the recordation of 433As at that time

because of its position that the term real property in section 18551 did not include single family manufactured housing condominium communities.

“The process to legally affix the manufactured home under section 18551 is required as a prerequisite by market lenders to provide loans, including reverse mortgages. Without access to loans, the mobile or manufactured homes cannot be replaced (at least 90% of the mobilehome parks were built and filled with mobilehomes prior to 1976), refinanced, including [through] a reverse mortgage, and [owners] have difficulty selling the homes.”

Committee amendment:

In order to ensure that the HSC 18551 process is explicitly made accessible not just to residents in CID parks, but also to other forms of resident-owned parks, the Committee may wish to consider the following amendments:

- 1) Delete provisions stating that written evidence that an owner owns a separate interest in a CID complies with the requirement to provide written evidence that an owner owns, holds title to, or is purchasing the real property where the mobilehome is to be installed.
- 2) Instead specify that, notwithstanding HSC 18555, an owner of a manufactured home in a mobilehome park that is converted or proposed to be converted to a resident-owned subdivision, cooperative, condominium, or nonprofit corporation may submit written evidence of that owner’s resident ownership in the park in order to comply with the requirement to provide written evidence that an owner owns, holds title to, or is purchasing the real property where the mobilehome is to be installed.

Related legislation:

AB 379 (Brown, Chapter 137, Statutes of 2013): Made technical and clarifying changes to the law relative to the installation and removal of mobilehomes in HSC 18551.

SB 259 (Haynes), 1997: Reduced the fee required to convert a mobilehome to a fixture and improvement to the underlying real property from \$22 to \$11, and permitted mobilehomes to be installed as chattel to the underlying real property.

AB 3179 (Hauser), 1992: Permitted a mobilehome owner in a park converting to resident ownership to apply for voluntary conversion of the mobilehome to a fixture and improvement to the underlying real property, without attaching the home to a foundation system.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Bonsall Chamber of Commerce  
Burnham USA  
Capistrano Shores  
Carlsbad Chamber of Commerce  
Champagne Village Property Owners Association  
Chiles and Associates Real Estate Company  
City of San Marcos

Crest Homes  
Factory Housing  
Les Frame Management  
Manufactured Homes 4U  
ON THE LEVEL  
Rancho Monserate Country Club Homeowners Association  
Real Equity Real Estate  
San Diego County Board of Supervisors  
Sequoia Home Funding  
The Aramco Group  
Numerous Individuals

**Opposition**

None on file

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