

Date of Hearing: April 3, 2013

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Norma Torres, Chair

AB 379 (Brown) – As Amended: March 13, 2013

SUBJECT: Manufactured housing: removal.

SUMMARY: Makes technical and clarifying changes to the law relative to the installation and removal of manufactured housing. Specifically, this bill:

- 1) Clarifies that notwithstanding any other law, prior to a manufactured home, mobilehome, or commercial modular being deemed a fixture of improvement to real property the installation must comply with specified procedures and requirements.
- 2) Specifies that the enforcement agency must record with the county recorder within five business days of the issuance of the certificate of occupancy for a manufactured home, mobilehome, or commercial modular that has been installed upon real property a document that includes the name of the owner of the real property, a description of the real property, and a statement that the manufactured home, mobilehome, or commercial coach has been affixed to that real property by installation on a foundation system.
- 3) Requires an owner who intends to remove a manufactured home, mobilehome, or commercial modular to notify the Department of Housing and Community Development (HCD) and the county assessor at least 31 days prior to the removal.

EXISTING LAW

- 1) Requires the installation of a manufactured home, mobilehome, or commercial modular as a fixture or improvement to real property to comply with various requirements (Health and Safety Code Section 18551).
- 2) Specifies that the enforcement agency must record with the county recorder on the same day as the issuance of the certificate of occupancy for a manufactured home, mobilehome, or commercial modular that has been installed upon real property a document that includes the name of the owner of the real property, a description of the real property, and a statement that the manufactured home, mobilehome, or commercial coach has been affixed to that real property by installation on a foundation system (Health and Safety Code Section 18551).
- 3) Requires an owner who intends to remove a manufactured home, mobilehome, or commercial modular to notify HCD and the county assessor at least 30 days prior to the removal (Health and Safety Code Section 18551).
- 4) Specifies that a thing is deemed to be affixed to land when it is attached to it by roots, as in the case of trees, vines, or shrubs; or imbedded in it, as in the case of walls; or permanently resting upon it, as in the case of buildings; or permanently attached to what is thus permanent, as by means of cement, plaster, nails, bolts, or screws; except that for the purposes of sale, emblements, industrial growing crops and things attached to or forming part of the land, which are agreed to be severed before sale or under the contract of sale, shall be

treated as goods and be governed by the provisions of the title of this code regulating the sales of goods (Civil Code Section 660).

FISCAL EFFECT: None

COMMENTS:

Health and Safety Code Section 18551 sets forth the procedures under which a manufactured home may be installed on and become a fixture to real property. These procedures are important both for tax purposes for local government entities and for the financing of manufactured homes. Because manufactured homes are considered to be chattel and not real property at the time of purchase, the financing of these homes is different than with stick built homes. The law recognizes this and allows companies that finance the purchase of a manufactured home to maintain a security interest in the home until it is paid off.

A recent California appellate court decision in *Vieria Enterprises v. City of East Palo Alto* created uncertainty and ambiguity with respect to the commercial financing of manufactured homes. In that case, the court held that since the owners had installed their manufactured home on their real estate, Civil Code Section 660, which generally specifies how a thing is deemed to be affixed to the land, controlled over Health and Safety Code Section 18551, which specifically describes how a manufactured home may be deemed affixed to the land. While the specific facts in the *Vieria* case were unique and are unlikely to be duplicated in the future, the court's ruling could be read as allowing a borrower to install a manufactured home on a foundation system and potentially avoid the lender's security interest. That interpretation could have a chilling effect on lenders' willingness to finance manufactured home purchases in the future.

AB 379 clarifies that the process set forth in Health and Safety Code Section 18511 for "converting" a manufactured home into real property and thus extinguishing a lender's security interest applies notwithstanding any other law. The change clears up the ambiguity created by the *Vieria* case, thus ensuring that consumers will continue to be able to obtain loans to purchase manufactured homes.

AB 379 additionally makes a minor change to the law by giving enforcement agencies five days to record a document related to the installation of a manufactured home on real property. Current law requires the recording to happen on the same day as the issuance of the certificate of occupancy. This change more closely reflects current practice because receipt of the certificate of occupancy and recording of the proper documents by the enforcement agency on the same day is nearly impossible and rarely, if ever, occurs.

REGISTERED SUPPORT / OPPOSITION:

Support

California Manufactured Housing Institute (sponsor)  
Western Manufactured Housing Communities Association

Opposition

None on file

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