

Senate Bill No. 73

Passed the Senate September 10, 2009

Secretary of the Senate

Passed the Assembly September 8, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to repeal and add Sections 17031.8, 17036, and 18114 of, to repeal, add, and repeal Section 18502 of, the Health and Safety Code, and to repeal and add Section 62.5 of the Labor Code, relating to state fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 73, Committee on Budget and Fiscal Review. State fees.

Under existing law, the Department of Housing and Community Development is required to establish a schedule of fees to pay for the cost of administration and enforcement of the Employee Housing Act. The department is required to establish a schedule of fees that includes, but is not limited to, specified minimum permit fees. The department is authorized, on or after January 1, 2010, to increase these specified fees, if necessary, to finance the costs of administration and enforcement of the act. Existing law also requires the department to gather certain information for permittees for which it acts as the enforcement agency, except as specified.

The Mobilehome Parks Act requires the payment of various registration and renewal fees to the department for a specified section of a manufactured home, mobilehome, or commercial coach and the payment of an annual operating permit fee, as specified.

Existing law, among other things, establishes the Labor Enforcement and Compliance Fund in the State Treasury and requires the Director of the Department of Industrial Relations to levy a separate surcharge upon all employers for purposes of deposit in the fund. Existing law requires that the total amount of the surcharges be allocated between employers in proportion to payroll respectively paid in the most recent year for which payroll information is available, and requires the director to adopt reasonable regulations governing the manner of collection of the surcharges.

This bill would repeal and reinstate these provisions of existing law.

The people of the State of California do enact as follows:

SECTION 1. Section 17031.8 of the Health and Safety Code is repealed.

SEC. 2. Section 17031.8 is added to the Health and Safety Code, to read:

17031.8. (a) An agency that exercises the responsibility for the enforcement of this part pursuant to Section 17050 shall submit to the Department of Housing and Community Development, on forms provided by the department, the information specified in subdivision (c) by March 31 of each year regarding the previous calendar year.

(b) The Department of Housing and Community Development shall gather the information specified in subdivision (c) for all permittees for which it acts as the enforcement agency and include a summary of the information from the permittees and enforcement agencies in the annual report submitted pursuant to Section 50408 regarding housing programs administered by the department. This subdivision shall be inoperative from July 1, 2009, to June 30, 2012, inclusive.

(c) The following information shall be provided for purposes of subdivisions (a) and (b) for the reporting year:

(1) The number and location of employee housing accommodations, including the number of permits to operate issued for employee housing accommodations.

(2) The number and location of inactive employee housing accommodations.

(3) The number and location of employee housing accommodations found operating without a permit.

(4) The number of employees occupying employee housing accommodations with a permit.

(5) The number of employees occupying accommodations found to be operating without a permit.

(6) The number and types of inspections and reinspections performed.

(7) A schedule of fees charged, the amount of fees collected for each type of fee charged and the total amount of fees collected.

(8) The number of complaints received during the reporting year and the character of any violations found for each

accommodation operating under permit, operating without a permit, or inactive.

(9) The number and character of violations of this part and regulations adopted pursuant to this part found during inspection of each accommodation operating under permit, or operating without a permit.

(10) The number of violations of this part and regulations adopted pursuant to this part that resulted in civil citations.

(11) The number of cases referred to prosecutorial agencies such as the Attorney General or local district attorneys, the number of cases filed to enforce this part, and the amounts of all fines and civil penalties collected as a result of the enforcement of this part.

(12) The number of staff hours dedicated to the implementation of the Employee Housing Act (Part 1 (commencing with Section 17000)).

(13) The number and location of employee housing receiving an exemption pursuant to Section 17031, 17031.3, 17031.4, or 17033.

(d) The information specified in subdivision (c) shall be maintained by the department and provided to members of the public who have requested it in writing.

SEC. 3. Section 17036 of the Health and Safety Code is repealed.

SEC. 4. Section 17036 is added to the Health and Safety Code, to read:

17036. (a) Except as provided in Section 18930, the department shall adopt regulations that it determines are necessary for the administration and enforcement of this part. The regulations adopted, amended, or repealed shall prescribe reasonable requirements for issuance of permits and establish procedures for suspension of permits, including appeal procedures.

(b) The department shall establish a schedule of fees to pay for the cost of administration and enforcement of this part, that includes, but is not limited to, the following minimum permit fees:

(1) A two-hundred-dollar (\$200) issuance fee for a permit to operate employee housing for each employee housing facility.

(2) A twenty-seven-dollar (\$27) permit operation fee for each employee the operator intends to house where that housing is supplied by the operator, and at least twenty-seven dollars (\$27) for each lot or site provided for parking or the placement of

manufactured homes, mobilehomes, or recreational vehicles or other accommodations by employees.

(c) On or after January 1, 2010, the department may increase the fees established pursuant to subdivision (b), if necessary, to finance the costs of administration and enforcement of this part.

(d) The department may adopt additional regulations to facilitate the development of employee housing pursuant to Sections 17021.5 and 17021.6.

SEC. 5. Section 18114 of the Health and Safety Code is repealed.

SEC. 6. Section 18114 is added to the Health and Safety Code, to read:

18114. (a) A registration fee of twenty-three dollars (\$23) shall be due and payable to the department at the time of original registration or renewal of registration for each transportable section of a manufactured home, mobilehome, or commercial coach that is subject to annual renewal.

(b) For a manufactured home, mobilehome, or truck camper that is not subject to annual renewal, the registration fee of twenty-three dollars (\$23) shall be due for each transportable section at the time of original registration and upon application for each subsequent change, addition, or deletion of registered owners, legal owners, or junior lienholders and shall be in addition to any other fees that may be required by the application.

(c) A registration fee of forty-two dollars (\$42) shall be charged for each original application for registration of a floating home and for each subsequent application to record a change, addition, or deletion of registered owners, legal owners, or junior lienholders of a floating home. This fee shall be in addition to any other fees that may be required by the application.

(d) A registration fee is delinquent if not paid in accordance with the following:

(1) On or before the expiration date of the previous registration year for all annual renewals.

(2) Ten days after the date the transaction is complete, as defined in subdivision (e) of Section 18080.5, for all transactions by or through a dealer whenever a manufactured home, mobilehome, or commercial coach is sold, rented, leased, leased with an option to buy, or otherwise transferred, except that for registration fees due

because of annual renewal, the fee is delinquent after the expiration date of the previous registration year.

(3) Except for dealer transactions, 20 days after the registration fee became due for original registration required by subdivision (a), and for registration fees required by subdivisions (b) and (c).

(e) A penalty of three dollars (\$3) shall be added for each registration fee that is delinquent. No penalty is due if the application and required registration fees were placed in the United States mail before midnight on the day before the fee became delinquent, as evidenced by postmark or affidavit by the applicant.

SEC. 7. Section 18502 of the Health and Safety Code, as amended by Section 18 of Chapter 12 of the 4th Extraordinary Session of the Statutes of 2009, is repealed.

SEC. 8. Section 18502 is added to the Health and Safety Code, to read:

18502. Fees as applicable shall be submitted for permits, as follows:

(a) Fees for a permit to conduct any construction subject to this part as determined by the schedule of fees adopted by the department.

(b) Plan checking fees equal to one-half of the construction, plumbing, mechanical, and electrical permit fees, except that the minimum fee shall be ten dollars (\$10).

(c) (1) An annual operating permit fee of one hundred forty dollars (\$140) and an additional seven dollars (\$7) per lot.

(2) An additional annual fee of four dollars (\$4) per lot shall be paid to the department or the local enforcement agency, as appropriate, at the time of payment of the annual operating fee. All revenues derived from this fee shall be used exclusively for the inspection of mobilehome parks and mobilehomes to determine compliance with the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)) and any regulations adopted pursuant to the act.

(3) The Legislature hereby finds and declares that the health and safety of mobilehome park occupants are matters of public interest and concern and that the fee paid pursuant to paragraph (2) shall be used exclusively for the inspection of mobilehome parks and mobilehomes to ensure that the living conditions of mobilehome park occupants meet the health and safety standards of this part and the regulations adopted pursuant thereto. Therefore,

notwithstanding any other law or local ordinance, rule, regulation, or initiative measure to the contrary, the holder of the permit to operate the mobilehome park shall be entitled to directly charge one-half of the per lot additional annual fee specified herein to each homeowner, as defined in Section 798.9 of the Civil Code. In that event, the holder of the permit to operate the mobilehome park shall be entitled to directly charge each homeowner for one-half of the per lot additional annual fee at the next billing for the rent and other charges immediately following the payment of the additional fee to the department or local enforcement agency.

(d) Change in name fee or transfer of ownership or possession fee of ten dollars (\$10).

(e) Duplicate permit fee or amended permit fee of ten dollars (\$10).

(f) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 9. Section 18502 of the Health and Safety Code, as amended by Section 19 of Chapter 12 of the 4th Extraordinary Session of the Statutes of 2009, is repealed.

SEC. 10. Section 18502 is added to the Health and Safety Code, to read:

18502. Fees as applicable shall be submitted for permits, as follows:

(a) Fees for a permit to conduct any construction subject to this part as determined by the schedule of fees adopted by the department.

(b) Plan checking fees equal to one-half of the construction, plumbing, mechanical, and electrical permit fees, except that the minimum fee shall be ten dollars (\$10).

(c) An annual operating permit fee of one hundred forty dollars (\$140) and an additional seven dollars (\$7) per lot.

(d) Change in name fee or transfer of ownership or possession fee of ten dollars (\$10).

(e) Duplicate permit fee or amended permit fee of ten dollars (\$10).

(f) This section shall become operative on January 1, 2012.

SEC. 11. Section 62.5 of the Labor Code is repealed.

SEC. 12. Section 62.5 is added to the Labor Code, to read:

62.5. (a) (1) The Workers' Compensation Administration Revolving Fund is hereby created as a special account in the State Treasury. Money in the fund may be expended by the department, upon appropriation by the Legislature, for all of the following purposes, and may not be used or borrowed for any other purpose:

(A) For the administration of the workers' compensation program set forth in this division and Division 4 (commencing with Section 3200), other than the activities financed pursuant to Section 3702.5.

(B) For the Return-to-Work Program set forth in Section 139.48.

(C) For the enforcement of the insurance coverage program established and maintained by the Labor Commissioner pursuant to Section 90.3.

(2) The fund shall consist of surcharges made pursuant to paragraph (1) of subdivision (f).

(b) (1) The Uninsured Employers Benefits Trust Fund is hereby created as a special trust fund account in the State Treasury, of which the director is trustee, and its sources of funds are as provided in paragraph (1) of subdivision (f). Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated for the payment of nonadministrative expenses of the workers' compensation program for workers injured while employed by uninsured employers in accordance with Article 2 (commencing with Section 3710) of Chapter 4 of Part 1 of Division 4, and shall not be used for any other purpose. All moneys collected shall be retained in the trust fund until paid as benefits to workers injured while employed by uninsured employers. Nonadministrative expenses include audits and reports of services prepared pursuant to subdivision (b) of Section 3716.1. The surcharge amount for this fund shall be stated separately.

(2) Notwithstanding any other provision of law, all references to the Uninsured Employers Fund shall mean the Uninsured Employers Benefits Trust Fund.

(3) Notwithstanding paragraph (1), in the event that budgetary restrictions or impasse prevent the timely payment of administrative expenses from the Workers' Compensation Administration Revolving Fund, those expenses shall be advanced from the Uninsured Employers Benefits Trust Fund. Expense advances made pursuant to this paragraph shall be reimbursed in full to the

Uninsured Employers Benefits Trust Fund upon enactment of the annual Budget Act.

(4) Any moneys from penalties collected pursuant to Section 3722 as a result of the insurance coverage program established under Section 90.3 shall be deposited in the State Treasury to the credit of the Workers' Compensation Administration Revolving Fund created under this section, to cover expenses incurred by the director under the insurance coverage program. The amount of any penalties in excess of payment of administrative expenses incurred by the director for the insurance coverage program established under Section 90.3 shall be deposited in the State Treasury to the credit of the Uninsured Employers Benefits Trust Fund for nonadministrative expenses, as prescribed in paragraph (1), and notwithstanding paragraph (1), shall only be available upon appropriation by the Legislature.

(c) (1) The Subsequent Injuries Benefits Trust Fund is hereby created as a special trust fund account in the State Treasury, of which the director is trustee, and its sources of funds are as provided in paragraph (1) of subdivision (f). Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated for the nonadministrative expenses of the workers' compensation program for workers who have suffered serious injury and who are suffering from previous and serious permanent disabilities or physical impairments, in accordance with Article 5 (commencing with Section 4751) of Chapter 2 of Part 2 of Division 4, and Section 4 of Article XIV of the California Constitution, and shall not be used for any other purpose. All moneys collected shall be retained in the trust fund until paid as benefits to workers who have suffered serious injury and who are suffering from previous and serious permanent disabilities or physical impairments. Nonadministrative expenses include audits and reports of services pursuant to subdivision (c) of Section 4755. The surcharge amount for this fund shall be stated separately.

(2) Notwithstanding any other law, all references to the Subsequent Injuries Fund shall mean the Subsequent Injuries Benefits Trust Fund.

(3) Notwithstanding paragraph (1), in the event that budgetary restrictions or impasse prevent the timely payment of administrative expenses from the Workers' Compensation Administration Revolving Fund, those expenses shall be advanced from the

Subsequent Injuries Benefits Trust Fund. Expense advances made pursuant to this paragraph shall be reimbursed in full to the Subsequent Injuries Benefits Trust Fund upon enactment of the annual Budget Act.

(d) The Occupational Safety and Health Fund is hereby created as a special account in the State Treasury. Moneys in the account may be expended by the department, upon appropriation by the Legislature, for support of the Division of Occupational Safety and Health, the Occupational Safety and Health Standards Board, and the Occupational Safety and Health Appeals Board, and the activities these entities perform as set forth in this division, and Division 5 (commencing with Section 6300).

(e) The Labor Enforcement and Compliance Fund is hereby created as a special account in the State Treasury. Moneys in the fund may be expended by the department, upon appropriation by the Legislature, for the support of the activities that the Division of Labor Standards Enforcement performs pursuant to this division and Division 2 (commencing with Section 200), Division 3 (commencing with Section 2700), and Division 4 (commencing with Section 3200). The fund shall consist of surcharges imposed pursuant to paragraph (3) of subdivision (f).

(f) (1) Separate surcharges shall be levied by the director upon all employers, as defined in Section 3300, for purposes of deposit in the Workers' Compensation Administration Revolving Fund, the Uninsured Employers Benefits Trust Fund, the Subsequent Injuries Benefits Trust Fund, and the Occupational Safety and Health Fund. The total amount of the surcharges shall be allocated between self-insured employers and insured employers in proportion to payroll respectively paid in the most recent year for which payroll information is available. The director shall adopt reasonable regulations governing the manner of collection of the surcharges. The regulations shall require the surcharges to be paid by self-insurers to be expressed as a percentage of indemnity paid during the most recent year for which information is available, and the surcharges to be paid by insured employers to be expressed as a percentage of premium. In no event shall the surcharges paid by insured employers be considered a premium for computation of a gross premium tax or agents' commission. In no event shall the total amount of the surcharges paid by insured and self-insured

employers exceed the amounts reasonably necessary to carry out the purposes of this section.

(2) The surcharge levied by the director for the Occupational Safety and Health Fund, pursuant to paragraph (1), shall not generate revenues in excess of fifty-two million dollars (\$52,000,000) on and after the 2009–10 fiscal year, adjusted for each fiscal year as appropriate to reconcile any over/under assessments from previous fiscal years pursuant to Sections 15606 and 15609 of Title 8 of the California Code of Regulations, and may increase by not more than the state-local government deflator each year thereafter through July 1, 2013, and, as appropriate, to reconcile any over/under assessments from previous fiscal years. For the 2013–14 fiscal year, the surcharge level shall return to the level in place on June 30, 2009, adjusted for inflation based on the state-local government deflator.

(3) A separate surcharge shall be levied by the director upon all employers, as defined in Section 3300, for purposes of deposit in the Labor Enforcement and Compliance Fund. The total amount of the surcharges shall be allocated between employers in proportion to payroll respectively paid in the most recent year for which payroll information is available. The director shall adopt reasonable regulations governing the manner of collection of the surcharges. In no event shall the total amount of the surcharges paid by employers exceed the amounts reasonably necessary to carry out the purposes of this section.

(4) The surcharge levied by the director for the Labor Enforcement and Compliance Fund shall not exceed thirty-seven million dollars (\$37,000,000) in the 2009–10 fiscal year, adjusted as appropriate to reconcile any over/under assessments from previous fiscal years, and shall not be adjusted each year thereafter by more than the state-local government deflator, and, as appropriate, to reconcile any over/under assessments from previous fiscal years pursuant to Sections 15606 and 15609 of Title 8 of the California Code of Regulations.

(5) The regulations adopted pursuant to paragraph (1) to (4), inclusive, shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(g) On and after July 1, 2013, subdivision (e) and paragraphs (2) to (4), inclusive, of subdivision (f) are inoperative, unless a later enacted statute, that is enacted before July 1, 2013, deletes or extends that date.

Approved _____, 2009

Governor