

Assembly Bill No. 379

Passed the Assembly August 8, 2013

Chief Clerk of the Assembly

Passed the Senate July 8, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 18551 of the Health and Safety Code, relating to manufactured housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 379, Brown. Manufactured housing: removal.

Existing law requires the installation of a manufactured home, mobilehome, or commercial modular as a fixture or improvement to real property to comply with specified provisions. Existing law requires an enforcement agency to record with the county recorder of the county where real property is situated, on the same day that the certificate of occupancy for a manufactured home, mobilehome, or commercial modular is issued by the appropriate enforcement agency, that the real property has been installed upon, a document naming the owner of the real property, describing the real property with certainty, and stating that a manufactured home, mobilehome, or commercial modular has been affixed to the real property by installation on a foundation system, as specified.

This bill would instead require that recordation to occur within 5 business days of the issuance of the certificate of occupancy.

Existing law provides that once installed on a foundation system in compliance with these provisions, a manufactured home, mobilehome, or commercial modular shall be deemed a fixture and a real property improvement to the real property to which it is affixed and physical removal of the manufactured home, mobilehome, or commercial modular shall thereafter be prohibited without the consent of all persons or entities who, at the time of removal, have title to any estate or interest in the real property to which it is affixed.

The bill would also make other technical, nonsubstantive, and clarifying changes.

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

SECTION 1. Section 18551 of the Health and Safety Code is amended to read:

18551. The department shall establish regulations for manufactured home, mobilehome, and commercial modular foundation systems that shall be applicable throughout the state. When established, these regulations supersede any ordinance enacted by any city, county, or city and county applicable to manufactured home, mobilehome, and commercial modular foundation systems. The department may approve alternate foundation systems to those provided by regulation if the department is satisfied of equivalent performance. The department shall document approval of alternate systems by its stamp of approval on the plans and specifications for the alternate foundation system. A manufactured home, mobilehome, or commercial modular may be installed on a foundation system as either a fixture or improvement to the real property, in accordance with subdivision (a), or a manufactured home or mobilehome may be installed on a foundation system as a chattel, in accordance with subdivision (b).

(a) 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:

(1) 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:

(A) 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.

(B) 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.

(C) Plans and specifications required by department regulations or a department-approved alternate for the manufactured home, mobilehome, or commercial modular foundation system.

(D) 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.

(E) Building permit fees established by ordinance or regulation of the appropriate enforcement agency.

(F) A fee payable to the department in the amount of eleven dollars (\$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.

(2) (A) Within five business days of the issuance of the certificate of occupancy for the manufactured home, mobilehome, or commercial modular by the appropriate enforcement agency, the enforcement agency shall record a document naming the owner of the real property, describing the real property with certainty, and stating that a manufactured home, mobilehome, or commercial

modular has been affixed to that real property by installation on a foundation system pursuant to this subdivision. The document shall be recorded with the county recorder of the county where the real property, upon which the manufactured home, mobilehome, or commercial modular that has been installed, is situated.

(B) When recorded, the document referred to in subparagraph (A) shall be indexed by the county recorder to the named owner and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

(C) Fees received by the department pursuant to subparagraph (F) of paragraph (1) shall be deposited in the Mobilehome-Manufactured Home Revolving Fund established under subdivision (a) of Section 18016.5.

(3) The certification of title and other indicia of registration shall be surrendered to the department pursuant to regulations adopted by the department providing for the cancellation of registration of a manufactured home, mobilehome, or commercial modular that is permanently attached to the ground on a foundation system pursuant to subdivision (a). For the purposes of this subdivision, permanent affixation to a foundation system shall be deemed to have occurred on the day a certificate of occupancy is issued to the manufactured home, mobilehome, or commercial modular owner and the document referred to in subparagraph (A) of paragraph (2) is recorded. Cancellation shall be effective as of that date and the department shall enter the cancellation on its records upon receipt of a copy of the certificate of occupancy. This subdivision shall not be construed to affect the application of existing laws, or the department's regulations or procedures with regard to the cancellation of registration, except as to the requirement therefor and the effective date thereof.

(4) Once installed on a foundation system in compliance with this subdivision, a manufactured home, mobilehome, or commercial modular shall be deemed a fixture and a real property improvement to the real property to which it is affixed. Physical removal of the manufactured home, mobilehome, or commercial modular shall thereafter be prohibited without the consent of all persons or entities who, at the time of removal, have title to any estate or interest in the real property to which the manufactured home, mobilehome, or commercial modular is affixed.

(5) For the purposes of this subdivision:

(A) “Physical removal” shall include, without limitation, the unattaching of the manufactured home, mobilehome, or commercial modular from the foundation system, except for temporary purposes of repair or improvement thereto.

(B) Consent to removal shall not be required from the owners of rights-of-way or easements or the owners of subsurface rights or interests in or to minerals, including, but not limited to, oil, gas, or other hydrocarbon substances.

(6) At least 30 days prior to a legal removal of the manufactured home, mobilehome, or commercial modular from the foundation system and transportation away from the real property to which it was formerly affixed, the manufactured home, mobilehome, or commercial modular owner shall notify the department and the county assessor of the intended removal of the manufactured home, mobilehome, or commercial modular. The department shall require written evidence that the necessary consents have been obtained pursuant to this section and shall require application for either a transportation permit or manufactured home, mobilehome, or commercial modular registration, as the department may decide is appropriate to the circumstances. Immediately upon removal, as defined in this section, the manufactured home, mobilehome, or commercial modular shall be deemed to have become personal property and subject to all laws governing the same as applicable to a manufactured home, mobilehome, or commercial modular.

(b) The installation of a manufactured home or a mobilehome on a foundation system as chattel shall be in accordance with Section 18613 and shall be deemed to meet or exceed the requirements of Section 18613.4. This subdivision shall not be construed to affect the application of sales and use or property taxes. No provisions of this subdivision are intended, nor shall they be construed, to affect the ownership interest of any owner of a manufactured home or mobilehome.

(c) Once installed on a foundation system, a manufactured home, mobilehome, or commercial modular shall be subject to state-enforced health and safety standards for manufactured homes, mobilehomes, or commercial modulares enforced pursuant to Section 18020.

(d) No local agency shall require that any manufactured home, mobilehome, or commercial modular currently on private property be placed on a foundation system.

(e) No local agency shall require that any manufactured home or mobilehome located in a mobilehome park be placed on a foundation system.

(f) No local agency shall require, as a condition for the approval of the conversion of a rental mobilehome park to a resident-owned park, including, but not limited to, a subdivision, cooperative, or condominium for mobilehomes, that any manufactured home or mobilehome located there be placed on a foundation system. This subdivision shall only apply to the conversion of a rental mobilehome park that has been operated as a rental mobilehome park for a minimum period of five years.

Approved _____, 2013

Governor