

Senate Bill No. 259

Passed the Senate August 29, 1997

Secretary of the Senate

Passed the Assembly August 11, 1997

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1997, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Sections 18040, 18550, 18551, 18551.1, 18555, and 18611 of the Health and Safety Code, relating to mobilehome parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 259, Haynes. Mobilehome parks: attachment and installation.

Existing law, the Mobilehome Parks Act, requires the Department of Housing and Community Development to establish statewide regulations respecting manufactured home, mobilehome and commercial coach foundation systems. Existing law requires that prior to the installation of a manufactured home, mobilehome, or commercial coach on a foundation system, the owner or a licensed contractor must obtain a building permit from the appropriate enforcement agency.

The existing Mobilehome Parks Act separately requires that a permit be obtained from the appropriate enforcement agency relating to, and provides standards and procedures for, the initial installation or subsequent reinstallation of a manufactured home or mobilehome, on any site for the purpose of human habitation or occupancy as a dwelling.

Existing law limits dealers, with respect to the sale of manufactured homes, mobilehomes, and commercial coaches that have not been installed on a foundation system, to solicit or obtain listings, engage in multiple listings only with other dealers, or engage in payments only to other dealers or groups of dealers.

This bill would allow dealers, with respect to the sale of used manufactured homes or mobilehomes that have not previously been installed on a foundation system, to solicit or obtain listings, engage in multiple listings, or engage in payments with other dealers, groups of dealers, or real estate licensees.



Under existing law, any person who knowingly violates any provision of the Mobilehome Parks Act, or related rules or regulations, is guilty of a misdemeanor.

This bill would apply the permit requirements required of an owner or licensed contractor when a manufactured home, mobilehome, or commercial coach is installed as a fixture or improvement to real property. However, when a manufactured home, mobilehome, or commercial coach is installed as a chattel, the bill would apply standards and procedures for the initial installation or subsequent reinstallation of a manufactured home or mobilehome, on any site for the purpose of human habitation or occupancy as a dwelling.

Because it would change the definition of crimes, the bill would impose a state-mandated local program.

This bill would also make technical and conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 18040 of the Health and Safety Code is amended to read:

18040. (a) With respect to the sale of any manufactured home, mobilehome, or commercial coach that has not been previously installed on a foundation system pursuant to Section 18551, a dealer may solicit or obtain listings, engage in the multiple listing only with other dealers, or engage in payments only to other dealers or groups of dealers, pursuant to cooperative brokering and referral arrangements or agreements on the sale of only a manufactured home, mobilehome, or commercial coach which has been titled by the department.

(b) With respect to the resale of any manufactured home or mobilehome that has not been previously



installed on a foundation system pursuant to subdivision (a) of Section 18551, a dealer may solicit or obtain listings, engage in multiple listing, or engage in payments with other dealers, groups of dealers, or with real estate licensees licensed pursuant to Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code.

SEC. 2. Section 18550 of the Health and Safety Code is amended to read:

18550. It is unlawful for any person to use or cause, or permit to be used for occupancy, any of the following manufactured homes, mobilehomes, or recreational vehicles, wherever the manufactured homes, mobilehomes, or recreational vehicles are located:

(a) Any manufactured home, mobilehome, or recreational vehicle supplied with fuel, gas, water, electricity, or sewage connections, unless the connections and installations conform to regulations of the department.

(b) Any manufactured home, mobilehome, or recreational vehicle that is permanently attached with underpinning or foundation to the ground, except for a manufactured home or mobilehome bearing a department insignia or federal label, that is installed in accordance with this part.

(c) Any manufactured home or mobilehome that does not conform to the registration requirements of the department.

(d) Any manufactured home or mobilehome in an unsafe or unsanitary condition.

(e) Any manufactured home, mobilehome, or recreational vehicle that is structurally unsound and does not protect its occupants against the elements.

SEC. 3. Section 18551 of the Health and Safety Code is amended to read:

18551. The department shall establish regulations for manufactured home, mobilehome, and commercial coach 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 coach foundation systems. The department may approve alternate foundation systems to those provided by regulation where 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 coach 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) Installation of a manufactured home, mobile home, or commercial coach as a fixture or improvement to the real property shall comply with all of the following:

(1) Prior to installation of a manufactured home, mobilehome, or commercial coach on a foundation system, the manufactured home, mobilehome, or commercial coach 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 coach 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 coach owner, that is transferable, for the exclusive use of the real property where the manufactured home, mobilehome, or commercial coach 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 coach 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 coach, 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 coach 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 coach foundation system.

(D) The manufactured home, mobilehome, or commercial coach 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 coach in the absence of the manufactured home, mobilehome, or commercial coach 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 coach, 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 coach which the department may prescribe on forms provided by the department.

(2) (A) On the same day that the certificate of occupancy for the manufactured home, mobilehome, or commercial coach is issued by the appropriate enforcement agency, the enforcement agency shall



record with the county recorder of the county where the real property is situated, that the manufactured home, mobilehome, or commercial coach 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 coach has been affixed to that real property by installation on a foundation system pursuant to this subdivision.

(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 department shall adopt regulations providing for the cancellation of registration of a manufactured home, mobilehome, or commercial coach that is permanently attached to the ground on a foundation system pursuant to subdivision (a). The regulations shall provide for the surrender to the department of the certificate of title and other indicia of registration. 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 coach 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 coach 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 coach 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 coach 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 coach 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 coach from the foundation system and transportation away from the real property to which it was formerly affixed, the manufactured home, mobilehome, or commercial coach owner shall notify the department and the county assessor of the intended removal of the manufactured home, mobilehome, or commercial coach. 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 coach 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 coach 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 coach.



(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 coach shall be subject to state enforced health and safety standards for manufactured homes, mobilehomes, or commercial coaches enforced pursuant to Section 18020.

(d) No local agency shall require that any manufactured home, mobilehome, or commercial coach 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.

SEC. 4. Section 18551.1 of the Health and Safety Code is amended to read:

18551.1. (a) Any mobilehome park, constructed on or after January 1, 1982, may be constructed in a manner that will enable manufactured homes and mobilehomes sited in the park to be placed upon a foundation system, and manufactured homes and mobilehomes sited in the park may be placed upon foundation systems, subject to the requirements of subdivision (b) of Section 18551.



(b) Notwithstanding subdivision (a), any manufactured home or mobilehome originally sited on or after January 1, 1985, in a mobilehome park constructed prior to January 1, 1982, may be placed upon a foundation system, subject to the requirements of subdivision (b) of Section 18551.

(c) Notwithstanding subdivisions (a) and (b), any manufactured home or mobilehome sited in a mobilehome park which is converted, or in the process of being converted, to resident ownership on or after January 1, 1992, may be placed on a foundation system, subject to the requirements of subdivision (b) of Section 18551, and with the approval of the ownership of the park.

(d) Notwithstanding subdivisions (a) and (b), the installation of a manufactured home or mobilehome within a mobilehome park pursuant to subdivision (b) of Section 18551 shall be subject to prior written approval by the ownership of the mobilehome park.

SEC. 5. Section 18555 of the Health and Safety Code is amended to read:

18555. (a) 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.

(b) The resident ownership or proposed resident ownership of 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, shall, on behalf of registered owners of manufactured homes and mobilehomes making application pursuant to subdivision (a), establish with an



escrow agent an escrow account. All of the following shall be deposited into the escrow account:

(1) A copy of the registered owner's application, on a form, provided by the department, that shall be substantially similar to forms presently used to record the installation of manufactured homes and mobilehomes on foundation systems pursuant to subdivision (a) of Section 18551. In addition, by signature of an authorized representative, the form shall contain provisions for certification by the resident ownership of the mobilehome park converted or proposed to be converted to a subdivision, cooperative, or condominium that the applicant is a participant in the resident-ownership.

(2) The certificate of title, the current registration card, decals, and other indicia of registration of the manufactured home or mobilehome.

(3) In the absence of a certificate of title for the manufactured home or mobilehome, written evidence from lienholders on record with the department that the lienholders consent to conversion of the manufactured home or mobilehome to a fixture and improvement to the underlying real property 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.

(4) A fee payable to the department in the amount of twenty-two dollars (\$22), for each transportable section of the manufactured home or mobilehome, that shall be transmitted to the department upon close of escrow with a copy of the form recorded with the county recorder's office pursuant to paragraph (2) of subdivision (c). Fees received by the department pursuant to this section shall be deposited in the Mobilehome-Manufactured Home Revolving Fund established under subdivision (a) of Section 18016.5 for administration of Part 2 (commencing with Section 18000).

(5) Escrow instructions describing the terms and conditions of compliance with this section, the requirements of the department, and other applicable terms and conditions.



(c) If the manufactured home or mobilehome is subject to local property taxation, and subject to registration under Part 2 (commencing with Section 18000), the escrow officer shall forward to the tax collector of the county where the used manufactured home or mobilehome is located, a written demand for a tax clearance certificate if no liability exists, or a conditional tax clearance certificate if a tax liability exists, to be provided on a form prescribed by the Controller. The conditional tax clearance certificate shall state the amount of the tax liability due, if any, and the final date that amount may be paid out of the proceeds of escrow before a further tax liability may be incurred.

(1) Within five working days of receipt of the written demand for a conditional tax clearance certificate or a tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or a tax clearance certificate showing that no tax liability exists to the requesting escrow officer. In the event the tax clearance certificate's or conditional tax clearance certificate's final due date expires within 30 days of the date of issuance, an additional conditional tax clearance certificate or a tax clearance certificate shall be completed that has a final due date of at least 30 days beyond the date of issuance.

(2) If the tax collector to whom the written demand for a tax clearance certificate or a conditional tax clearance certificate was made fails to comply with that demand within 30 days from the date the demand was mailed, the escrow officer may close the escrow and submit a statement of facts certifying that the written demand was made on the tax collector and the tax collector failed to comply with that written demand within 30 days. This statement of facts shall be accepted by the department and all other parties to the conversion in lieu of a conditional tax clearance certificate or a tax clearance certificate, as prescribed by subdivision (a) of Section 18092.7, and the conversion of the manufactured home or mobilehome to a fixture and improvement to the underlying real property may be completed.



(3) The escrow officer may satisfy the terms of the conditional tax clearance certificate by paying the amount of tax liability shown on the form by the tax collector out of the proceeds of escrow on or before the date indicated on the form and by certifying in the space provided on the form that all terms and conditions of the conditional tax clearance certificate have been complied with.

(d) (1) On the same or following day that the escrow required by subdivision (b) is closed, the escrow agent shall record, or cause to be recorded, with the county recorder of the county where the converted manufactured home or mobilehome is situated, the form prescribed by paragraph (1) of subdivision (b) stating that the manufactured home or mobilehome has been converted to a fixture and improvement to the underlying real property pursuant to this section.

(2) When recorded, the form referred to in paragraph (1) of subdivision (b) shall be indexed by the county recorder to the named owner of the converted manufactured home or mobilehome, and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

(e) The department shall cancel the registration of a manufactured home or mobilehome converted to a fixture and improvement to the underlying real property pursuant to this section. For the purposes of this subdivision, conversion of the manufactured home to a fixture and improvement to the underlying real property shall be deemed to have occurred on the day a form referred to in paragraph (1) of subdivision (b) 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 form recorded pursuant to paragraph (1) of subdivision (c), the certificate of title, the current registration card, other indicia of registration, and fees prescribed by this section. 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.

(f) Once the form referred to in paragraph (1) of subdivision (b) has been recorded, a manufactured home or mobilehome shall be deemed a fixture and improvement to the underlying real property described with certainty on the form. Physical removal of the manufactured home or mobilehome from the real property where it has become a fixture and improvement pursuant to this section 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 where the manufactured home or mobilehome has become a fixture and improvement.

(g) For the purposes of this section:

(1) “Physical removal” shall include, without limitation, the manufactured home, mobilehome, or any transportable section thereof, from the real property where it has become a fixture and improvement.

(2) 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.

(h) At least 30 days prior to a legal removal of the manufactured home or mobilehome from the real property where it has become a fixture and improvement and transportation away from the real property, the manufactured home or mobilehome owner shall notify the department and the county assessor of the intended removal of the manufactured home or mobilehome. 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 or mobilehome registration, as the department may decide is appropriate to the circumstances. Immediately upon removal, as defined in this section, the manufactured home or mobilehome shall be deemed to have become personal property and subject to all laws governing the



same as applicable to a manufactured home or mobilehome.

(i) Notwithstanding any other provision of law, any manufactured home or mobilehome not installed on a foundation system pursuant to subdivision (a) of Section 18551 or converted to a fixture and improvement to real property as prescribed by this section shall not be deemed a fixture or improvement to the real property. This subdivision shall not be construed to affect the application of sales and use or property taxes.

(j) Once converted to a fixture and improvement to real property, a manufactured home or mobilehome shall be subject to state-enforced health and safety standards for manufactured homes or mobilehomes enforced pursuant to Section 18020.

(k) 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, condominium, or nonprofit corporation formed pursuant to Section 11010.8 of the Business and Professions Code for manufactured homes or mobilehomes, that any manufactured home or mobilehome located there be converted to a fixture and improvement to the underlying real property.

(l) The department is authorized to adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code in order to implement the purposes of this section.

SEC. 6. Section 18611 of the Health and Safety Code is amended to read:

18611. Factory-built housing bearing an insignia of approval pursuant to Section 19980, mobilehomes as defined in Section 18008, or manufactured homes as defined in Section 18007.5 may be affixed to a foundation system within a mobilehome park, provided the installation conforms to the rules of the mobilehome park, the installation is approved pursuant to Section 19992, or in the case of mobilehomes or manufactured homes the installation is in accordance with subdivision (b) of



Section 18551, and no single structure exceeds two stories in height or contains more than four dwelling units. Any factory-built housing, mobilehomes, or manufactured homes included in a mobilehome park pursuant to this section shall be located on lots especially designated for that purpose in accordance with the rules of the mobilehome park.

This section shall be applicable only to mobilehome parks (1) where the permit to construct the park is issued on or after January 1, 1982, and (2) that are additionally granted a zone designation or conditional use permit that authorizes permanent occupancies of the type and to the extent established pursuant to this section. Nothing in this section shall be construed to create an exemption from the requirements of Division 2 (commencing with Section 66410) of Title 7 of the Government Code.

SEC. 7. 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.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved _____, 1997

Governor

