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AB-173 Mobilehomes: payments: nonpayment or late payments. (2019-2020)

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Assembly Bill No. 173

CHAPTER 488

An act to amend Sections 18116.1 and 18550.1 of the Health and Safety Code, and to amend Section 5832 of the Revenue and Taxation Code, relating to mobilehomes.

[Approved by Governor October 03, 2019. Filed with Secretary of State October 03, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 173, Chau. Mobilehomes: payments: nonpayment or late payments.

(1) Existing law requires the Department of Housing and Community Development, when a person who is not currently the registered owner of a manufactured home or mobilehome applies to the department for registration or transfer of registration of the manufactured home or mobilehome prior to December 31, 2019, and meets other specified requirements including, among others, payment of any charges assessed by the department during the period between the time the applicant took ownership interest or December 31, 2015, whichever is later, and the time the applicant applies for relief, to waive all outstanding charges assessed by the department prior to the transfer of title of the manufactured home or mobilehome, release any lien imposed with respect to those charges, issue a duplicate or new certificate of title or registration card, and amend the title record of the manufactured home or mobilehome.

This bill would extend the date for an application under these provisions to December 31, 2020, and would refer to that program as the Register Your Mobilehome Program. This bill would also prohibit the applicant from being eligible if the applicant, or a previous owner, took ownership interest on or after January 1, 2017, pursuant to a warehouseman's lien. The bill would also require the department to publish, on or before July 1, 2021, an analysis of manufactured home and mobilehome registration that came into compliance through the Register Your Mobilehome Program. The bill would require the analysis to include whether each unit is subject to an in-lieu tax or to local property taxation, and the number of units for which a waiver of charges assessed by the department prior to the transfer of title of the manufactured home or mobilehome was requested.

(2) Existing law provides that mobilehomes and manufactured homes not subject to the vehicle license fee are subject to local property taxation, and requires the department to withhold the registration or transfer of registration of any manufactured home or mobilehome subject to local property taxation until the applicant for registration presents a tax clearance certificate or conditional tax clearance certificate issued by the tax collector of the county where the manufactured home or mobilehome is located. Existing law requires the county tax collector to issue a tax clearance certificate or conditional tax clearance certificate if specified requirements are met. Existing law requires the department, when a person who is not currently the registered owner of a manufactured home or mobilehome subject to local property taxation applies to the department for registration or transfer of registration of the manufactured home or mobilehome prior to December 31, 2019, and meets other specified requirements, to issue a conditional transfer of title.

Existing law requires a county tax collector to issue either a tax liability certificate or a tax clearance certificate to a person with a conditional transfer of title who applies for the certificate prior to January 1, 2020. The California Constitution authorizes the

Legislature to exempt personal property from taxation by means of a statute approved by a $\frac{2}{3}$ vote of the membership of each house. Pursuant to this constitutional authorization, existing law requires the payment of only a portion of the taxes, as specified, reasonably owed from the date of sale of the manufactured home or mobilehome, not to exceed the amounts attributable one year prior to January 1, 2017.

This bill would instead require a county tax collector to issue a tax liability certificate to a person with a conditional transfer of title who applies for the certificate prior to January 1, 2021. By increasing the duties of county tax collectors, this bill would impose a state-mandated local program.

(3) Under existing law, beginning January 1, 2020, it is unlawful for any person to use for occupancy any manufactured home or mobilehome that does not conform to the registration requirements of the department, if the department provides notice to the occupant of the registration requirements and any registration fees due.

This bill would extend that date to January 1, 2021.

(4) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(5) Existing law requires the state to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding these provisions, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 18116.1 of the Health and Safety Code is amended to read:

18116.1. (a) Nonpayment of the fees and penalties provided for in Sections 18114, 18114.1, and 18115, and in subdivisions (a), (b), (c), and (d) of Section 18116 that are due on a mobilehome, manufactured home, commercial coach, truck camper, or floating home shall constitute a lien in favor of the State of California in the amount owing.

(b) Notwithstanding any other provision of law, the lien provided for in subdivision (a) shall include all fees and penalties due and unpaid beginning with the fees for original registration that became delinquent for 120 days or more and continue to accrue to include all fees and penalties that subsequently become due and remain unpaid.

(c) Until the amount of a lien provided for in subdivision (a) or (b) is paid to the department, the department shall not do either of the following:

(1) Amend the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home which is the subject of the lien for the purpose of transferring any ownership interest or transferring or creating any security interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(2) Issue any duplicate, substitute, or new certificate of title, registration card, or copy of a registration card with respect to the manufactured home, mobilehome, commercial coach, truck camper, or floating home which is the subject of the lien.

(d) (1) When application is made to the department for registration or transfer of registration of a manufactured home or mobilehome, and the applicant is not currently the registered owner, pursuant to the Register Your Mobilehome Program operated by the department in accordance with this subdivision, with respect to all charges assessed by the department prior to the date the title or interest in the manufactured home or mobilehome was transferred to the applicant, the department shall release any lien imposed pursuant to this chapter and waive all outstanding charges assessed by the department, if all of the following requirements are met:

(A) The applicant provides documentation demonstrating to the satisfaction of the department ownership and the date of acquisition of ownership interest pursuant to Section 18100.5 or 18102.5.

(B) The applicant, or a previous owner, did not take ownership interest on or after January 1, 2017, pursuant to a warehouseman's lien.

(C) The application is made prior to December 31, 2020.

(D) The applicant pays any charges assessed by the department during the period between the time the applicant took ownership interest or December 31, 2015, whichever is later, and the time the applicant applies for relief pursuant to this subdivision.

(E) The applicant has not previously filed for relief pursuant to this subdivision.

(F) Any lien pursuant to Section 16182 of the Government Code has been satisfied.

(2) If the applicant meets the requirements of paragraph (1) and the other requirements of this chapter not related to nonpayment or late payment of the department's charges, fees, and penalties related to registration and titling, the department shall waive the outstanding charges, fees, or penalties identified in paragraph (1), amend the title record, and issue a duplicate, substitute, or new certificate of title, registration card, or copy of a registration card with respect to the manufactured home or mobilehome, in conformance with this chapter.

(3) For purposes of any amounts owing pursuant to this subdivision, the department may establish a long term payment program of up to five years. The department may provide that any amounts owing under the payment program shall constitute a lien in favor of the State of California in the amount owing and shall be paid in full if the manufactured home or mobilehome is subsequently transferred. Failure to make the payments required by the plan is a violation of this chapter for which the department may suspend, revoke, or cancel the certificate of title pursuant to Section 18122.

(4) (A) If the manufactured home or mobilehome for which an application has been submitted and approved pursuant to this subdivision and the other requirements of this chapter not related to nonpayment or late payment of the department's charges, fees, and penalties related to registration and titling, is subject to local property taxation, the department shall issue a conditional transfer of title.

(B) Upon presentation of a completed tax liability certificate as provided in subdivision (f) of Section 5832 of the Revenue and Taxation Code, if the applicant meets all of the requirements of this section and the other requirements of this chapter not related to nonpayment or late payment of the department's charges, fees, and penalties related to registration and titling, and the requirements of paragraph (2) are met, the department shall amend the title record and issue a duplicate, substitute, or new certificate of title.

(e) On or before July 1, 2021, the department shall publish an analysis of manufactured home and mobilehome registration that came into compliance through the Register Your Mobilehome Program pursuant to subdivision (d). The analysis shall include whether each unit is subject to an in-lieu tax or to local property taxation, and the number of units for which a waiver of taxes assessed by the department prior to the transfer of title of the manufactured home or mobilehome was requested.

SEC. 2. Section 18550.1 of the Health and Safety Code is amended to read:

18550.1. On and after January 1, 2021, it is unlawful for any person to use for occupancy any manufactured home or mobilehome, wherever the manufactured home or mobilehome is located, that does not conform to the registration requirements of the department, provided that the department has provided notice to the occupant of the registration requirements and any registration fees due.

SEC. 3. Section 5832 of the Revenue and Taxation Code is amended to read:

5832. (a) (1) Upon application, the county tax collector shall issue a tax clearance certificate or a conditional tax clearance certificate.

(2) Any tax clearance certificate issued shall be used to permit registration of used manufactured homes and for any other purposes that may be prescribed by the Controller. The certificate may indicate that the county tax collector finds that no local property tax is due or is likely to become due, or that any applicable local property taxes have been paid or are to be paid in a manner not requiring the withholding of registration or the transfer of registration.

(3) Any conditional tax clearance certificate issued shall indicate that the county tax collector finds that a tax liability exists, the amount due, and the final date that amount may be paid before a further tax liability is incurred. The certificate shall be in any form that the Controller may prescribe, and shall be executed, issued, and accepted for clearance of registration or permit issuance on the conditions which the Controller may prescribe.

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

not charge a fee for the issuance of a certificate unless a previously issued tax clearance certificate or conditional tax clearance certificate expires prior to the date upon which title transfers. The fee for the issuance of a subsequent certificate with respect to that manufactured home shall be an amount equal to the actual costs of preparing and processing that certificate.

(c) If the tax collector fails to comply with the demand within 30 days from the date the demand is mailed, the escrow officer may close the escrow in accordance with the provisions of subdivision (m) of Section 18035 of the Health and Safety Code.

(d) Notwithstanding any provisions of law requiring the tax collector to issue a tax clearance certificate or conditional tax clearance certificate within a specified period of time, when an escrow information demand is made pursuant to Section 18035 of the Health and Safety Code for a manufactured home that has not been enrolled in the county, the tax collector shall be afforded the number of working days necessary for the assessor to determine the value of the manufactured home and for the auditor to extend tax liability.

(e) The issuance, alteration, forgery, or use of any tax clearance certificate or conditional certificate in a manner contrary to the requirements of the Controller constitutes a misdemeanor.

(f) (1) Prior to January 1, 2021, a person with a conditional transfer of title as described in subparagraph (A) of paragraph (4) of subdivision (d) of Section 18116.1 of the Health and Safety Code may apply to the tax collector to issue either a tax liability or tax clearance certificate. The county tax collector shall issue a tax liability certificate if the person pays the taxes reasonably owed from the date of sale as shown on the conditional transfer of title, without penalties or interest, and not to exceed the amounts attributable one year prior to January 1, 2017.

(2) Upon issuance of a tax clearance or liability certificate, the applicant shall be listed as the owner of record for all local property tax purposes and the home shall not be subject to lien or seizure based on any taxes, penalties, or interest as noted on the certificate issued pursuant to paragraph (1). The tax collector shall notify the assessor and other county agencies of the change.

(3) This subdivision does not relieve any owner other than the applicant from tax liability, including penalties and interest, arising from nonpayment prior to the date of sale, or prohibit a county tax collector from collecting delinquent taxes, penalties, or interest due prior to the date of sale, from any owner other than the applicant.

SEC. 4. The Legislature finds and declares that the abatement of taxes, penalties, and interest incurred prior to the date of sale of a mobilehome or manufactured home to an applicant, as described in this act, serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 6. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.