

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS,
MOBILEHOME RESIDENCY LAW PROTECTION PROGRAM
REGARDING TITLE 25, CALIFORNIA CODE OF REGULATIONS,
CHAPTER 3.5**

FINDING OF EMERGENCY

NOTE: If using assistive technology, please adjust your settings to recognize underline, strikeout, and ellipsis.

The Department of Housing and Community Development (HCD) proposes to amend Chapter 3.5 (commencing with Section 4916 Division 1 of Title 25 of the California Code of Regulations (CCR). Government Code (GC) section 11346.1 requires a finding of emergency to include a written statement which contains the information required by paragraphs (2) through (6), inclusive, of subsection (a) of Section 11346.5 and a description of the specific facts showing the need for immediate action.

GC section 11346.1, subdivision (a)(2) requires that, at least five (5) working days prior to submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency regulations, OAL shall allow interested persons five (5) calendar days to submit comments on the proposed emergency regulations as set forth in GC section 11349.6.

FINDING OF EMERGENCY

The Mobilehome Residency Law Protection Program (MRLPP), established by the Mobilehome Residency Law Protection Act (Act)¹, is a program that connects mobilehome homeowners, as defined in the Act, with legal resources for assistance related to alleged violations of the Mobilehome Residency Law (MRL)². The MRL governs the landlord-tenant relationship between mobilehome homeowners and mobilehome park owners and covers issues such as rental agreements and termination of tenancy. MRL disputes are handled in the civil court system and the consequence of improper application of the MRL by mobilehome park owners can lead to the loss of property and/or tenancy by mobilehome homeowners. The MRLPP provides another avenue for mobilehome homeowners to receive legal assistance to secure their property and housing stability.

Assembly Bill (AB) 318 (Chapter 736, Statutes of 2023) deems the adoption of these regulations to be an emergency. Pursuant to Health and Safety Code (HSC) section 18802 and regulations related to HSC section 18802(k)(2), “until January 1, 2027, the

¹ Mobilehome Residency Law Protection Act (commencing with section 18800) of Part 2.2 Division 13 of Health and Safety Code.

² Mobilehome Residency Law Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code.

adoption and readoption of regulations to implement this section shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the GC, and HCD is hereby exempted from the requirement that it describe facts showing the need for immediate action.”

RATIONALE FOR EMERGENCY

Current regulations require HCD to execute legal services provider (LSP) contracts utilizing Request for Proposal (RFP), a competitive bidding process that limits the ability to utilize other contract processes allowable under the California state contracting process. Current LSP contracts expire between February and May of 2024 and some LSPs have declined to extend contracts by one year as allowed by Section 4916.

Emergency action of proposed amendments to Chapter 3.5 are necessary to provide continuity of service to mobilehome homeowners that submit MRL complaints for referral to contracted LSPs. Without amending Section 4916 to remove the requirement to use the lengthy RFP contracting method, LSP contracts will lapse leaving much of the state without LSP coverage. HCD will be unable to fulfill the statutory requirement to refer MRLPP complaints to LSPs. Inability to refer complaints to LSPs may result in the lack of opportunity for mobilehome homeowners to obtain legal representation and could lead to possible legal and financial harm such as termination of tenancy and/or loss of property.

The proposed regulations are necessary to execute LSP contracts in a timely manner without loss of service and comply with statutory requirements of the Act to refer complaints to contracted LSPs.

Proposed regulations repeal the requirement to utilize an RFP to secure contracts and relocate and renumber the subsection that allows HCD to award contracts to one or more LSPs if it determines that coverage of the state requires multiple contractors and the subsection that notes contracts are subject to compliance with of California contracting requirements. Reference to contracting requirements in the Act are added for clarity.

CONSISTENCY AND COMPATIBILITY WITH EXISTING LAWS

The proposed emergency regulations are compatible with existing state laws and regulations, as set forth in the Act, related to the administration of the MRLPP. Below are summaries of existing laws that relate directly to the proposed regulations.

Mobilehome Residency Law Protection Act. HCD aids in taking complaints related to the MRL and in helping to resolve and coordinate the resolution of these complaints. HCD administers the MRLPP through contracted LSPs and refers MRL complaints for evaluation and possible enforcement action to contracted LSPs. LSPs have sole authority to determine which complaints are addressed or pursued, based on resources provided pursuant to the contract with HCD.

FEDERAL REGULATIONS OR STATUTES COMPATIBILITY

HCD has determined that these proposed regulations are not inconsistent or incompatible with existing regulations.

AUTHORITY AND REFERENCE

Authority

HCD has express and implied rulemaking authority from the Legislature in the Act. The Legislature has directed HCD to administer the Act and adopt regulations to interpret and make specific the Act. The regulations (when adopted) shall apply to all parts of the state. These regulations are submitted pursuant to HCD's authority under Health and Safety Code section 18802.

Reference

HCD is implementing, interpreting, and making specific HSC section 18803 in these proposed emergency regulations.

STATEMENT OF SPECIFIC PURPOSE AND RATIONALE

The MRLPP, as authorized by the Act, provides an additional avenue for mobilehome homeowners to enforce violations of the MRL³. The MRLPP allows HCD to intake complaints related to the MRL and refer any alleged MRL violations to contracted LSPs for legal advice and assistance.

Rationale of Proposed Emergency Regulations

1. Nature of the Problem to be Addressed

California Code of Regulations, title 25, section 4916 clarifies and makes specific the selection procedures for nonprofit legal services providers. Regulations dictate that HCD issue an RFP to contract with one or more nonprofit legal services providers to provide legal advice and representation to MRLPP complainants. An RFP is one means of awarding contracts allowable by under the Public Contract Code (PCC) (commencing with section 10335 of chapter 2 of part 2 of Public Contract Code), but the Public Contract Code authorizes alternative contracting procedures for certain kinds of contracts, including legal services contracts pursuant to PCC § 10335.5(c)(4).

2. Benefit of Proposed Emergency Regulations on the Problem to be Addressed

The PCC governs the public contract process. The purpose of the PCC is to ensure full compliance with competitive bidding as means of protecting the public from misuse of funds and provide qualified bidders with a fair opportunity to enter the bidding process and eliminate favoritism, fraud, and corruption in awarding public contracts. The State Contracting Manual provides the policies, procedures, and guidelines to promote sound business decisions and practices in securing necessary services for the State. HCD is

³ Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code.

mandated to abide by the PCC and the State Contracting Manual to obtain contracts, and current regulations unnecessarily limit the means HCD may take to procure contracts.

Current regulations unnecessarily limit HCD by requiring the use of the RFP process. Proposed amendments remove this limitation by allowing HCD to use all established contracting methods as promulgated in the PCC and the State Contracting Manual to secure contracts with LSPs to provide legal advice and representation for mobilehome homeowners referred as part of the MRLPP.

3. Proposed Emergency Regulation Implements AB 318 (Chapter 736, Statutes of 2023)

The proposed emergency regulations implement AB 318 (Chapter 736, Statutes of 2023) by using the emergency regulation authorization provided by the statute to amend section 4916 to remove the requirement that HCD use the RFP contracting process and all requirements associated with this process.

INFORMATIVE DIGEST

Amend Section 4916

§4916

Amend section 4196 subsection (a) paragraph (1) to remove the requirement that HCD issue an RFP and relocate and amend the requirement in subsection (f) that HCD shall award contracts subject to compliance with California contracting requirements to subsection (a). The State Contracting Manual indicates that an RFP takes between three to eight months from the time the advertisement is placed until the award is made. Removing the requirement to use the RFP process to secure LSPs allows HCD to use other, possibly more expedited, methods to secure services and provide continuity of services to mobilehome homeowners that utilize the MRLPP. Reference to contracting requirements in the Act is added for clarity because HSC section 18803 outlines specific requirements for contracting with LSPs.

Relocate section 4916 subsection (e) to subsection (a) paragraph (2) for ease of the reader and renumber remaining paragraphs (2) and (3).

Repeal paragraph (4) which requires each contract to be three years with the option to extend for a year. This requirement may conflict with State Contracting Manual section 7.80 which outlines requirements and approval needed for multiple year contracts beyond three years. Repealing this paragraph still requires HCD to follow all state contracting requirements for multi-year contracts.

Repeal paragraph (5) which explains HCD's payment process, anticipated procedures for review of contract performance, the requirements of contractor reporting, and deliverables. These regulations are unnecessary, as the State Contracting Manual 5.15 clarifies the RFP process and what must be contained in the RFP; section 5.35 outlines that RFPs should include description of work, deliverables, performance timelines,

standards the agency is using to evaluate proposals, and information on how the state will select the winning proposal. HCD is mandated to follow the PCC and all California contracting requirements. Having duplicative and possibly conflicting requirements is unnecessary and confusing to potential bidders.

LOCAL MANDATE DETERMINATION

- Mandate on local agencies and school districts: NONE
- Costs or savings to any state agencies: NONE
- Costs or savings to local agencies or school districts, which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code: NONE
- Other nondiscretionary costs or savings imposed on local agencies: NONE
- Costs or savings in federal funding to the state: NONE

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

HCD has determined that the proposed regulatory action will not have a significant adverse effect on private individuals or small businesses.

ECONOMIC IMPACT ANALYSIS-ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

HCD has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California and will not result in the elimination of existing businesses nor create or expand businesses in the State of California.

DOCUMENTS RELIED UPON

State Contracting Manual, June 2023 edition.