

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS**

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**TO: Manufactured Home Manufacturers, Dealers and Salespersons
Continuing Education Course Providers and Instructors
Division Staff**

SUBJECT: MANUFACTURED HOUSING ESCROW LAW AND REGULATIONS

This Information Bulletin highlights certain critical escrow provisions of the California Health and Safety Code (HSC), Division 13, Part 2, commencing with Section 18035 of the Mobilehomes-Manufactured Housing Act of 1980 (law), and the implementing regulations in the California Code of Regulations, Title 25, Division 1, Chapter 4, commencing with Section 5060 (regulations). The California Department of Housing and Community Development (HCD) licensees are required to comply with these laws and regulations.

Critical Elements of the Escrow Provisions:

Escrow Opening Requirement and Placement of Funds - HSC §18035(a) requires that an escrow account be opened for dealer sales and leases of new or used manufactured homes subject to registration by HCD. Additionally, HSC § 18035 requires that payments received from the buyer shall be deposited into the escrow account within five (5) working days (meaning all days except Saturdays, Sundays and state and federal holidays) of receipt, one of which shall be the date of receipt. Checks, money orders or any other similar type of payment must be made payable to the escrow company. Under no circumstances may such funds be retained outside of escrow, even if they are deposited in a commercial bank account or other secured account. These requirements apply to manufactured homes installed pursuant to HSC § 18613 and § 18551(b), which are subject to HCD registration. Manufactured homes installed on a foundation system pursuant to HSC § 18551(a) as an improvement to real property are subject to the escrow requirements of HSC § 18035.2.

Placement of the Manufacturer's Certificate of Origin (MCO) Into Escrow - HSC § 18035(b) requires that the escrow instructions provide for the placement of the original MCO into escrow on or before the close of escrow on all new manufactured home sales that are subject to registration with HCD. HSC § 18035.2 (b)(1) requires the same on all new manufactured homes that will become a fixture of the underlying real estate.

Current Registration Card(s) and All Copies of the Registration Cards into Escrow - HSC § 18035(c)(1) requires that the escrow instructions provide that the certificate of title and the current registration card and all copies be placed into escrow on all sales of used manufactured homes.

Replacement Label/Insignia Requirement - Although there is no escrow provision requiring that a federal label or a California insignia be affixed on the manufactured home at the close of escrow, HSC § 18026 requires that all new and used manufactured homes and mobilehomes that were manufactured on or after September 1, 1958, bear either a federal label or a California insignia when offered for sale, rent, or lease in California.

When needed, replacement insignia can be obtained from HCD prior to offering the manufactured home for sale, rent or lease. This includes replacement insignia for manufactured homes constructed on and after June 15, 1976, in which the Department issued the original federal label in our capacity as the primary inspection agency.

Withdrawal of Escrow Funds - HSC § 18035(e)(1) requires that the escrow instructions shall provide that funds shall be disbursed from a manufactured home escrow account only upon delivery and, in some circumstances installation, of the home. There are exceptions for early payment of governmental fees and permits required as a precondition for an installation acceptance or a Certificate of Occupancy. Pursuant to § 5062(d) of the regulations, funds withheld for accessories may only be withdrawn on or after the close of escrow upon receipt of written notice from the dealer that the accessory actually has been installed or received by the purchaser in the event that installation is not required under the terms of the purchase document.

Failure To Disclose Resale Commission - HSC § 18035(c)(2)(A)(i) requires that the escrow instructions provide for the placement into escrow of a written statement from the registered owner acknowledging the amount of the commission to be received by the dealer in the resale of the manufactured home, pursuant to a listing agreement.

Violations of the escrow provisions by escrow companies may subject them to discipline by the California Department of Corporations. Violations of the manufactured housing law and regulations may subject an HCD licensee to discipline such as citation with monetary fine or suspension or revocation of the HCD license. In addition, HCD may request that the local District Attorney or the State Attorney General pursue a violation as a misdemeanor conviction pursuant to HSC § 18020.5. Law enforcement agencies may also prosecute felony violations such as embezzlement or fraud, or unfair business practices under the California Business and Professions Code.

Questions regarding the subject of this Information Bulletin may be directed to the Occupational Licensing Program at (916) 323-9803.