

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

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September 27, 2012

INFORMATION BULLETIN 2012-04 (OL)

**TO: Manufactured Home Dealers
 Escrow Companies
 Approved Course Providers and Instructors
 Interested Parties
 Division Staff**

SUBJECT: Manufactured Home (MH) Dealer Escrow Clarification

The purpose of this California Department of Housing and Community Development (HCD) information bulletin is to clarify specific applications of California Health and Safety Code (HSC), sections 18035 and 18035.2, regarding MH (including multifamily manufactured homes and mobilehomes) escrow procedures.

Background

The HSC requires that all MH sales performed by or through an MH dealer requires the dealer to comply with the requirements of HSC section 18035 for MH's installed pursuant to HSC sections 18613 or 18551(b); or HSC section 18035.2 if the MH is intended to be installed on a foundation system pursuant to HSC 18551(a).

The HSC requires that all MH leases with an option to buy, performed by or through an MH dealer, comply with the requirements of HSC section 18035.

MH Dealer Sales Involving a California Department of Real Estate (DRE) Licensee

The following examples provide clarification of HCD's escrow policy for used MH sales involving both a HCD licensee and a DRE licensee. The following examples must comply with HSC section 18035 (including leases with the option to buy) or section 18035.2.

1. For all dealer sales of used MH's from a dealer's inventory to a buyer that is represented by a DRE licensee;
2. For all dealer sales where the dealer is the listing agent for the MH owner in a sale of a used MH to a buyer represented by a DRE licensee;
3. For all sales where the dealer brings a buyer to purchase a used MH owned or listed by a DRE licensee.

If the HCD licensed dealer and the DRE licensee do not agree to follow the HSC escrow requirements, the MH sale or lease with the option to buy will be deemed in violation of the HSC and subject to the appropriate remedies and penalties listed in the HSC.

Pursuant to HSC section 18040(a), HCD licensed dealers may not lawfully cooperate with a DRE licensee on new MH sales.


Multiple MH Dealer Sales

When there are multiple MH dealers involved in a MH sale (including leases with an option to buy), HCD's policy is as follows:

1. For new MH sales, the dealer listed on the manufacturer's certificate of origin (MCO) is the dealer responsible for establishing escrow, registration, installation or delivery to retail buyer, and the warranty. Note: If the original dealer listed on the MCO has transferred the new MH unit to another dealer, then the subsequent dealer listed on the MCO will be held responsible for the retail transaction, including escrow, installation, or delivery to the retail buyer, all registration and titling requirement, and the new MH warranty.
2. For used MH sales, the dealer bringing the buyer to the transaction is responsible for establishing escrow, installation if applicable, and all registration and titling requirements (e.g., Used Dealer Report of Sale, etc.).
3. For used MH sales, in-lieu of item number 2 above, the dealers involved in the transaction can cooperate and agree which dealer will be responsible for all of the transaction. Such as, establishing escrow, installation if applicable, and all registration and titling requirements (e.g., Used Dealer Report of Sale, etc.).

Note: If HCD receives a complaint involving multiple dealers, HCD may hold all dealers responsible, based on the findings of an investigation.

If you have any questions regarding this Information bulletin, please contact HCD's Occupational Licensing Program at (916) 323-9803 or by e-mail at ol@hcd.ca.gov.


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