

Manufactured Home/Mobilehome

Common Questions and Answers

DEFINITION OF COMMON TERMS:

Certificate of Occupancy (a.k.a. "C.O.") – This is a document issued by a building department inspector when a MH-unit has been properly installed according to code. As of July 22, 2005, HCD amended this definition to mean the subject home has been converted to a fixture, in which case the inspector should issue an HCD Form 513c to so indicate. Prior to July 22, 2005, local inspection agencies would often issue their own version of a C.O. for MH-units that were not installed as a fixture; these non-descript C.O.s were easy to distinguish from 513c since only the 513c declared on its face that the subject home had been converted to a fixture.

Certificate of Title: The title document for a MH-unit. This document is issued by HCD and evidences the registered owner of the MH-unit and, if applicable, any lenders who have a secured interest in the home ("*legal owner*" and "*junior lienholders*").

Chattel: This term is normally defined to mean "personal property", which means the home is not a fixture to the underlying real estate. However, in the context of a MH-unit, HCD uses this term only when the subject home is installed upon a "foundation system" pursuant to §18551(b) of the Health and Safety Code. (NOTE: *in every other instance, a MH-unit installed upon a "foundation system" is considered a fixture installed pursuant to §18551(a) H&S*).

DOH Insignia: This was a predecessor of the "HUD Label." This insignia is usually displayed on the rear of a mobilehome. DOH is the acronym for Department of Housing. The Department of Housing was subsequently replaced by "HCD". A DOH Insignia is found on all mobilehomes built on or after September 1, 1958. When a DOH Insignia is required, it is unlawful to sell or offer for sale a "mobilehome" unless an Insignia is displayed. A replacement Insignia may be ordered from HCD.

Foundation System: An assembly of materials designed and engineered by an architect or engineer to resist the imposition of external forces once the MH-unit is installed upon it. The installation on a foundation is classified as one of the following:

- (A) Foundation installation – a fixture or improvement to real property, recorded with the county recorder's office, once recorded is no longer personal property, and which complies with the requirements of Health and Safety Code section 18551(a); or
- (B) Chattel installation – neither a fixture nor an improvement to real property, not recorded with the county recorder's office, remains personal property, and which complies with the requirements of Health and Safety Code section §18551(b).

HCD: This acronym stands for the California Department of Housing and Community Development.

HCD Form 413: This form was replaced by the “HCD Form 433A” in 1986. However, if a MH-unit had been converted to a fixture between 1980 and 1986, the building department should have recorded a HCD Form 413 with the local county recorder’s office by the building department to evidence the fact that the subject home had been converted to a fixture.

HCD Form 433A: This form replaced the “HCD Form 413”. The building department inspector is required to record this form with local county recorder after a MH-unit has been converted to a fixture to the underlying real estate. The 433A form gives public notice that the home is now a fixture.

HCD Form 433C: A very special form that may only be recorded by an escrow agent. This form gives public notice that the “Registered Owner” elected to convert their home from personal property subject to “Registration” to a fixture to the underlying real property. This is the only exception when a MH-unit can be converted to a fixture without being on a “Foundation System” as described in §18551(a) of the Health and Safety Code. In order to qualify for conversion without being on a “Foundation System”, the escrow agent must certify to HCD that the subject home meets the requirements of §18555 of the Health and Safety Code. The requirements are that the subject home must be sited in a mobilehome park; the park was/will be converted to resident-owned subdivision, cooperative, condominium, or nonprofit corporation formed pursuant to §11010.8 of the Business and Professions Code, and the “Registered Owner” is a participant in the resident ownership of the park.

HCD Form 513 A or 513B: A mobilehome or manufactured home “Installation Acceptance.”

HCD Form 513C: A “certificate of occupancy”; this form declares that the subject mobilehome or manufactured home has been successfully installed onto a “foundation system” and converted to a fixture as a result of being legally attached to the underlying real property. This form is issued in the field at the moment the home’s installation is deemed to have been completed pursuant to §18551(a) of the CA Health and Safety Code and is designed to serve as notice so that an escrow can be closed without further delay. After the HCD Form 513C is issued in the field, the building department is required to record the “HCD Form 433A” immediately thereafter.

HUD: This acronym stands for the Department of Housing and Urban Development. This is a department of our Federal government.

HUD Code: This pertains to manufactured home built National Manufactured Housing Construction and Safety Act of 1974. A “HUD Label” is displayed on the home to indicate the subject home has met HUD standards.

HUD Label: A HUD Label certifies the subject manufactured home was built to the HUD Code. Until recently, a manufactured home was required to display a HUD Label; if the Label was missing, a replacement insignia could be issued by HCD. HUD no longer permits States to issue replacement insignias for lost Labels. Therefore, when a HUD Label is lost, a homeowner must obtain a “verification letter” by making application directly from HUD.¹ While a “verification letter” may not be practical to display on the exterior of the home, possession of the document is evidence the subject home is in compliance. **It is unlawful to sell or offer for sale a manufactured home that does not display a HUD Label, unless the homeowner has a “verification letter.”**

Installation Acceptance (a.k.a. “HCD Form 513B”): As of 2005, this form is issued whenever a MH-unit passes inspection as personal property pursuant to §18613 or §18551(b) of the Health and Safety Code.

Junior Lienholder: If a MH-unit is subject to “Registration”, and there are two or more lienholders, the lienholder with the second priority is identified on the HCD registration records as the first “Junior Lienholder”, a third position lienholder is registered as the second “Junior Lienholder”.

Legal Owner: If a home is subject to “Registration” and there is one or more lienholders secured by the subject MH-unit, the lienholder with the first priority is the “Legal Owner”.

MH-unit: A term used in HCD code regulations that replaced references to “mobilehome, manufactured home, and multi-unit manufactured housing”.

Manufactured Home: A structure transportable in one or more sections, which in the traveling mode, is eight body feet or more in width, or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and is designed to be used as a dwelling with or without a permanent foundation.

Manufacturer Certificate of Origin (a.k.a. “M.C.O.” {NOTE: *some manufacturers refer to this form as a “C.O.,” but that term is not popular with escrow agents because the same name commonly applies to a Certificate of Occupancy*}): The original title created and issued by a manufacturer at the moment they have completed construction of a MH-unit in a manner specified by law.

Mobilehome: With the exception of a duplex, a mobilehome has the same definition as “manufactured home” except that a mobilehome was built prior to the implementation of the HUD Code in July of 1976. A mobilehome built in California on or after September 1, 1958, must display a Department of Housing or Department of Housing and Community Development insignia (a.k.a. DOH Insignia). Mobilehomes built prior to September 1, 1958, will not display an insignia unless they have been upgraded in the field, which is an improbable event.

¹ To inquire about obtaining a Verification Letter from HUD, you can contact HUD’s Office of Manufactured Housing Programs at (202) 708-6423, or access HUD’s “Missing HUD Labels” website, <http://www.hud.gov/offices/hsg/sfh/mhs/mhslabels.cfm>.

Notice of Escrow Opening: A document generated by an escrow agent to give public notice to HCD that an escrow is pending on a mobilehome or manufactured home. Upon receipt of the Notice, HCD will place a moratorium against the title records of the subject home to protect the pending interests of the prospective purchaser, and if applicable, their proposed lender(s) who intends to make a loan secured by the subject home.

“Permanently Affixed”: With respect to real property, this term is understood to refer to a structure that has been attached to the land, thus becoming a fixture. With respect to a MH-unit, the code states the home can only be deemed a fixture if it was installed pursuant to either §18551(a) or §18555 of the Health & Safety code. The conventional way of determining when a structure is affixed, via a physical inspection, does not apply to a MH-unit. A MH-unit can be deemed legally affixed even though it is not physically affixed, which is usually the case when §18555 applies. Conversely, some MH-units installed as chattel may either be, or appear to be, physically affixed, but are not legally a fixture. This has been a problem area for many mortgage lenders who have originated residential loans that inadvertently failed to encumber the chattel MH-unit!

Registration: In the context of a MH-unit, “registration” pertains to a home that is not affixed to the underlying real estate. “Registration” is similar to the Department of Motor Vehicles program for vehicle registration.

Registration Card: Similar to the registration card issued by the Department of Motor Vehicles for automobiles, a Registration Card identifies the name of owner and any secured creditors. This document is issued by HCD each time a MH-unit reported sold. (NOTE: *This document is not issued for MH-units that have been converted to a fixture since those homes are not personal property (chattel) and are deemed as part of the underlying real property. If a MH-unit has been converted to a fixture, the law requires that the “Certificate of Title”, “Registration Cards”, or “Manufacturer’s Certificate of Origin”, depending upon whichever may apply, shall be surrendered to HCD.*)

Registered Owner: A person who owns a MH-unit that is subject to “Registration”. (NOTE: *Prior to HCD taking over the “Registration” of MH-units in 1981, the “Registration” of MH-units was handled by the Department of Motor Vehicles. Therefore, there are still a few MH-units that are titled with DMV, but upon resale, notice of the sale must be forwarded to “HCD”.*)

§18551(a): California Health & Safety Code section that permits a MH-unit to be installed upon a “Foundation System” as a fixture and improvement to real property (*see “HCD Form 513C”*).

§18551(b): California Health & Safety Code section that permits a MH-unit to be installed upon a “Foundation System” as “chattel” (*see “HCD Form 513B”*).

§18555: California Health & Safety Code section that enables a “Registered Owner”, under specified conditions, to convert their MH-unit to a fixture and improvement to the underlying real property without the benefit of a “Foundation System”.

§18613: Permit, standards and regulations for installation of a MH-unit without becoming a fixture to the underlying real property. The MH-unit would be subject to “Registration”.

Verification Letter: A document issued to a manufactured homeowner by HUD when a manufactured home’s HUD Label is lost. The verification letter certifies that the subject home was built in compliance with the HUD Code.

Tax Clearance Certificate: A document issued by the local county tax collector that indicates all taxes have been paid on a MH-unit that is subject to registration.

COMMON MH-UNIT QUESTIONS AND ANSWERS:

How can I determine whether my mobilehome or manufactured home is deemed a fixture to the underlying real property, or is personal property? - **ANSWER:** If your home is personal property, you should have a “Registration Card”. If your home is a fixture to the underlying real estate, your home will not be “Registered” with HCD, but there should be an “HCD Form 433A” (*or possibly a “HCD Form 413”*) recorded with the county recorder in the same county where your home is sited. If your home was converted to a fixture and improvement to the underlying real property while you were purchasing the home, a copy of the “HCD Form 433A” should have been mailed to you by the county recorder. If you purchased a home that was installed prior to you entering into a contract to purchase the home, you probably got a title insurance policy, in which case the preliminary title policy should have revealed the recording of a “HCD Form 433A”.

Annually I receive a tax bill from local county tax collector for my manufactured home. Does that mean my home is considered a fixture to the underlying real estate? - **ANSWER:** No. Since about 1981, all new “manufactured homes”, as well as “mobilehomes” sold have been taxed by the local county tax collector’s office. Having said that, manufactured homes that were legally converted to a fixture are placed on the secured tax rolls like other forms of real property. But while “manufactured homes” that are not affixed may also be taxed through the same agency, they remain personal property and are part of the unsecured tax rolls. Some county tax collectors have opted to place personal property manufactured homes onto the secured rolls for their convenience in the tax collection process; should a such a manufactured home become delinquent, the home is returned to the unsecured tax rolls for appropriate processing. Unlike with real property, the county tax collector cannot conduct a tax lien sale on a manufactured home that was not converted to a fixture.

Is a real estate broker able to solicit borrowers or lenders for or negotiate loans or collect payments on loans secured by a personal property manufactured home? **ANSWER:** No. There is a specific law that enables a broker to do these things, but only if the loans are

secured by real property or involve a business opportunity. A real estate broker cannot perform these functions relative to a manufactured home unless the home has been converted to a fixture (*see §10311(d) of the Business and Professions Code*).

Can a dealer cooperate with a real estate broker on the resale of a manufactured home that is registered on HCD's title records? - **ANSWER:** Yes, although this answer is somewhat misleading since the real estate broker is not able to cooperate in the usual sense. Unlike real estate brokers, dealers cannot truly broker the resale of a manufactured home. The dealer's relationship to the transaction is similar to an auto dealer selling a privately owned automobile on consignment. This means the dealer is always treated as a principal in a transaction, and in this case they would be deemed a "seller." Being considered a "seller" enables/requires a dealer to issue a report of sale and guarantee good title to the purchaser. Thus one major difference between a real estate broker and a dealer is that the first acts as a broker, while latter acts as a principal. What this also means is that there is no possible way for the real estate broker to cooperate in the usual sense. The 1997-98 Senate Daily Journal on page 3450 contains a letter from the Senator Haynes, the author of the bill. The letter states ". . . *The intent of this amended section is to permit manufactured housing dealers to pay real estate licensees a fee for the referral of business on the resale of manufactured homes. However, dealers are regulated pursuant to sections of the Health and Safety Code, while real estate licensees are subject to provisions in both the Civil Code and Business and Professions Code. The different codes have very different regulatory schemes governing the sale of property. . . . it was not the intent of the bill to change the governing statutes for the sale of manufactured homes. Thus, so far as the provisions of SB 259 are concerned, any resale of a manufactured home accomplished through a cooperative brokerage arrangement between a manufactured housing dealer and a real estate licensee is still governed by the provisions contained in the Health and Safety Code.*" Neither the buyer or the registered owner can waive this "right.