
HOUSE BILL 1540

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Leonard, Ogden, Romero, Brough, Vance and Pruitt

Read first time 02/01/93. Referred to Committee on Trade, Economic Development & Housing.

1 AN ACT Relating to consumer remedies for purchasers of manufactured
2 homes; amending RCW 46.70.070 and 46.70.075; and adding a new chapter
3 to Title 59 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that the purchase of
6 a manufactured home is a sizable investment for most families. The
7 legislature also finds that consumer remedies for purchases of
8 manufactured homes lack clarity and are often inadequate. Therefore,
9 the legislature declares that it is the purpose of this act to
10 strengthen consumer warranties, clarify escrow provisions, and
11 establish a recovery fund with respect to manufactured housing sales.

12 NEW SECTION. **Sec. 2.** The manufactured housing transaction
13 recovery fund is created in the custody of the state treasurer. All
14 assessment fees collected from manufactured home manufacturers,
15 dealers, and installers in accordance with section 3 of this act shall
16 be deposited into the fund. All interest earned by deposits in the
17 fund shall accrue to the fund. The fund is not subject to allotment
18 reductions under chapter 43.88 RCW, and no appropriation is required

1 for expenditures. The department of community development may be
2 reimbursed from the fund for its costs incurred for investigating and
3 enforcing claims under this chapter. Only the director of the
4 department of community development, or the director's designee, may
5 authorize expenditures from the fund.

6 NEW SECTION. **Sec. 3.** Each manufactured home manufacturer, dealer,
7 and installer doing business in the state of Washington shall pay an
8 initial assessment fee to the manufactured housing transaction recovery
9 fund established in section 2 of this act. The fee shall be assessed
10 as follows:

11 (1) A manufacturer shall pay the sum of three thousand dollars for
12 selling manufactured homes in the state;

13 (2) A dealer shall pay the sum of five hundred dollars for each
14 retail location in the state;

15 (3) An installer shall pay five hundred dollars for each business
16 location in the state.

17 The fee shall be collected by the licensing or certifying agency,
18 or its agents, at the time the manufacturer, dealer, or installer
19 submits an application for certification or licensure or renewal. A
20 manufacturer or dealer who also acts as an installer of manufactured
21 homes is not required to pay the fee required for an installer, but
22 must pay the fee assessed for a manufacturer or dealer. This fee shall
23 not be collected more than once except as provided in section 4 of this
24 act. The department of licensing, the department of labor and
25 industries, and the department of community development shall consult
26 with each other before adopting rules necessary to implement this
27 section. The fee shall be forwarded to the state treasurer for deposit
28 into the manufactured housing transaction recovery fund.

29 NEW SECTION. **Sec. 4.** Whenever the balance of the manufactured
30 housing transaction recovery fund falls below two hundred fifty
31 thousand dollars, the department of community development may reimpose
32 the fee established under section 3 of this act.

33 NEW SECTION. **Sec. 5.** A buyer of a manufactured home who wishes to
34 recover damages from the manufactured housing transaction recovery fund
35 must file an application with the department of community development.
36 The department shall review the application and determine the buyer's

1 eligibility for recovery in accordance with section 6 of this act. Any
2 decision of the department concerning eligibility may be appealed as an
3 adjudicative proceeding under the administrative procedure act, chapter
4 34.05 RCW.

5 NEW SECTION. **Sec. 6.** (1) A buyer of a manufactured home is
6 eligible to recover from the manufactured housing transaction recovery
7 fund, if the following conditions are met:

8 (a) The buyer obtains a final judgment in any court of competent
9 jurisdiction against a manufactured home manufacturer, dealer, or
10 installer;

11 (b) The judgment is on the grounds of failure to honor a warranty
12 or guarantee, or for fraud, or for willful misrepresentation of the
13 kind or quality of the product sold or the work provided, or for
14 conversion, arising directly out of any transaction that occurs after
15 July 1, 1993;

16 (c) The buyer has presented evidence that the judgment has been
17 executed against all the assets of the judgment debtor or presented
18 satisfactory evidence that the judgment debtor is judgment proof;

19 (d) The claim against the fund is filed within one year from the
20 date of the judgment;

21 (e) The buyer has agreed to subrogate to the department all rights
22 against the judgment debtor to the extent of the payment; and

23 (f) The fund balance is sufficient to pay the award.

24 (2) The amount of damages awarded from the fund is limited to the
25 actual cost of repairs to the manufactured home. No punitive damages,
26 court costs, or attorneys' fees may be awarded from the fund.

27 (3) If the aggregate of claims against the fund exceeds the balance
28 in the fund, then the money in the fund shall be prorated by the
29 department of community development among the claimants and paid in
30 proportion to the amounts of their awards remaining unpaid.

31 NEW SECTION. **Sec. 7.** (1) The judgment debtor is liable for
32 repayment in full for the amount arising from claims against the debtor
33 paid from the fund, plus interest.

34 (2) A discharge in bankruptcy does not relieve a judgment debtor
35 from the responsibility from repaying moneys paid from the fund to
36 satisfy claims against the judgment debtor.

1 NEW SECTION. **Sec. 8.** If a claim is paid from the fund, or the
2 manufacturer, dealer, or installer fails to pay the assessment required
3 under section 3 of this act, the department that licensed or certified
4 the judgment debtor shall suspend or deny the judgment debtor's
5 license, registration, or certification until the judgment debtor has
6 paid the assessment or repaid the fund the amounts paid on its behalf,
7 plus interest. The department of licensing shall suspend a judgment
8 debtor's license in accordance with chapter 46.70 RCW. The department
9 of labor and industries shall suspend a judgment debtor's registration
10 in accordance with chapter 18.27 RCW. The department of community
11 development, the department of licensing, and the department of labor
12 and industries shall consult with each other before adopting rules
13 necessary to implement this section.

14 NEW SECTION. **Sec. 9.** For purposes of this chapter, "judgment
15 debtor" means a manufactured housing manufacturer, dealer, or installer
16 who is required to pay damages to a buyer of a manufactured home under
17 a final judgment rendered by a court of competent jurisdiction.

18 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act shall
19 constitute a new chapter in Title 59 RCW.

20 **Sec. 11.** RCW 46.70.070 and 1989 c 337 s 15 are each amended to
21 read as follows:

22 (1) Before issuing a vehicle dealer's license, the department shall
23 require the applicant to file with the department a surety bond in the
24 amount of:

25 (a) Fifteen thousand dollars for motor vehicle dealers;

26 (b) ~~((Thirty))~~ Ten thousand dollars for mobile home~~((7))~~ and park
27 trailer dealers, and fifteen thousand dollars for travel trailer
28 dealers~~((: PROVIDED, That if such dealer does not deal in mobile homes~~
29 ~~or park trailers such bond shall be fifteen thousand dollars))~~;

30 (c) Five thousand dollars for miscellaneous dealers, running to the
31 state, and executed by a surety company authorized to do business in
32 the state. Such bond shall be approved by the attorney general as to
33 form and conditioned that the dealer shall conduct his or her business
34 in conformity with the provisions of this chapter.

35 Any retail purchaser, consignor who is not a motor vehicle dealer,
36 or a motor vehicle dealer who has purchased from a wholesale dealer,

1 who has suffered any loss or damage by reason of any act by a dealer
2 which constitutes a violation of this chapter shall have the right to
3 institute an action for recovery against such dealer and the surety
4 upon such bond. However, under this section, motor vehicle dealers who
5 have purchased from wholesale dealers may only institute actions
6 against wholesale dealers and their surety bonds. Successive
7 recoveries against ~~((said))~~ the bond ~~((shall be))~~ is permitted, but the
8 aggregate liability of the surety to all persons shall in no event
9 exceed the amount of the bond. Upon exhaustion of the penalty of
10 ~~((said))~~ the bond or cancellation of the bond by the surety the vehicle
11 dealer license shall automatically be deemed canceled.

12 (2) The bond for any vehicle dealer licensed or to be licensed
13 under more than one classification shall be the highest bond required
14 for any such classification.

15 (3) Vehicle dealers shall maintain a bond for each business
16 location in this state and bond coverage for all temporary subagencies.

17 **Sec. 12.** RCW 46.70.075 and 1981 c 152 s 3 are each amended to read
18 as follows:

19 Before issuing a manufacturer license to a manufacturer of mobile
20 homes or travel trailers, the department shall require the applicant to
21 file with the department a surety bond in the amount of ~~((forty))~~
22 twenty thousand dollars ~~((in the case of a mobile home manufacturer and~~
23 ~~twenty thousand dollars in the case of a travel trailer manufacturer)),~~
24 running to the state and executed by a surety company authorized to do
25 business in the state. ~~((Such))~~ The bond shall be approved by the
26 attorney general as to form and conditioned that the manufacturer shall
27 conduct his or her business in conformity with the provisions of this
28 chapter and with all standards set by the state of Washington or the
29 federal government pertaining to the construction or safety of such
30 vehicles. Any retail purchaser or vehicle dealer who has suffered any
31 loss or damage by reason of breach of warranty or by any act by a
32 manufacturer which constitutes a violation of this chapter or a
33 violation of any standards set by the state of Washington or the
34 federal government pertaining to construction or safety of such
35 vehicles has the right to institute an action for recovery against such
36 manufacturer and the surety upon such bond. Successive recoveries
37 against the bond shall be permitted, but the aggregate liability of the
38 surety to all persons shall in no event exceed the amount of the bond.

1 Upon exhaustion of the penalty of the bond or cancellation of the bond
2 by the surety the manufacturer license is automatically deemed
3 canceled.

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