
SENATE BILL 6164

State of Washington

55th Legislature

1998 Regular Session

By Senators Prentice and Goings

Read first time 01/12/98. Referred to Committee on Financial Institutions, Insurance & Housing.

1 AN ACT Relating to mobile home park rent justification; adding a
2 new chapter to Title 59 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that mobile home
5 owners have a substantial investment in their residences and
6 appurtenances for which space is rented or leased. Alternate sites for
7 relocation of mobile homes are difficult to find due to the shortage of
8 vacant spaces and the restrictions of age, size, or style of mobile
9 homes permitted in many parks. Likewise, the cost of moving a mobile
10 home is substantial and the risk of damage when moving is significant.
11 These conditions result in the creation of a captive market of mobile
12 home owners and tenants. This captivity contributes to an imbalance in
13 the bargaining relationship between park owners and mobile home park
14 tenants in favor of the park owners.

15 (2) The legislature also finds that because mobile homes are often
16 occupied by senior citizens, persons on fixed incomes, and persons of
17 low or moderate incomes, rent increases affect these persons with
18 particular harshness. Continual space rent increases in mobile home
19 parks threaten to diminish the value of the investment of mobile home

1 owners. Further, existing state law permits mobile home park owners to
2 require mobile home owners to make modifications to their homes for a
3 variety of reasons that constitute capital improvements which would
4 accrue to the benefit of the park owner by increasing the market value
5 of the mobile home park itself. Additionally, many homeowners make
6 voluntary improvements to their homes and spaces that are permanent and
7 affixed to the space. These improvements inure to the benefit of the
8 park owner and become the property of the park owner when the homeowner
9 leaves. Further, in many instances rents in mobile home parks have
10 been raised to such a level that mobile home owners are unable to find
11 purchasers for their homes thereby making them captives in the park,
12 facing the total loss of equity in their homes if they leave.

13 (3) Therefore, the legislature intends to facilitate and encourage
14 fair bargaining between mobile home owners and mobile home park owners
15 in order to achieve mutually satisfactory agreements regarding space
16 rents in mobile home parks. Absent such agreements, the legislature
17 further intends to protect the owners and residents of mobile homes
18 from unreasonable space rent increases while simultaneously recognizing
19 and providing for the need of park owners to receive a just and
20 reasonable return on their property.

21 NEW SECTION. **Sec. 2.** The definitions in this section apply
22 throughout this chapter unless the context clearly requires otherwise.

23 (1) "Base year" or "base year rent" means the amounts determined
24 under section 8 of this act.

25 (2) "Board" means the mobile home park rental review board
26 established by the department of community, trade, and economic
27 development.

28 (3) "Consumer price index" means the index known as the consumer
29 price index for all urban wage consumers applicable to the pertinent
30 geographical or political area of the state of Washington as published
31 by the United States department of labor, bureau of labor statistics.

32 (4) "Department" means the department of community, trade, and
33 economic development.

34 (5) "Director" means the director of the department of community,
35 trade, and economic development.

36 (6) "Mobile home" means a structure designed for human habitation
37 and for being moved on a street or highway, but does not include a
38 recreational vehicle.

1 (7) "Mobile home owner" or "resident" means any person who owns or
2 is entitled to occupy a mobile home.

3 (8) "Mobile home park" means any parcel of land within the state
4 where two or more mobile home spaces are rented or held out for rent,
5 to accommodate mobile homes used for human habitation.

6 (9) "Mobile home park owner" or "park owner" means the owner,
7 lessor, operator, or manager of a mobile home park.

8 (10) "Mobile home space" means the site within a mobile home park
9 intended, designed, or used for the location or accommodation of a
10 mobile home used for human habitation.

11 (11) "Rental agreement" means any written or oral agreement or
12 lease between the owner of a mobile home park and a tenant for the use
13 or occupancy of a mobile home park space which agreement contains the
14 terms and conditions of the tenancy for that space.

15 (12) "Rent increase" or "rental increase" means any additional
16 consideration demanded from a tenant for a mobile home space. A rental
17 increase includes any reduction in the mobile home park's amenities,
18 facilities, services, or utilities previously available for a tenant's
19 use and enjoyment without a commensurate decrease in consideration paid
20 by the tenant.

21 (13) "Space rent" means the consideration demanded or received for
22 the use or occupancy of a mobile home space exclusive of any
23 consideration paid for the occupancy of the mobile home itself. The
24 payment of space rent shall entitle the tenant to the full use and
25 enjoyment of all of the mobile home park's amenities, facilities,
26 services, and utilities which are not individually metered and
27 separately billed to the tenant.

28 (14) "Space rent ceiling" means the amount determined under section
29 9 of this act.

30 (15) "Tenancy" means the right of a tenant to the use and enjoyment
31 of a mobile home park space and the mobile home park's amenities,
32 facilities, services, and utilities.

33 (16) "Tenant" means a person who has a tenancy in a mobile home
34 park.

35 NEW SECTION. **Sec. 3.** This chapter applies to each and every
36 mobile home or manufactured home or trailer located in a mobile home
37 park within the state except those parks specifically excluded from
38 coverage by the director.

1 NEW SECTION. **Sec. 4.** This chapter does not apply to any mobile
2 home park that the director, in his or her discretion, finds is (1)
3 owned and operated by the residents of the park or (2) is owned and
4 operated by a nonprofit corporation granted tax-exempt status by the
5 internal revenue service. Exclusion from this chapter is granted only
6 upon approval of application for such status made to the director by
7 the residents of the park or their representatives or by the nonprofit
8 corporation.

9 NEW SECTION. **Sec. 5.** (1) Within sixty calendar days after the
10 effective date of this act, mobile home park owners shall register all
11 mobile home parks within the state and all mobile home spaces within
12 such parks with the board. This requirement applies to all mobile home
13 parks and mobile home spaces.

14 (2) The registration shall include, but is not limited to, the
15 following: The name, address, and telephone number of each and every
16 person or entity possessing an ownership interest in the park and the
17 nature of the interest; the number of mobile home spaces within the
18 park; a rent schedule of space rents within the park on January 1,
19 1998; a schedule of any and all other charges paid by mobile home
20 tenants within the park, the amount thereof, and to whom paid; and the
21 name, address, and telephone number of the park's manager, if any. A
22 park owner shall also update the registration within thirty days of any
23 change to the information previously filed for the park. A park owner
24 shall also provide such further information as required by resolution
25 of the board.

26 (3) A park owner is not eligible to receive a rent ceiling
27 adjustment under this chapter unless such current registration as may
28 be required for the mobile home park is on file, and complete, with the
29 board prior to the time a petition for a rent ceiling adjustment is
30 filed.

31 NEW SECTION. **Sec. 6.** (1) At the time of any registration, mobile
32 home park owners shall pay the department a registration fee for each
33 mobile home space within the park as may be established by the
34 department.

35 (2) The board shall not accept any petition from any park owner for
36 a space rent ceiling adjustment of any kind and no proceeding shall be

1 scheduled or proceed and no space rent ceiling adjustments granted for
2 any mobile home park if the registration fee is unpaid.

3 NEW SECTION. **Sec. 7.** Every mobile home park owner shall file a
4 report with the board on an annual basis, on a date determined by the
5 board. The report shall contain all pertinent financial information
6 related to the operation of the mobile home park. Mobile home park
7 annual reports shall be available for review and copying at the place
8 of business of the board. The board may charge a reasonable fee for
9 photocopying annual reports.

10 NEW SECTION. **Sec. 8.** (1) Beginning on the first day of the first
11 month following the effective date of this act, a mobile home park
12 owner shall not charge or collect space rents for any mobile home
13 spaces in an amount greater than the space rents in effect on January
14 1, 1998, except as provided in this chapter. The space rents in effect
15 on that date, as determined under this chapter, shall be known as the
16 "base rent."

17 (2) The base rents charged or collected in any mobile home park for
18 the first year following the date of the space rent ceiling shall be
19 known as the "base year." Likewise, the space rents charged or
20 collected in any mobile home park for that period shall be known as the
21 "base year rents."

22 NEW SECTION. **Sec. 9.** (1) Any park owner or tenant may petition
23 the board for the purpose of determining the base rent in effect in any
24 mobile home park on January 1, 1998, in any mobile home park developed
25 between January 1, 1998, and the effective date of this act, in any
26 mobile home park developed after the effective date of this act, or in
27 any mobile home park at such other times as may be necessary to apply
28 or interpret this chapter.

29 (2) Commencing after the effective date of this act, a park owner
30 who has established the base rent for the park by petition to the board
31 is entitled to one annual adjustment in the base rent charged for each
32 mobile home space in a mobile home park equal to thirty percent of the
33 increase in the consumer price index from the date of the establishment
34 of the base rent or the most recent annual adjustment of the space rent
35 to the date proposed in the owner's petition. The adjustment must
36 contain the park owner's calculations supporting the amount of the

1 permissive annual adjustment. There is a rebuttable presumption that
2 the base rent, as adjusted if applicable, provides the park owner with
3 a fair return on the property.

4 (3) In the event a park owner believes that the permissive annual
5 adjustment to the space rent ceiling does not result in a just and
6 reasonable return on park property, a park owner may petition the board
7 for a further adjustment of the space rent ceiling. The petition must
8 contain the amount of and the basis for the requested adjustment. A
9 park owner's petition may seek an adjustment of the space rent ceiling
10 that increases the park owner's net operating income for any year
11 subsequent to the base year by an amount which, together with the
12 permissive annual adjustment, will produce a just and reasonable return
13 on park property.

14 (4) An adjustment of the base rent in any mobile home park is not
15 effective until, at least, twelve months from the date of the
16 establishment of the base rent or the effective date of any prior
17 adjustment thereof.

18 NEW SECTION. Sec. 10. (1) Any tenant of a mobile home space under
19 this chapter may petition the board to determine whether the base rent
20 or adjustments thereof applicable to the tenant's mobile home space are
21 valid under this chapter. The petition must contain the name, address,
22 and telephone number of the tenant or tenants filing the petition and
23 the park owner or manager, a statement of the relief requested, and the
24 basis of the requested relief. The petition shall be signed by the
25 tenant submitting it, accompanied by proof that the petition was
26 personally served or mailed to the park owner or manager and by the
27 payment of the petition fee established by resolution of the board.

28 (2) Any park owner of a mobile home park under this chapter may
29 petition the board to determine whether the base rent or proposed
30 adjustments thereof applicable to any mobile home space within the
31 owner's mobile home park are valid under this chapter. The petition
32 must contain the name, address, and telephone number of the park owner
33 filing the petition and the tenants of the mobile home park affected by
34 the proposed adjustment, a statement of the amount of the adjustment or
35 other relief requested, and the basis of the requested adjustment or
36 relief. The petition shall be signed by the owner submitting it,
37 accompanied by proof that the petition was personally served or mailed

1 to each tenant and by the payment of the petition fee established by
2 resolution of the board.

3 (3) The board may designate the form of the petition submitted by
4 any tenant or park owner under this section. The petition may require
5 information deemed necessary by the board in addition to the
6 information required by this section. When so designated by the board,
7 each tenant and park owner must submit their respective petitions on
8 the form and no other form is acceptable. However, a petition may not
9 be accepted by the board unless it is complete, signed by the party
10 submitting it, and accompanied by the payment of the applicable fee.

11 NEW SECTION. **Sec. 11.** (1) The mobile home park rental review
12 board is hereby established. The board shall be composed of five
13 members. Two members shall be tenants of mobile home parks. Two
14 members shall be mobile home park owners. One member shall be a member
15 of the general public. Board members shall be selected by the director
16 and shall serve for a term of three years. Board members shall not
17 receive compensation but shall be reimbursed for travel expenses as
18 provided in RCW 43.03.050 and 43.03.060.

19 (2) The board has the following duties and powers:

20 (a) Subject to the approval of the department, the board may adopt
21 administrative rules to effectuate the purposes and policies of this
22 chapter and to enable the board to carry out its duties and powers.

23 (b) The department shall appoint a mobile home rent review director
24 who shall administer and carry out the purpose and policies of this
25 chapter. The rent review director shall be an employee of the
26 department.

27 (c) The board through the rent review director shall keep a record
28 of its proceedings.

29 (d) The board shall establish registration fees, require each
30 mobile home park to be registered, designate the form of petitions, and
31 determine the acceptability of petitions filed.

32 (e) The board shall determine the validity of base rents and
33 adjustments thereof of all mobile home spaces within all mobile home
34 parks within the state.

35 NEW SECTION. **Sec. 12.** (1) The proceedings of the board are
36 initiated by the filing and acceptance of a petition pursuant to this
37 chapter. Thereafter, the board shall establish the date and time to

1 consider such petitions. Such proceedings shall commence within forty-
2 five days from the filing and acceptance of a petition unless the board
3 has commenced a proceeding on another petition that conflicts with this
4 period. The board shall mail written notice of its proceedings to all
5 parties affected by a petition, at least fifteen days prior to the date
6 and time so designated. The board may continue proceedings from time
7 to time.

8 (2) Each party to a proceeding may be assisted by an attorney or
9 such other representative designated by the party.

10 (3) Formal rules of evidence shall not apply but all testimony
11 shall be given under oath. The board shall have the power to compel,
12 by subpoena, the production of documents and the attendance of
13 witnesses at its hearings.

14 (4) In the event any party fails to appear at a duly noticed
15 proceeding, the board may hear and review such evidence as may be
16 presented and may make such determinations and findings as shall be
17 supported by the evidence presented.

18 (5) The board shall determine the validity of the space rent
19 ceiling or adjustments and may grant or deny such other relief
20 requested by the petitions relating to such proceedings. For this
21 purpose, the board shall make written findings, based on the evidence
22 presented, on all issues relevant to the determinations.

23 (6) The board shall meet to consider the evidence and arguments of
24 the parties no later than ten days after the matter has been submitted
25 for decision and shall make a final decision within a reasonable time.
26 An adjustment of mobile home park rents is not allowed without a board
27 decision.

28 (7) The decision of the board must be supported by the evidence
29 submitted at the hearing. The petitioning party shall have the burden
30 of proof in such proceedings.

31 (8) The proponent of any adjustment to a base rent shall have the
32 burden of proof by a preponderance of the evidence.

33 (9) The determinations and findings of the board constitute a final
34 administrative action. Such determinations and findings shall be
35 mailed to each party to a proceeding. The decision shall become
36 effective upon the date it is mailed to the parties unless otherwise
37 stated.

1 NEW SECTION. **Sec. 13.** (1) Net operating income shall be gross
2 income less allowable operating expenses.

3 (2) Gross income equals the sum of the following:

4 (a) Gross rents;

5 (b) Interest from rental deposits, unless directly paid by the
6 landlord to the tenants;

7 (c) Income derived from any source related to or operated on the
8 mobile home park including, but not limited to, laundry facilities,
9 vending machines, amusement devices, cleaning fees or services, and
10 garage and parking fees; and

11 (d) All other income or consideration received or receivable for or
12 in connection with the use or occupancy of mobile home spaces.

13 NEW SECTION. **Sec. 14.** Operating expenses include the following:

14 (1) Real property taxes;

15 (2) Utility costs;

16 (3) Management fees actually paid if management services are
17 contracted for. If all or a portion of management services are
18 performed by the landlord, management fees include the reasonable value
19 for such services. Management fees greater than three percent of gross
20 income are presumed to be unreasonable. Such presumption may be
21 rebutted;

22 (4) Other reasonable management expenses including, but not limited
23 to, necessary and reasonable advertising, accounting, and insurance;

24 (5) Normal repair and maintenance expenses including, but not
25 limited to, painting, normal cleaning, fumigation, landscaping, and
26 repair of all standard services including electrical and plumbing;

27 (6) Owner-performed labor is compensated at the prevailing hourly
28 rates for the local area upon documentation of the date, time, and
29 nature of the work performed. Owner-performed labor in excess of three
30 percent of gross income is not allowed unless the landlord proves by
31 clear and convincing evidence that such excess expenses resulted in
32 proportionately greater services for the benefit of the tenants;

33 (7) License and registration fees required by law to the extent
34 they are not otherwise paid by tenants; and

35 (8) The yearly amortized portion of capital expenses including
36 reasonable financing costs, computed in accordance with any appropriate
37 life table utilized by the internal revenue service.

1 NEW SECTION. **Sec. 15.** Operating expenses do not include the
2 following:

3 (1) Avoidable, unreasonable, or unnecessary expenses;

4 (2) Mortgage principal and interest payments;

5 (3) Lease purchase payments and rent or lease payments to
6 landlord's lessor;

7 (4) Penalties, damages, attorneys' fees, litigation costs, fines,
8 fees, or interest assessed or awarded for violation of this or any
9 other statute, rule, or ordinance;

10 (5) Attorneys' fees and other costs incurred for proceedings before
11 the board or in preparation for such proceedings, or in connection with
12 any civil actions or proceedings against the board, or a decision,
13 ruling, or order of the board; and

14 (6) Any expenses for which the landlord has been reimbursed by any
15 security deposit, insurance settlement, judgment for damages,
16 settlement, or any other method.

17 NEW SECTION. **Sec. 16.** It is presumed that the net operating
18 income produced by a park owner during the base year provides a fair
19 return on park property.

20 NEW SECTION. **Sec. 17.** The board may determine that the base year
21 net operating income yielded other than a fair return on park property
22 in which case the base rent, as adjusted if applicable, may be adjusted
23 accordingly. In order to make such a determination, the board must
24 make at least one of the following findings:

25 (1) The park owner's operating and maintenance expenses in the base
26 year were unusually high or low in comparison to other years. In such
27 instances, adjustments may be made in calculating such expenses so the
28 base year operating expenses reflect average expenses for the park
29 property over a reasonable period of time. The board shall consider
30 the following factors:

31 (a) Whether the owner made substantial capital improvements during
32 the previous year which were not reflected in the base rent during the
33 base year;

34 (b) Whether substantial repairs were made due to damage caused by
35 natural disaster or vandalism which management has taken appropriate
36 action to reduce;

1 (c) Whether maintenance and repair were below accepted standards so
2 as to cause significant deterioration in the quality of housing
3 services; or

4 (d) Whether other expenses were unreasonably high or low
5 notwithstanding the use of prudent business measures.

6 (2) The base rent is disproportionate due to the following factors:

7 (a) The base rent is substantially higher or lower than in
8 preceding months by reason of premiums being charged or rebates being
9 given for reasons unique to particular spaces;

10 (b) The base rent is substantially higher or lower than at other
11 times of the year by reason of seasonal demand or seasonal variations
12 in rent; or

13 (c) The base rent is exceptionally high or low due to other factors
14 that would cause the application of the base year net operating income
15 to result in gross inequity to either the owner or tenant.

16 NEW SECTION. **Sec. 18.** (1) To determine the net operating income
17 during the base year, there shall be deducted from the actual or
18 annualized gross income realized in the base year a sum equal to the
19 actual operating expenses for the base year.

20 (2) In the event the owner did not own the subject property during
21 the base year, the operating expenses for the base year shall be
22 determined by one of the following methods, whichever the board
23 determines to be more reliable in the particular case:

24 (a) The previous owner's actual operating expenses, if such
25 information is available; or

26 (b) Actual operating expenses for the first calendar year of
27 ownership, discounted to the 1996 calendar year.

28 (3) To determine the net operating income for any year subsequent
29 to the base year, there shall be deducted from the actual or annualized
30 gross income, determined by analyzing the monthly rents in effect at
31 the time of filing of a petition, a sum equal to the actual operating
32 expenses for the particular year.

33 (4) While the net operating income formula should operate to
34 provide a park owner a fair return on park property, the board shall
35 consider all relevant factors presented in making a determination as
36 set forth in this chapter.

1 NEW SECTION. **Sec. 19.** (1) Notwithstanding other provisions of
2 this chapter, a space rent increase is not valid during the time that
3 any petition is pending before the board or any proceeding on any
4 petition is being conducted by the board. Likewise, a space rent
5 increase is not valid during the period in which the board's decision
6 for that park is being reviewed by a court of competent jurisdiction
7 except that permissible annual adjustments shall be payable during such
8 judicial review.

9 (2) A park owner shall not increase space rents under this chapter
10 if the park owner:

11 (a) Has failed to comply with this chapter or rules adopted under
12 this chapter, including any provisions requiring the payment of
13 registration fees and registration penalties; or

14 (b) Has failed to comply substantially with any applicable state or
15 local housing, health, or safety law.

16 (3) An owner shall not increase space rents unless the notice to
17 increase space rents contains a statement in substantially the
18 following form: "The undersigned (owner) certifies that this mobile
19 home space and common areas of the park are not subject to any
20 uncorrected citation or notices of violation of any state or local
21 housing, health, or safety laws issued by any government official or
22 agency."

23 (4) If an owner fails to comply with this section, the tenant may
24 refuse to pay the space rent increase, may seek administrative or civil
25 remedies under this chapter, or may raise the owner's noncompliance as
26 an affirmative defense in any resulting unlawful detainer action.

27 NEW SECTION. **Sec. 20.** (1) An owner shall not reduce the level or
28 kind of services provided to tenants as of January 1, 1998, or take any
29 action in retaliation for the exercise by tenants of any of the rights
30 granted under this chapter.

31 (2) If a park owner provides in the rent, without separate charge,
32 utilities or similar services including, but not limited to, natural
33 gas, electricity, water, sewer, trash, or cable television, and then
34 attempts to charge separately for such services by any means of
35 transferring to the tenant the obligation for payment for such
36 services, the cost savings shall be given to the tenant by a space rent
37 reduction equal to the actual reduction of the park owner's cost of
38 such transferred utility or similar service, less common area usage,

1 based on the park owner's actual costs for the twelve-month period
2 prior to any notice to the tenants of such change. Failure to comply
3 precludes a park owner from seeking and receiving any relief under this
4 chapter unless and until such compliance occurs.

5 (3) In determining the cost savings to be given to tenants in the
6 form of decreased space rent under subsection (2) of this section, the
7 cost of installation of separate utility meters, or other costs,
8 incurred by the owner do not constitute a deduction against such space
9 rent reduction. However, this does not prohibit the consideration of
10 those costs as an increased operating expense.

11 (4) If a service other than a utility or similar service is reduced
12 or eliminated or if a utility or similar service is reduced or
13 eliminated without a concomitant decrease in rent, the affected tenants
14 may file a petition to determine the validity of such action. The
15 petition must be filed within one year of the date on which the service
16 was reduced or eliminated.

17 NEW SECTION. **Sec. 21.** (1) Any person who demands, accepts, or
18 retains any payment in violation of this chapter is liable in a civil
19 action to the person from whom such payment is demanded, accepted, or
20 retained for damages in the sum of three times the amount by which the
21 payment or payments demanded, accepted, or retained exceed the maximum
22 space rent that could lawfully be demanded, accepted, or retained,
23 together with reasonable attorneys' fees and costs as determined by the
24 court.

25 (2) It is unlawful for any owner to adjust any rent in an amount in
26 excess of that allowed under this chapter or by order of the board. An
27 owner who willfully and knowingly violates this chapter or the orders
28 of the board is guilty of a misdemeanor.

29 (3) The board, the rent review director, the director, and the
30 tenants and owners may seek relief from the appropriate court within
31 the jurisdiction within which the mobile home park is located to
32 enforce this chapter or rules adopted under this chapter or to restrain
33 or enjoin any violation of this chapter or rules, orders, and decisions
34 of the board.

35 (4) Any waiver or purported waiver by a tenant of rights granted
36 under this chapter, whether oral or written, is void as contrary to
37 public policy.

1 NEW SECTION. **Sec. 22.** An owner or tenant aggrieved by any action
2 of the board may seek judicial review by appealing to the appropriate
3 court within the jurisdiction.

4 NEW SECTION. **Sec. 23.** This chapter shall be liberally construed
5 to achieve its purposes and to preserve its validity.

6 NEW SECTION. **Sec. 24.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 25.** Sections 1 through 24 of this act
11 constitute a new chapter in Title 59 RCW.

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