

HOUSE BILL REPORT

HB 1640

As Reported by House Committee On: Housing

Title: An act relating to resolving manufactured/mobile home landlord and tenant disputes.

Brief Description: Providing a dispute mechanism for manufactured/mobile home landlord and tenant disputes.

Sponsors: Representatives Morrell, Chase, Dunn, McCoy, O'Brien, Appleton and Lantz.

Brief History:

Committee Activity:

Housing: 2/15/05, 3/1/05 [DPS].

Brief Summary of Substitute Bill

- Expands the existing ombudsman service provided to mobile home park owners and mobile home park tenants and managed by the Department of Community, Trade and Economic Development (DCTED) to resolve landlord tenant disputes.
- Requires manufactured/mobile home communities to register with the DCTED.
- Imposes a registration fee on manufactured/mobile home communities to fund the expanded ombudsman program.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Miloscia, Chair; Springer, Vice Chair; Ormsby, Pettigrew and Sells.

Minority Report: Do not pass. Signed by 4 members: Representatives Holmquist, Ranking Minority Member; Dunn, Assistant Ranking Minority Member; McCune and Schindler.

Staff: CeCe Clynch (786-7168).

Background:

The Manufactured/Mobile Home Landlord-Tenant Act (Act) governs the legal rights, remedies and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot or pad where the tenant has no ownership interest in the real property or in the association which owns the real property. The Act sets forth grounds for

termination of the tenancy, duties of the landlord, duties of the tenant, rules with respect to transfer of the rental agreement, and the effect of failure to carry out duties. The Act includes provisions with respect to bringing suit as well as arbitration and mediation proceedings.

The Office of Mobile Home Affairs (OMHA) was created in the Department of Community, Trade and Economic Development (DCTED) to serve as the coordinating office within state government for matters relating to manufactured/mobile homes. The OMHA provides ombudsman service to manufactured/mobile home park owners and tenants with respect to disputes and problems. It also provides technical assistance to resident organizations or persons in the process of forming a resident organization; handles the consumer complaints and related functions necessary to comply with the regulations established by the federal Department of Housing and Urban Development for manufactured/mobile homes; and administers the Mobile Home Relocation Assistance Program.

Summary of Substitute Bill:

The substitute bill establishes, within the DCTED, an expanded ombudsman service funded by a mobile home park registration fee and providing for additional numbers of investigative fact-finding staff and "problem solving groups" to investigate complaints, provide additional outreach and service to tenants through the implementation of a toll free information and complaint hot line, compile and track data regarding complaints and produce a registry by December 31, 2005 of all mobile home parks, including the number of tenants/units within each park. The DCTED must report on the number and types of complaints as well as the success rate of complaint resolution to the appropriate committees of the House of Representatives and Senate by December 31, 2005.

Investigations

Complainants must provide written notice to the respondent prior to notifying the DCTED of an alleged violation. Whether to investigate a complaint is left to the discretion of the DCTED. Investigations will be conducted by the DCTED ombudsman staff or by fact-finding "problem solving groups" made up of equal representation from landlords and tenants. Investigative powers of the DCTED include the power to subpoena, administer oaths, take depositions, compel attendance, and employ investigative as well as administrative and clerical staff. Ombudsman staff or the "problem solving groups" will negotiate an agreement between the two parties. The current remedies available under the Mobile Home Landlord Tenant Act are not affected by this act.

Outreach to Tenants and Landlords Regarding Ombudsman Program

The DCTED will ensure that notice of this program is widely distributed. Landlords will be required to give notice about the program to each tenant and will also post a notice prominently in common areas. A toll-free number will be set up that park owners and tenants can use to seek additional information and communicate complaints.

Data Collection and Reporting

By December 31, 2005, the DCTED will submit a summary report of its activities during the period between July 1, 2005, and December 31, 2005, to the House of Representatives Housing Committee and the Senate Committee of Financial Institutions, Housing and Consumer Protection. This report will include:

- number of complaints received;
- nature and extent of complaints received;
- actions taken by the DCTED on each complaint;
- recommendations on future changes in law;
- recommendations on resources necessary to retain or improve the ombudsman program; and
- recommendations on whether and how an administrative hearing process should be adopted.

Registration of Mobile Home Parks & Manufactured Housing Communities

All mobile home parks and manufactured housing communities must register with the DCTED. The DCTED must compile the most accurate list possible of all mobile home parks and manufactured housing communities in the state, the number of lots subject to the Act in each park or community, and the names and addresses of these parks. The DCTED must submit this registry to the House of Representatives Housing Committee and the Senate Committee of Financial Institutions, Housing and Consumer Protection by December 31, 2005.

An annual park registration fee, which will be used by the DCTED to administer this chapter, is assessed. The annual park registration fee may not exceed \$10 per lot. No more than \$5 of the fee may be passed on to the tenants by the park or community owner.

Notification regarding the fee must go out to all known mobile home/manufactured housing community owners. If the owner fails to pay the fee, a penalty shall be assessed. Failure to pay the fee within 90 days of the registration expiration date causes a lien in favor of the state in the amount of the registration fee upon the owner's property. This lien is superior to all other liens and encumbrances except general taxes and local and special assessments. Additionally, failure to pay the fee will preclude the owner of the park or community from utilizing the remedies provided in the Act and those provided above.

Investigation Account

A manufactured/mobile home investigations account is created in the custody of the State Treasurer. All receipts from park registration fees and late fees must be deposited in the account. Expenditures may only be used for costs associated with this chapter. An appropriation is not required for expenditures, but the account is subject to the allotment procedures.

Substitute Bill Compared to Original Bill:

The substitute bill strikes the DCTED's ability to impose fines on landlords and the creation of a formal administrative hearing process to resolve disputes. The substitute bill retains the registration fee which may not exceed \$10, however instead of stating that no more than half

of the cost of the assessment may be passed on to tenants, the substitute bill states that no more than \$5 may be passed on to tenants. A portion of this fee will be used to fund a toll-free number for tenant and owner information and complaints. The fee will also be used for increased ombudsman staff and "problem solving groups" and the park registry program.

The substitute bill adds language stating that the DCTED will utilize "problem-solving groups" in the course of investigating and evaluating complaints, such groups will be able to negotiate agreements between the parties.

The substitute mandates that the DCTED will report its activities under this chapter (described above) including the number and type of complaints and recommendations for future changes to the ombudsman program to the House of Representatives Housing Committee and the Senate Committee of Financial Institutions, Housing and Consumer Protection .

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 2005.

Testimony For: Most tenants are low income senior citizens who have no real recourse because litigation is too expensive and the ombudsman program has no teeth. Mobile and manufactured homes are difficult to pick up and move if a tenant is dissatisfied with conditions in a park. This makes them unique from apartments or other rental units. It is expensive and time consuming to sue under the Act. This program would weed out frivolous complaints, provide people with somewhere to go with complaints, and get people to work to resolve disputes. It provides a level playing field for landlords and tenants. Currently, landlords ignore problems and neglect or refuse to maintain the park and the tenants are fearful and intimidated because moving their home is beyond their means. It can cost a lot to move a home and it can be difficult to find a new spot to move to. Tenants are willing to support this program by paying a fee.

(Neutral) The DCTED ombudsman program has 500-700 requests for help each year. About 41 percent of these complaints would fall under this bill. The DCTED does about eight on-site investigations per month. The DCTED estimates that there are about 2,200 parks in the state with an average of 50 lots per park. The DCTED tracks complaints by park and they come from all over the state and are not limited to just a few parks.

Testimony Against: This process will be time consuming, cumbersome, and expensive. Tenants do have rights under the Act and these rights are enforced. Tenants with real problems are able to find attorneys and work the legal process provided under the Act. This program would discourage new mobile and manufactured home communities and make it less affordable to operate those already in existence. A workable alternative would be to establish

formal problem solving groups, track the number of complaints and the number of these which are resolved, and report back to the DCTED.

Persons Testifying: (In support) Representative Morrell, prime sponsor; Nick Federici, Washington Low-Income Housing Alliance; Ishbel Dickens, Columbia Legal Services; Ken Newton, Manufactured Home Owners of America; Wolfgang Priebe, Sea Shore Villa Mobile Home Park; James Dean, Crystal Pointe Mobile Home Park; and Kathleen Stanley, Charles Kuney and Judith White, Mobile Home Owners Association of America.

(Neutral) Marie Sullivan and Teri Ramsauer, Department of Community, Trade and Economic Development.

(Opposed) John Woodring and Ken Spencer, Manufactured Housing Communities of Washington; Walt Olsen, Olsen Law Firm; and Darlene Pennock, Washington Apartment Association.

Persons Signed In To Testify But Not Testifying: None.