
SUBSTITUTE HOUSE BILL 1640

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Housing (originally sponsored by Representatives Morrell, Chase, Dunn, McCoy, O'Brien, Appleton and Lantz)

READ FIRST TIME 03/04/05.

1 AN ACT Relating to resolving manufactured/mobile home landlord and
2 tenant disputes; amending RCW 59.22.050; adding a new chapter to Title
3 59 RCW; providing an effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that there are
6 factors unique to the relationship between a manufactured/mobile
7 homeowner and a manufactured/mobile home park owner. Once occupancy
8 has commenced, the difficulty and expense in moving and relocating a
9 manufactured/mobile home can affect the operation of market forces, and
10 lead to an inequality of the bargaining position of the parties. Once
11 occupancy has commenced, a homeowner may be subject to violations of
12 the manufactured/mobile home landlord-tenant act or unfair practices
13 without an adequate remedy at law. This chapter is created for the
14 purpose of protecting the public, fostering fair and honest
15 competition, and regulating the factors unique to the relationship
16 between the manufactured/mobile homeowner and park owner.

17 (2) The legislature finds that taking legal action against a park
18 owner for violations of the manufactured/mobile home landlord-tenant
19 act can be a costly and lengthy process, and that many people cannot

1 afford to pursue a court process to vindicate statutory rights. Park
2 owners similarly are benefited by having access to a process that
3 resolves disputes quickly and efficiently.

4 (3) Therefore, it is the intent of the legislature to provide a
5 less costly and more efficient way for manufactured/mobile homeowners
6 and park owners to resolve disputes, and to provide a mechanism for
7 state authorities to quickly locate owners of manufactured housing
8 communities. The legislature further intends to authorize the
9 department of community, trade, and economic development to register
10 mobile home parks or manufactured housing communities and conduct
11 investigations of alleged violations of the manufactured/mobile home
12 landlord-tenant act.

13 (4) If the provisions of this chapter authorizing the department to
14 obtain information, investigate complaints, clarify existing law, and
15 work to resolve disputes in good faith voluntarily prove insufficient
16 to adequately protect the rights and responsibilities of mobile home
17 park tenants and owners, it is the intent of the legislature to find
18 other methods for resolution in the future, such as full enforcement of
19 this chapter.

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

22 (1) "Department" means the department of community, trade, and
23 economic development.

24 (2) "Director" means the director of the department of community,
25 trade, and economic development.

26 (3) "Mobile home park" or "manufactured housing community" means
27 any real property that is rented or held out for rent to others for the
28 placement of two or more mobile homes, manufactured homes, or park
29 models for the primary purpose of production of income, except when the
30 real property is rented or held out for rent for seasonal recreational
31 purposes only and is not intended for year-round occupancy.

32 (4) "Landlord" or "park owner" means the owner of a mobile home
33 park or a manufactured housing community and includes the agents of the
34 landlord.

35 (5) "Tenant" or "homeowner" means any person, except a transient,
36 who rents or occupies a mobile home lot.

1 (6) "Owner" means one or more persons, jointly or severally, in
2 whom is vested:

3 (a) All or part of the legal title to the real property; or

4 (b) All or part of the beneficial ownership, and a right to present
5 use and enjoyment of the real property.

6 (7) "Unfair practice" means any act that would constitute an unfair
7 or deceptive act or practice under chapter 19.86 RCW.

8 (8) "Complainant" means a landlord, park owner, tenant, or
9 homeowner, who has a complaint alleging an unfair practice or violation
10 of chapter 59.20 RCW.

11 (9) "Respondent" means a landlord, park owner, tenant, or
12 homeowner, alleged to have committed an unfair practice or violation of
13 chapter 59.20 RCW.

14 NEW SECTION. **Sec. 3.** (1) A complainant shall have the right to
15 file a complaint with the department alleging an unfair practice or a
16 violation of chapter 59.20 RCW.

17 (2) The complainant must provide written notice to the respondent
18 prior to notifying the department of an alleged violation of chapter
19 59.20 RCW or unfair practice. If the complaint is not remedied within
20 the time frame provided by RCW 59.20.080 or 59.20.200, the complainant
21 may then file a complaint with the department.

22 (3) The department may:

23 (a) Investigate the alleged violations at its discretion upon
24 receipt of a complaint alleging unfair practices or violations of
25 chapter 59.20 RCW;

26 (b) Utilize problem-solving groups comprised of equal numbers of
27 representatives of mobile home park owner organizations and mobile home
28 park tenant organizations, in the course of investigating and
29 evaluating complaints alleging unfair practices or violations of
30 chapter 59.20 RCW;

31 (c) Discuss the issues surrounding or relating to the complaint
32 with the complainant, respondent, or any witnesses, either individually
33 or jointly;

34 (d) Explain options available to the complainant or respondent,
35 including the involvement of other agencies; and

36 (e) Negotiate an agreement that is agreed upon by both the
37 complainant and the respondent.

1 (4) The department may require or permit any person to file a
2 complaint or statement in writing, under oath or otherwise as the
3 department determines, as to the facts and circumstances concerning a
4 matter to be investigated.

5 (5) The department has the power to:

6 (a) Issue subpoenas and administer oaths in connection with any
7 investigation, hearing, or proceeding held under this chapter;

8 (b) Take or cause depositions to be taken and use other discovery
9 procedures as needed in an investigation, hearing, or proceeding held
10 under this chapter;

11 (c) Compel attendance of witnesses at hearings;

12 (d) Designate individuals authorized to sign subpoenas and
13 citations;

14 (e) Employ investigative, administrative, and clerical staff as
15 necessary for administration of this chapter; and

16 (f) Issue guidelines and interpretive statements concerning chapter
17 59.20 RCW.

18 (6)(a) Complainants and respondents shall cooperate with the
19 department in the course of an investigation by:

20 (i) Furnishing any papers or documents requested;

21 (ii) Furnishing in writing an explanation covering the matter
22 contained in a complaint when requested by the department;

23 (iii) Allowing authorized access to department representatives for
24 inspection of mobile home parks/manufactured housing community
25 facilities relevant to the alleged violation being investigated; or

26 (iv) Responding to subpoenas issued by the department.

27 (b) Failure to cooperate with the department in the course of an
28 investigation is a violation of this chapter.

29 (7) After the department has completed its investigation and other
30 duties, the department shall compile a written report documenting the
31 process and resolution of the complaint investigation.

32 (8) By December 31, 2005, the department shall submit a summary
33 report of its activities under this chapter during the period July 1,
34 2005, through December 31, 2005, to the house of representatives
35 housing committee and the senate committee on financial institutions,
36 housing and consumer protection, including:

37 (a) The number of complaints received;

38 (b) The nature and extent of the complaints received;

1 (c) The actions taken on each complaint by the department;

2 (d) Recommendations on what further changes in law are necessary to
3 resolve disputes;

4 (e) Recommendations on changes to the department's ombudsman and
5 investigative programs;

6 (f) Recommendations on resources necessary to retain or improve the
7 program; and

8 (g) Recommendations on whether a formal mobile/manufactured home
9 landlord-tenant act enforcement and administrative hearing process
10 should be adopted and how such a process should be structured.

11 (9) The department shall ensure that notice is given to each mobile
12 home unit owner or tenant. The landlord shall maintain a list
13 indicating by tenant initials which tenants have received such a
14 notice. A notice shall also be prominently posted for easy visibility
15 in all common areas of mobile home parks, including in each clubhouse,
16 summarizing mobile home park tenant rights and responsibilities, in a
17 style and format to be determined by the department, and including a
18 toll-free telephone number that mobile home park owners and tenants can
19 use to seek additional information and communicate complaints.

20 (10) This section is not exclusive and does not limit the right of
21 landlords or tenants to take legal action against another party as
22 provided in chapter 59.20 RCW or otherwise. Exhaustion of this
23 administrative remedy is not required before bringing legal action.
24 This section does not apply to unlawful detainer actions initiated
25 under RCW 59.20.080; however, a tenant is not precluded from seeking
26 relief under this chapter if the complaint claims the notice of
27 termination violates RCW 59.20.080.

28 NEW SECTION. **Sec. 4.** The director or individuals acting on the
29 director's behalf are immune from suit in any action, civil or
30 criminal, based upon any disciplinary actions or other official acts
31 performed in the course of their duties under this chapter, except
32 their intentional or willful misconduct.

33 NEW SECTION. **Sec. 5.** (1) All mobile home parks and manufactured
34 housing communities must be registered with the department.

35 (2) To apply for registration, the owner of a mobile home park or
36 manufactured housing community must file with the department an

1 application for registration on a form prescribed by the department.
2 The department may adopt rules to prescribe the contents of the
3 application. The application must include, but is not limited to:

4 (a) The name and address of the owner of the mobile home park or
5 manufactured housing community;

6 (b) The name and address of the mobile home park or manufactured
7 housing community;

8 (c) The name and address of the manager of the mobile home park or
9 manufactured housing community; and

10 (d) The number of lots within the mobile home park or manufactured
11 housing community that are subject to chapter 59.20 RCW.

12 (3) Certificates of registration are effective on the date issued
13 by the department. The department shall assign an expiration date and
14 the registration must be renewed annually.

15 NEW SECTION. **Sec. 6.** The department must:

16 (1) Compile the most accurate list possible of all the mobile home
17 parks or manufactured housing communities in the state, the number of
18 lots subject to chapter 59.20 RCW located in each mobile home park or
19 manufactured housing community, and the names and addresses of the
20 owners of these parks. The department shall present this list to the
21 house of representatives housing committee and the senate committee on
22 financial institutions, housing and consumer protection by December 31,
23 2005. The department is encouraged to work with groups including, but
24 not limited to: The office of community development, mobile
25 homeowners' associations, tenant advocacy groups, park owners'
26 associations, and county assessors to generate the list;

27 (2) Send out notifications to all known mobile home park owners or
28 manufactured housing community owners that the first annual assessments
29 pursuant to section 7 of this act are due. These notifications must
30 include information about late fees, liens, and passing costs on to
31 tenants; and

32 (3) Collect the first annual assessments due from all mobile home
33 park owners or manufactured housing community owners, and allow ninety
34 days to pass before late fees and lien notices are sent to noncomplying
35 owners as provided in this chapter.

1 NEW SECTION. **Sec. 7.** (1) The owner of each mobile home park or
2 manufactured housing community shall pay to the department an annual
3 registration assessment to fund the costs associated with administering
4 this chapter. The assessment must be set by rule and determined
5 annually by the department, and may not exceed ten dollars for each
6 mobile home or manufactured home that is subject to chapter 59.20 RCW
7 within a park or community. Manufactured housing community owners or
8 mobile home park owners may pass on no more than the first five dollars
9 of this assessment to tenants. The annual assessment is to be
10 collected on the date of the registration.

11 (2) If an owner fails to pay the annual assessments before the
12 registration expiration date, a late fee as determined by the director
13 by rule shall be assessed. The owner is not entitled to any
14 reimbursement of this fee from the tenants. The owner is precluded
15 from utilizing any of the remedies of this chapter or any other remedy
16 provided in chapter 59.20 RCW if the annual assessment is not paid.

17 (3) If an owner fails to pay the required assessments within ninety
18 days of the registration expiration date, the amount due under this
19 section becomes a lien in favor of the state upon the owner's property.
20 The lien is superior to all other liens and encumbrances except general
21 taxes and local and special assessments, and bears interest computed
22 monthly and compounded annually at a rate of eight percent.

23 NEW SECTION. **Sec. 8.** The manufactured/mobile home investigations
24 account is created in the custody of the state treasurer. All receipts
25 from fees collected under section 7 of this act must be deposited into
26 the account. Expenditures from the account may be used only for the
27 costs associated with administering this chapter. Only the director or
28 the director's designee may authorize expenditures from the account.
29 The account is subject to allotment procedures under chapter 43.88 RCW,
30 but an appropriation is not required for expenditures.

31 **Sec. 9.** RCW 59.22.050 and 1991 c 327 s 3 are each amended to read
32 as follows:

33 (1) In order to provide general assistance to mobile home resident
34 organizations, park owners, and landlords and tenants, the department
35 shall establish an office of mobile home affairs which will serve as

1 the coordinating office within state government for matters relating to
2 mobile homes or manufactured housing.

3 This office will provide an ombudsman service to mobile home park
4 owners and mobile home tenants with respect to problems and disputes
5 between park owners and park residents and to provide technical
6 assistance to resident organizations or persons in the process of
7 forming a resident organization pursuant to chapter 59.22 RCW. The
8 office will keep records of its activities in this area.

9 (2) The office shall perform all the consumer complaint and related
10 functions of the state administrative agency that are required for
11 purposes of complying with this chapter and the regulations established
12 by the federal department of housing and urban development for
13 manufactured housing, including the preparation and submission of the
14 state administrative plan.

15 (3) The office shall administer the mobile home relocation
16 assistance program established in chapter 59.21 RCW, including
17 verifying the eligibility of tenants for relocation assistance.

18 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of the
20 state government and its existing public institutions, and takes effect
21 July 1, 2005.

22 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act constitute
23 a new chapter in Title 59 RCW.

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