

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1640

59th Legislature
2005 Regular Session

Passed by the House April 19, 2005
Yeas 98 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 6, 2005
Yeas 44 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1640** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1640

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

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; creating new sections;
3 providing an expiration 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 a timely and cost-effective conflict resolution process.
14 Although a homeowner, landlord, or park owner may take legal action as
15 prescribed in the manufactured/mobile home landlord-tenant act, the
16 judicial process is often time and cost prohibitive. This act is
17 created for the purpose of protecting the public, fostering fair and
18 honest competition, and regulating the factors unique to the
19 relationship between the manufactured/mobile homeowner and park owner.

1 (2) The legislature finds that taking legal action against a park
2 owner for violations of the manufactured/mobile home landlord-tenant
3 act can be a costly and lengthy process, and that many people cannot
4 afford to pursue a court process to vindicate statutory rights. Park
5 owners similarly are impacted by legal fees and lengthy proceedings
6 resulting from pursuing a remedy through the legal system and would
7 also, therefore, benefit from having access to an appropriate,
8 effective process that resolves disputes quickly and efficiently.

9 (3) Therefore, it is the intent of the legislature to provide a
10 less costly and more efficient way for manufactured/mobile homeowners
11 and park owners to resolve disputes, and to provide a mechanism for
12 state authorities to quickly locate owners of manufactured housing
13 communities. The legislature further intends to authorize the
14 department of community, trade, and economic development to:

15 (a) Register mobile home parks or manufactured housing communities
16 and report upon data to the appropriate committees of the legislature
17 by December 31, 2005;

18 (b) Expand its current ombudsman program by hiring or contracting
19 with additional persons to conduct a greater number of investigations
20 of alleged violations of the manufactured/mobile home landlord-tenant
21 act; and

22 (c) Collect and report upon data related to conflicts and
23 violations to the appropriate committees of the legislature by December
24 31, 2005.

25 (4) If after receiving the reports under subsection (3) of this
26 section, the legislature finds that the provisions of this act
27 authorizing the department to register mobile/manufactured home
28 communities, investigate complaints, clarify existing law, and work to
29 resolve disputes in good faith voluntarily prove insufficient to
30 adequately protect the rights and responsibilities of mobile home park
31 tenants and owners, it is the intent of the legislature to find other
32 methods for resolution in the future.

33 NEW SECTION. **Sec. 2.** The definitions in this section apply
34 throughout this act unless the context requires otherwise.

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

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

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

9 (4) "Landlord" or "park owner" means the owner of a mobile home
10 park or a manufactured housing community and includes the agents of the
11 landlord.

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

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

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

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

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

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

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

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

30 (2) The complainant must provide written notice to the respondent
31 prior to notifying the department of an alleged violation of chapter
32 59.20 RCW or unfair practice. If the complaint is not remedied within
33 the time frame provided by RCW 59.20.080 for tenant violations or
34 59.20.200 for landlord violations, the complainant may then file a
35 complaint with the department.

36 (3) The department may:

1 (a) Investigate the alleged violations at its discretion upon
2 receipt of a complaint alleging unfair practices or violations of
3 chapter 59.20 RCW;

4 (b) Utilize investigative ombudsman staff or contractors to
5 investigate and evaluate complaints alleging unfair practices or
6 violations of chapter 59.20 RCW;

7 (c) Discuss the issues surrounding or relating to the complaint
8 with the complainant, respondent, or any witnesses, either individually
9 or jointly;

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

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

14 (4) The department may require or permit any person to file a
15 complaint or statement in writing or otherwise as the department
16 determines, as to the facts and circumstances concerning a matter to be
17 investigated.

18 (5) The department has the power to employ investigative,
19 administrative, and clerical staff as necessary for administration of
20 this act.

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

23 (i) Furnishing any papers or documents requested;

24 (ii) Furnishing in writing an explanation covering the matter
25 contained in a complaint when requested by the department; and

26 (iii) Allowing authorized access to department representatives for
27 inspection of mobile home parks/manufactured housing community
28 facilities relevant to the alleged violation being investigated.

29 (b) Failure to cooperate with the department in the course of an
30 investigation is a violation of this act.

31 (7) After the department has completed its investigation and other
32 duties, the department shall compile a written report documenting the
33 process and resolution of the complaint investigation. Under no
34 circumstances shall the department make or issue any finding,
35 conclusion, decision, or ruling on whether there was a violation of
36 chapter 59.20 or 19.86 RCW.

37 (8) By December 31, 2005, the department shall submit a summary
38 report of its activities under this act during the period after the

1 effective date of this act, through December 31, 2005, to the house of
2 representatives housing committee and the senate committee on financial
3 institutions, housing and consumer protection, including:

4 (a) The number of complaints received;

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

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

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

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

11 (f) Recommendations on resources necessary to retain or improve the
12 program; and

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

16 (9) The department shall ensure that notice of the ombudsman
17 complaint resolution program is given to each mobile/manufactured home
18 landlord or park owner and each mobile home unit owner or tenant. The
19 landlord shall post an easily visible notice in all common areas of
20 mobile/manufactured home communities, including in each clubhouse,
21 summarizing mobile home park tenant rights and responsibilities, in a
22 style and format to be determined by the department, and including a
23 toll-free telephone number that mobile home park owners and tenants can
24 use to seek additional information and communicate complaints.

25 (10) This section is not exclusive and does not limit the right of
26 landlords or tenants to take legal action against another party as
27 provided in chapter 59.20 RCW or otherwise. Exhaustion of this
28 ombudsman remedy process is not required before bringing legal action.
29 This act is not subject to chapter 34.05 RCW. This section does not
30 apply to unlawful detainer actions initiated under chapters 59.20,
31 59.12, and 59.18 RCW; however, a tenant is not precluded from seeking
32 relief under this act if the complaint claims the notice of termination
33 violates RCW 59.20.080. Filing a complaint with the department is not
34 a defense nor shall it in any way delay or otherwise affect an unlawful
35 detainer action. Department-written reports documenting the process
36 and resolution of the complaint investigation, any written explanation
37 covering the matter requested by the department, any other documents or
38 papers requested or produced by the department, or any other record of

1 the complaint may be admissible only for purposes of impeachment in any
2 unlawful detainer or other administrative or legal action in regard to
3 chapter 59.20 RCW.

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

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

11 (2) To apply for registration, the owner of a mobile home park or
12 manufactured housing community must file with the department an
13 application for registration on a form prescribed by the department.
14 The application must include, but is not limited to:

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

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

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

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

23 (3) Certificates of registration are effective on the date issued
24 by the department.

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

26 (1) Compile the most accurate list possible of all the mobile home
27 parks or manufactured housing communities in the state, the number of
28 lots subject to chapter 59.20 RCW located in each mobile home park or
29 manufactured housing community, and the names and addresses of the
30 owners of these parks. The department shall present this list to the
31 house of representatives housing committee and the senate committee on
32 financial institutions, housing and consumer protection by December 31,
33 2005. The department is encouraged to work with groups including, but
34 not limited to: The office of community development, mobile

1 homeowners' associations, tenant advocacy groups, park owners'
2 associations, and county assessors to generate the list;

3 (2) Send out notifications to all known mobile home park owners or
4 manufactured housing community owners regarding the due date of the
5 assessment pursuant to section 7 of this act. These notifications must
6 include information about late fees and passing costs on to tenants;
7 and

8 (3) Collect the registration assessment due from all mobile home
9 park owners or manufactured housing community owners, and allow ninety
10 days to pass before sending notices of late fees to noncomplying owners
11 as provided in this act.

12 NEW SECTION. **Sec. 7.** (1) The owner of each mobile home park or
13 manufactured housing community shall pay to the department a
14 registration assessment of five dollars for each mobile home or
15 manufactured home that is subject to chapter 59.20 RCW within a park or
16 community to fund the costs associated with administering this act.
17 Manufactured housing community owners or mobile home park owners may
18 pass on no more than two dollars and fifty cents of this assessment to
19 tenants.

20 (2) If an owner fails to pay the assessment before the registration
21 expiration date, a late fee shall be assessed at the prevailing
22 interest rate for superior court civil judgments for each mobile home
23 or manufactured home that is subject to chapter 59.20 RCW. The owner
24 is not entitled to any reimbursement of this fee from the tenants.

25 NEW SECTION. **Sec. 8.** The manufactured/mobile home investigations
26 account is created in the custody of the state treasurer. All receipts
27 from assessments and fees collected under section 7 of this act must be
28 deposited into the account. Expenditures from the account may be used
29 only for the costs associated with administering this act. Only the
30 director or the director's designee may authorize expenditures from the
31 account. The account is subject to allotment procedures under chapter
32 43.88 RCW, but an appropriation is not required for expenditures.

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

35 (1) In order to provide general assistance to mobile home resident

1 organizations, park owners, and landlords and tenants, the department
2 shall establish an office of mobile home affairs which will serve as
3 the coordinating office within state government for matters relating to
4 mobile homes or manufactured housing.

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

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

17 (3) The office shall administer the mobile/manufactured home
18 community registration program including the collection of assessments,
19 associated late fees, and the compilation of data related to the number
20 of communities and number of lots within the community that are subject
21 to chapter 59.20 RCW.

22 (4) The office shall administer the mobile home relocation
23 assistance program established in chapter 59.21 RCW, including
24 verifying the eligibility of tenants for relocation assistance.

25 NEW SECTION. Sec. 10. Any amount assessed under section 7(2) of
26 this act that remains uncollected on December 31, 2005, shall be
27 collected under the terms of section 7 of this act as it existed before
28 December 31, 2005.

29 NEW SECTION. Sec. 11. This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 immediately.

33 NEW SECTION. Sec. 12. Except for sections 10 and 13 of this act,
34 this act expires December 31, 2005.

1 NEW SECTION. **Sec. 13.** Beginning in January 2006, the state
2 treasurer shall transfer any funds remaining in the manufactured/mobile
3 home investigations account under section 8 of this act to the mobile
4 home affairs account under RCW 59.22.070 for the purposes under RCW
5 59.22.050. All funds collected by the department under section 10 of
6 this act shall be transferred to the state treasurer for deposit into
7 the mobile home affairs account.

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