
SENATE BILL 5660

State of Washington 59th Legislature 2005 Regular Session

By Senators Kastama, Prentice, Fairley, Rockefeller, Eide and Fraser

Read first time 02/01/2005. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1 AN ACT Relating to resolving manufactured/mobile home landlord and
2 tenant disputes; amending RCW 59.22.050; adding a new section to
3 chapter 34.12 RCW; adding a new chapter to Title 59 RCW; prescribing
4 penalties; providing effective dates; and declaring an emergency.

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

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

18 (2) The legislature finds that taking legal action against a park
19 owner for violations of the manufactured/mobile home landlord-tenant

1 act can be a costly and lengthy process, and that many people cannot
2 afford to pursue a court process to vindicate statutory rights. Park
3 owners similarly are benefited by having access to a process that
4 resolves disputes quickly and efficiently.

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

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

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

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

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

27 (4) "Landlord" or "park owner" means the owner of a mobile home
28 park or a manufactured housing community and includes the agents of the
29 landlord.

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

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

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

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

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

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

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

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

12 (2) The complainant must provide written notice to the respondent
13 prior to notifying the department of an alleged violation of chapter
14 59.20 RCW or unfair practice. If the complaint is not remedied within
15 the time frame provided by RCW 59.20.080 or 59.20.200, the complainant
16 may then file a complaint with the department. If no such time frame
17 is applicable to the complaint, then the respondent has thirty days to
18 remedy the violation.

19 (3) The department may investigate the alleged violations at its
20 discretion upon receipt of a complaint alleging unfair practices or
21 violations of chapter 59.20 RCW.

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

26 (5) The department has the power to:

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

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

32 (c) Compel attendance of witnesses at hearings;

33 (d) Designate individuals authorized to sign subpoenas and
34 citations; and

35 (e) Employ investigative, administrative, and clerical staff as
36 necessary for enforcement of this chapter.

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

3 (i) Furnishing any papers or documents requested;

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

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

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

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

12 (7) If after an investigation the department finds that an unfair
13 practice or violation of chapter 59.20 RCW has occurred, the department
14 may deliver a citation to the respondent who committed the violation by
15 certified mail or in person. The citation must specify the violation,
16 the corrective action to be taken, the time within which the corrective
17 action must be taken, the penalties that will result if corrective
18 action is not taken within the specified time period, and the process
19 for contesting the citation through a hearing. The complainant shall
20 also be mailed a copy of the citation.

21 (8) If after an investigation the department does not find an
22 unfair practice or violation of chapter 59.20 RCW, the department shall
23 deliver a written notice of that decision, including any appeal rights,
24 to both the complainant and the respondent.

25 (9) Department decisions regarding citations for violations and
26 penalties or the failure to find an unfair practice or violation of
27 chapter 59.20 RCW may be contested through an administrative hearing
28 under chapter 34.05 RCW. The administrative law judge appointed under
29 chapter 34.12 RCW shall hear and receive pertinent evidence and
30 testimony. The administrative law judge shall decide whether the
31 evidence supports the violation by a preponderance of evidence. The
32 administrative law judge shall enter an appropriate order within thirty
33 days after the close of the hearing and immediately mail copies of the
34 order to the affected parties. The order of the administrative law
35 judge constitutes the final agency order of the department, and is
36 appealable to superior court pursuant to chapter 34.05 RCW.

37 (10) In order to obtain a hearing, the complainant or respondent
38 must, within thirty days of receiving a citation or written notice from

1 the department denying the complaint, request a hearing. If a hearing
2 is not requested within this time period, the citation or written
3 notice constitutes a final order of the department and is not subject
4 to review by any court or agency.

5 (11) For violations that substantially endanger or impair the
6 health or safety of a complainant resulting in a citation, corrective
7 action by the respondent must take place within twenty-four hours of
8 the receipt of the department's citation. For violations involving the
9 failure of the landlord to provide heat, water, or electricity,
10 corrective action must take place within forty-eight hours of the
11 receipt of the department's citation. For all other violations,
12 corrective action must take place within fifteen days of the receipt of
13 the department's citation.

14 (12) If a respondent fails to take corrective action within the
15 required time period and the department has not received a timely
16 request for an administrative hearing, the department may impose a
17 fine, up to a maximum of five thousand dollars per violation, for every
18 day that the violation remains uncorrected. The department shall
19 establish written guidelines, adopted by rule, for issuing fines. The
20 department may consider aggravating or mitigating circumstances in
21 assessing any fine. The party to whom a fine has been assessed may
22 appeal the amount of the fine by requesting a hearing within thirty
23 days of receipt of the department's action. If a hearing is not
24 requested within this time period, the fine assessment constitutes a
25 final order of the department and is not subject to review by any court
26 or agency.

27 (13) The department may issue an order requiring the respondent, or
28 its assignee or agent, to cease and desist from an unfair or unlawful
29 practice and take such affirmative actions that in the judgment of the
30 department will carry out the purposes of this chapter. The
31 affirmative actions may include, but are not limited to, the following:

32 (a) Refunds of rent increases, improper fees, charges, and
33 assessments collected in violation of the terms of this chapter;

34 (b) Filing and utilization of documents which correct a statutory
35 or rule violation;

36 (c) Reasonable action necessary to correct a statutory or rule
37 violation.

1 (14) Upon application to the department by the respondent showing
2 that a good faith effort to comply with the corrective action
3 requirements of the citation has been made and that the corrective
4 action has not been completed because of factors beyond the
5 respondent's control, the department may extend the time period in
6 which corrective action must be taken before fines are imposed.

7 (15) When the department imposes a fine, refund, or other penalty
8 against the respondent, the respondent is not entitled to any recovery
9 or reimbursement of the fine, refund, or other penalty from the tenants
10 or homeowners.

11 (16) This section is not exclusive and does not limit the right of
12 landlords or tenants to take legal action against another party as
13 provided in chapter 59.20 RCW or otherwise. Exhaustion of this
14 administrative remedy is not required before bringing legal action.
15 This section does not apply to unlawful detainer actions initiated
16 under RCW 59.20.080; however, a tenant is not precluded from seeking
17 relief under this chapter if the complaint claims the notice of
18 termination violates RCW 59.20.080.

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

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

26 (2) To apply for registration, the owner of a mobile home park or
27 manufactured housing community must file with the department an
28 application for registration on a form prescribed by the department.
29 The department may adopt rules to prescribe the contents of the
30 application. The application must include, but is not limited to:

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

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

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

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

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

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

7 (1) Compile the most accurate list possible of all the mobile home
8 parks or manufactured housing communities in the state, the number of
9 lots subject to chapter 59.20 RCW located in each mobile home park or
10 manufactured housing community, and the names and addresses of the
11 owners of these parks. The department is encouraged to work with
12 groups including, but not limited to: The office of community
13 development, mobile homeowners' associations, tenant advocacy groups,
14 park owners' associations, and county assessors to generate the list;

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

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

24 NEW SECTION. **Sec. 7.** (1) The owner of each mobile home park or
25 manufactured housing community shall pay to the department an annual
26 registration assessment to fund the costs associated with administering
27 this chapter. The assessment must be set by rule and determined
28 annually by the department, and may not exceed ten dollars for each
29 mobile home or manufactured home that is subject to chapter 59.20 RCW
30 within a park or community. Manufactured housing community owners or
31 mobile home park owners may pass on no more than one-half the cost of
32 this assessment to tenants. The annual assessment is to be collected
33 on the date of the registration.

34 (2) If an owner fails to pay the annual assessments before the
35 registration expiration date, a late fee as determined by the director
36 by rule shall be assessed. The owner is not entitled to any

1 reimbursement of this fee from the tenants. The owner is precluded
2 from utilizing any of the remedies of this chapter or any other remedy
3 provided in chapter 59.20 RCW if the annual assessment is not paid.

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

10 NEW SECTION. **Sec. 8.** The manufactured/mobile home investigations
11 account is created in the custody of the state treasurer. All receipts
12 from the imposition of fines under section 3 of this act and the
13 assessments and late fees collected under section 7 of this act must be
14 deposited into the account. Expenditures from the account may be used
15 only for the costs associated with administering this chapter. Only
16 the director or the director's designee may authorize expenditures from
17 the account. The account is subject to allotment procedures under
18 chapter 43.88 RCW, but an appropriation is not required for
19 expenditures.

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

22 (1) In order to provide general assistance to mobile home resident
23 organizations, park owners, and landlords and tenants, the department
24 shall establish an office of mobile home affairs which will serve as
25 the coordinating office within state government for matters relating to
26 mobile homes or manufactured housing.

27 This office will (~~provide an ombudsman service to mobile home park~~
28 ~~owners and mobile home tenants with respect to problems and disputes~~
29 ~~between park owners and park residents and to~~) provide technical
30 assistance to resident organizations or persons in the process of
31 forming a resident organization pursuant to chapter 59.22 RCW. The
32 office will keep records of its activities in this area.

33 (2) The office shall perform all the consumer complaint and related
34 functions of the state administrative agency that are required for
35 purposes of complying with the regulations established by the federal

1 department of housing and urban development for manufactured housing,
2 including the preparation and submission of the state administrative
3 plan.

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

7 NEW SECTION. **Sec. 10.** A new section is added to chapter 34.12 RCW
8 to read as follows:

9 When requested by the department of licensing, the chief
10 administrative law judge shall assign an administrative law judge to
11 conduct proceedings under Title 59 RCW.

12 NEW SECTION. **Sec. 11.** Sections 1, 2, and 4 through 9 of this act
13 are necessary for the immediate preservation of the public peace,
14 health, or safety, or support of the state government and its existing
15 public institutions, and take effect July 1, 2005. The remainder of
16 this act takes effect January 1, 2006.

17 NEW SECTION. **Sec. 12.** Sections 1 through 8 of this act constitute
18 a new chapter in Title 59 RCW.

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