

E2SHB 1461 - S COMM AMD

By Committee on Consumer Protection & Housing

ADOPTED AS AMENDED 03/31/2007

1 Strike everything after the enacting clause and insert the
2 following:

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

16 (2) The legislature finds that taking legal action against a
17 manufactured/mobile home community landlord for violations of the
18 manufactured/mobile home landlord-tenant act can be a costly and
19 lengthy process, and that many people cannot afford to pursue a court
20 process to vindicate statutory rights. Manufactured/mobile home
21 community landlords will also benefit by having access to a process
22 that resolves disputes quickly and efficiently.

23 (3)(a) Therefore, it is the intent of the legislature to provide an
24 equitable as well as a less costly and more efficient way for
25 manufactured/mobile home tenants and manufactured/mobile home community
26 landlords to resolve disputes, and to provide a mechanism for state
27 authorities to quickly locate manufactured/mobile home community
28 landlords.

29 (b) The legislature intends to authorize the department of

1 licensing to register manufactured/mobile home communities and collect
2 a registration fee.

3 (c) The legislature intends to authorize the attorney general to:

4 (i) Produce and distribute educational materials regarding the
5 manufactured/mobile home landlord-tenant act and the
6 manufactured/mobile home dispute resolution program created in section
7 3 of this act;

8 (ii) Administer the dispute resolution program by taking
9 complaints, conducting investigations, making determinations, issuing
10 fines and other penalties, and participating in administrative dispute
11 resolutions, when necessary, when there are alleged violations of the
12 manufactured/mobile home landlord-tenant act; and

13 (iii) Collect and annually report upon data related to disputes and
14 violations, and make recommendations on modifying chapter 59.20 RCW, to
15 the appropriate committees of the legislature.

16 NEW SECTION. **Sec. 2.** For purposes of this chapter:

17 (1) "Complainant" means a landlord, community owner, or tenant, who
18 has a complaint alleging a violation of chapter 59.20 RCW;

19 (2) "Department" means the department of licensing;

20 (3) "Director" means the director of licensing;

21 (4) "Landlord" or "community owner" means the owner of a mobile
22 home park or a manufactured housing community and includes the agents
23 of a landlord;

24 (5) "Manufactured home" means a single-family dwelling built
25 according to the United States department of housing and urban
26 development manufactured home construction and safety standards act,
27 which is a national preemptive building code. A manufactured home
28 also: (a) Includes plumbing, heating, air conditioning, and electrical
29 systems; (b) is built on a permanent chassis; and (c) can be
30 transported in one or more sections with each section at least eight
31 feet wide and forty feet long when transported, or when installed on
32 the site is three hundred twenty square feet or greater;

33 (6) "Mobile home" means a factory-built dwelling built prior to
34 June 15, 1976, to standards other than the United States department of
35 housing and urban development code, and acceptable under applicable
36 state codes in effect at the time of construction or introduction of

1 the home into the state. Mobile homes have not been built since the
2 introduction of the United States department of housing and urban
3 development manufactured home construction and safety act;

4 (7) "Manufactured/mobile home" means either a manufactured home or
5 a mobile home;

6 (8) "Manufactured/mobile home lot" means a portion of a
7 manufactured/mobile home community designated as the location of one
8 mobile home, manufactured home, or park model and its accessory
9 buildings, and intended for the exclusive use as a primary residence by
10 the occupants of that mobile home, manufactured home, or park model;

11 (9) "Mobile home park," "manufactured housing community," or
12 "manufactured/mobile home community" means any real property that is
13 rented or held out for rent to others for the placement of two or more
14 mobile homes, manufactured homes, park models, or recreational vehicles
15 for the primary purpose of production of income, except where the real
16 property is rented or held out for rent for seasonal recreational
17 purposes only and is not used for year-round occupancy;

18 (10) "Owner" means one or more persons, jointly or severally, in
19 whom is vested:

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

21 (b) All or part of the beneficial ownership, and a right to present
22 use and enjoyment of the real property;

23 (11) "Park model" means a recreational vehicle intended for
24 permanent or semi-permanent installation and is used as a permanent
25 residence;

26 (12) "Recreational vehicle" means a travel trailer, motor home,
27 truck camper, or camping trailer that is primarily used as a permanent
28 residence located in a mobile home park or manufactured housing
29 community;

30 (13) "Respondent" means a landlord, community owner, or tenant,
31 alleged to have committed violation of chapter 59.20 RCW;

32 (14) "Tenant" means any person, except a transient as defined in
33 RCW 59.20.030, who rents a mobile home lot.

34 NEW SECTION. **Sec. 3.** (1) The attorney general shall administer a
35 manufactured/mobile home dispute resolution program.

36 (2) The purpose of the manufactured/mobile home dispute resolution
37 program is to provide manufactured/mobile home community landlords and

1 tenants with a cost-effective and time-efficient process to resolve
2 disputes regarding alleged violations of the manufactured/mobile home
3 landlord-tenant act.

4 (3) The attorney general under the manufactured/mobile home dispute
5 resolution program shall:

6 (a) Produce educational materials regarding chapter 59.20 RCW and
7 the manufactured/mobile home dispute resolution program, including a
8 notice in a format that a landlord can reasonably post in a
9 manufactured/mobile home community that summarizes tenant rights and
10 responsibilities, includes information on how to file a complaint with
11 the attorney general, and includes a toll-free telephone number and web
12 site address that landlords and tenants can use to seek additional
13 information and communicate complaints;

14 (b) Distribute the educational materials described in (a) of this
15 subsection to all known landlords and information alerting landlords
16 that:

17 (i) All landlords must post the notice provided by the attorney
18 general that summarizes tenant rights and responsibilities and includes
19 information on how to file complaints, in a clearly visible location in
20 all common areas of manufactured/mobile home communities, including in
21 each clubhouse;

22 (ii) The attorney general may visually confirm that the notice is
23 appropriately posted; and

24 (iii) The attorney general may issue a fine or other penalty if the
25 attorney general discovers that the landlord has not appropriately
26 posted the notice or that the landlord has not maintained the posted
27 notice so that it is clearly visible to tenants;

28 (c) Distribute the educational materials described in (a) of this
29 subsection to any complainants and respondents, as requested;

30 (d) Perform dispute resolution activities, including
31 investigations, negotiations, determinations of violations, and
32 imposition of fines or other penalties as described in section 4 of
33 this act;

34 (e) Create and maintain a database of manufactured/mobile home
35 communities that have had complaints filed against them. For each
36 manufactured/mobile home community in the database, the following
37 information must be contained, at a minimum:

38 (i) The number of complaints received;

1 (ii) The nature and extent of the complaints received;
2 (iii) The violation of law complained of; and
3 (iv) The manufactured/mobile home dispute resolution program
4 outcomes for each complaint;

5 (f) Provide an annual report to the appropriate committees of the
6 legislature on the data collected under this section, including program
7 performance measures and recommendations regarding how the
8 manufactured/mobile home dispute resolution program may be improved, by
9 December 31st, beginning in 2007.

10 (4) The manufactured/mobile home dispute resolution program,
11 including all of the duties of the attorney general under the program
12 as described in this section, shall be funded by the collection of
13 fines, other penalties, and fees deposited into the manufactured/mobile
14 home dispute resolution program account created in section 8 of this
15 act, and all other sources directed to the manufactured/mobile home
16 dispute resolution program.

17 NEW SECTION. **Sec. 4.** (1) An aggrieved party has the right to file
18 a complaint with the attorney general alleging a violation of chapter
19 59.20 RCW.

20 (2) Upon receiving a complaint under this act, the attorney general
21 must:

22 (a) Inform the complainant of any notification requirements under
23 RCW 59.20.080 for tenant violations or RCW 59.20.200 for landlord
24 violations and encourage the complainant to appropriately notify the
25 respondent of the complaint; and

26 (b) If a statutory time period is applicable, inform the
27 complainant of the time frame that the respondent has to remedy the
28 complaint under RCW 59.20.080 for tenant violations or RCW 59.20.200
29 for landlord violations.

30 (3) After receiving a complaint under this act, the attorney
31 general shall initiate the manufactured/mobile home dispute resolution
32 program by investigating the alleged violations at its discretion and,
33 if appropriate, facilitating negotiations between the complainant and
34 the respondent.

35 (4)(a) Complainants and respondents shall cooperate with the
36 attorney general in the course of an investigation by (i) responding to
37 subpoenas issued by the attorney general, which may consist of

1 providing access to papers or other documents, and (ii) providing
2 access to the manufactured/mobile home facilities relevant to the
3 investigation. Complainants and respondents must respond to attorney
4 general subpoenas within thirty days.

5 (b) Failure to cooperate with the attorney general in the course of
6 an investigation is a violation of this chapter.

7 (5) If after an investigation the attorney general determines that
8 an agreement cannot be negotiated between the parties, the attorney
9 general shall make a written determination on whether a violation of
10 chapter 59.20 RCW has occurred.

11 (a) If the attorney general finds by a written determination that
12 a violation of chapter 59.20 RCW has occurred, the attorney general
13 shall deliver a written notice of violation to the respondent who
14 committed the violation by certified mail. The notice of violation
15 must specify the violation, the corrective action required, the time
16 within which the corrective action must be taken, the penalties
17 including fines, other penalties, and actions that will result if
18 corrective action is not taken within the specified time period, and
19 the process for contesting the determination, fines, penalties, and
20 other actions included in the notice of violation through an
21 administrative hearing. The attorney general must deliver to the
22 complainant a copy of the notice of violation by certified mail.

23 (b) If the attorney general finds by a written determination that
24 a violation of chapter 59.20 RCW has not occurred, the attorney general
25 shall deliver a written notice of nonviolation to both the complainant
26 and the respondent by certified mail. The notice of nonviolation must
27 include the process for contesting the determination included in the
28 notice of nonviolation through an administrative hearing.

29 (6) Corrective action must take place within fifteen business days
30 of the respondent's receipt of a notice of violation, except as
31 required otherwise by the attorney general, unless the respondent has
32 submitted a timely request for an administrative hearing to contest the
33 notice of violation as required under subsection (8) of this section.
34 If a respondent, which includes either a landlord or a tenant, fails to
35 take corrective action within the required time period and the attorney
36 general has not received a timely request for an administrative
37 hearing, the attorney general may impose a fine, up to a maximum of two
38 hundred fifty dollars per violation per day, for each day that a

1 violation remains uncorrected. The attorney general must consider the
2 severity and duration of the violation and the violation's impact on
3 other community residents when determining the appropriate amount of a
4 fine or the appropriate penalty to impose on a respondent. If the
5 respondent shows upon timely application to the attorney general that
6 a good faith effort to comply with the corrective action requirements
7 of the notice of violation has been made and that the corrective action
8 has not been completed because of mitigating factors beyond the
9 respondent's control, the attorney general may delay the imposition of
10 a fine or penalty.

11 (7) The attorney general may issue an order requiring the
12 respondent, or its assignee or agent, to cease and desist from an
13 unlawful practice and take affirmative actions that in the judgment of
14 the attorney general will carry out the purposes of this chapter. The
15 affirmative actions may include, but are not limited to, the following:

16 (a) Refunds of rent increases, improper fees, charges, and
17 assessments collected in violation of this chapter;

18 (b) Filing and utilization of documents that correct a statutory or
19 rule violation; and

20 (c) Reasonable action necessary to correct a statutory or rule
21 violation.

22 (8) A complainant or respondent may request an administrative
23 hearing before an administrative law judge under chapter 34.05 RCW to
24 contest:

25 (a) A notice of violation issued under subsection (5)(a) of this
26 section or a notice of nonviolation issued under subsection (5)(b) of
27 this section;

28 (b) A fine or other penalty imposed under subsection (6) of this
29 section; or

30 (c) An order to cease and desist or an order to take affirmative
31 actions under subsection (7) of this section.

32 The complainant or respondent must request an administrative
33 hearing within fifteen business days of receipt of a notice of
34 violation, notice of nonviolation, fine, other penalty, order, or
35 action. If an administrative hearing is not requested within this time
36 period, the notice of violation, notice of nonviolation, fine, other
37 penalty, order, or action constitutes a final order of the attorney
38 general and is not subject to review by any court or agency.

1 (9) If an administrative hearing is initiated, the respondent and
2 complainant shall each bear the cost of his or her own legal expenses.

3 (10) The administrative law judge appointed under chapter 34.12 RCW
4 shall:

5 (a) Hear and receive pertinent evidence and testimony;

6 (b) Decide whether the evidence supports the attorney general
7 finding by a preponderance of the evidence; and

8 (c) Enter an appropriate order within thirty days after the close
9 of the hearing and immediately mail copies of the order to the affected
10 parties.

11 The order of the administrative law judge constitutes the final
12 agency order of the attorney general and may be appealed to the
13 superior court under chapter 34.05 RCW.

14 (11) When the attorney general imposes a fine, refund, or other
15 penalty against a respondent, the respondent may not seek any recovery
16 or reimbursement of the fine, refund, or other penalty from a
17 complainant or from other manufactured/mobile home tenants.

18 (12) All receipts from the imposition of fines or other penalties
19 collected under this section other than those due to a complainant must
20 be deposited into the manufactured/mobile home dispute resolution
21 program account created in section 8 of this act.

22 (13) This section is not exclusive and does not limit the right of
23 landlords or tenants to take legal action against another party as
24 provided in chapter 59.20 RCW or otherwise. Exhaustion of the
25 administrative remedy provided in this chapter is not required before
26 a landlord or tenants may bring a legal action. This section does not
27 apply to unlawful detainer actions initiated under RCW 59.20.080 prior
28 to the filing and service of an unlawful detainer court action;
29 however, a tenant is not precluded from seeking relief under this
30 chapter if the complaint claims the notice of termination violates RCW
31 59.20.080 prior to the filing and service of an unlawful detainer
32 action.

33 NEW SECTION. **Sec. 5.** The attorney general, director, or
34 individuals acting on behalf of the attorney general or director are
35 immune from suit in any action, civil or criminal, based upon any
36 disciplinary actions or other official acts performed in the course of

1 their duties under this chapter, except their intentional or willful
2 misconduct.

3 NEW SECTION. **Sec. 6.** (1) The department shall annually register
4 all manufactured/mobile home communities. Each community must be
5 registered separately. The department must deliver by certified mail
6 registration notifications to all known manufactured/mobile home
7 community landlords. Registration information packets must include:

8 (a) Registration forms; and

9 (b) Registration assessment information, including registration due
10 dates and late fees, and the collections procedures, liens, and
11 charging costs to tenants.

12 (2) To apply for registration, the landlord of a
13 manufactured/mobile home community must file with the department an
14 application for registration on a form provided by the department and
15 must pay a registration fee as described in subsection (3) of this
16 section. The department may require the submission of information
17 necessary to assist in identifying and locating a manufactured/mobile
18 home community and other information that may be useful to the state,
19 which must include, at a minimum:

20 (a) The names and addresses of the owners of the
21 manufactured/mobile home community;

22 (b) The name and address of the manufactured/mobile home community;

23 (c) The name and address of the landlord and manager of the
24 manufactured/mobile home community;

25 (d) The number of lots within the manufactured/mobile home
26 community that are subject to chapter 59.20 RCW; and

27 (e) The addresses of each manufactured/mobile home lot within the
28 manufactured/mobile home community that is subject to chapter 59.20
29 RCW.

30 (3) Each manufactured/mobile home community landlord shall pay to
31 the department:

32 (a) A one-time master application fee for the first year of
33 registration and, in subsequent years, an annual master renewal
34 application fee, as provided in RCW 19.02.075; and

35 (b) An annual registration assessment of ten dollars for each
36 manufactured/mobile home that is subject to chapter 59.20 RCW within a
37 manufactured/mobile home community. Manufactured/mobile home community

1 landlords may charge a maximum of five dollars of this assessment to
2 tenants. Nine dollars of the registration assessment for each
3 manufactured/mobile home shall be deposited into the
4 manufactured/mobile home dispute resolution program account created in
5 section 8 of this act to fund the costs associated with the
6 manufactured/mobile home dispute resolution program. The remaining one
7 dollar shall be deposited into the master license fund created in RCW
8 19.02.210. The annual registration assessment must be reviewed once
9 each biennium by the department and the attorney general and may be
10 adjusted to reasonably relate to the cost of administering this
11 chapter. The registration assessment may not exceed ten dollars, but
12 if the assessment is reduced, the portion allocated to the
13 manufactured/mobile home dispute resolution program account and the
14 master license fund shall be adjusted proportionately.

15 (4) Initial registrations of mobile/manufactured housing
16 communities must be filed with the department before November 1, 2007,
17 or within three months of the availability of mobile home lots for rent
18 within the community. The manufactured/mobile home community is
19 subject to a delinquency fee of two hundred fifty dollars for late
20 initial registrations. The delinquency fee shall be deposited in the
21 master license fund. Renewal registrations that are not renewed by the
22 expiration date as assigned by the department are subject to
23 delinquency fees under RCW 19.02.085.

24 (5) Thirty days after sending late fee notices to a noncomplying
25 landlord, the department may refer the past due account to a collection
26 agency. If there is no response from a noncomplying landlord after
27 sixty days in collections, the department may file an action to enforce
28 payment of unpaid registration assessments and late fees in the
29 superior court for Thurston county or in the county in which the
30 manufactured/mobile home community is located. If the department
31 prevails, the manufactured/mobile home community landlord shall pay the
32 department's costs, including reasonable attorneys' fees, for the
33 enforcement proceedings.

34 (6) Registration is effective on the date determined by the
35 department, and the department shall issue a registration number to
36 each registered manufactured/mobile home community. The department
37 must provide an expiration date, assigned by the department, to each
38 manufactured/mobile home community who registers.

1 NEW SECTION. **Sec. 7.** The department must have the capability to
2 compile, update, and maintain the most accurate database possible of
3 all the manufactured/mobile home communities in the state, which must
4 include all of the information collected under section 6 of this act,
5 except for the addresses of each manufactured/mobile home lot within
6 the manufactured/mobile home community that is subject to chapter 59.20
7 RCW, which must be made available to the attorney general and the
8 department of community, trade, and economic development in a format to
9 be determined by a collaborative agreement between the department of
10 licensing and the attorney general.

11 NEW SECTION. **Sec. 8.** The manufactured/mobile home dispute
12 resolution program account is created in the custody of the state
13 treasurer. All receipts from sources directed to the
14 manufactured/mobile home dispute resolution program must be deposited
15 in the account. Expenditures from the account may be used only for the
16 costs associated with administering the manufactured/mobile home
17 dispute resolution program. Only the attorney general or the attorney
18 general's designee may authorize expenditures from the account. The
19 account is subject to allotment procedures under chapter 43.88 RCW, but
20 an appropriation is not required for expenditures.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 34.12 RCW
22 to read as follows:

23 When requested by the attorney general, the chief administrative
24 law judge shall assign an administrative law judge to conduct
25 proceedings under Title 59 RCW.

26 NEW SECTION. **Sec. 10.** Sections 1 through 8 of this act constitute
27 a new chapter in Title 59 RCW.

28 NEW SECTION. **Sec. 11.** The attorney general may take the necessary
29 steps to ensure that this act is implemented on its effective date."

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1 On page 1, line 2 of the title, after "resolution;" strike the
2 remainder of the title and insert "adding a new section to chapter
3 34.12 RCW; adding a new chapter to Title 59 RCW; creating a new
4 section; and prescribing penalties."

EFFECT: The amendment provides that registration notifications sent by the department of licensing to manufactured/mobile home community landlords must be delivered by certified mail.

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