

HOUSE BILL REPORT

HB 1461

As Reported by House Committee On:
Housing

Title: An act relating to manufactured/mobile home community registrations and dispute resolution.

Brief Description: Addressing manufactured/mobile home community registrations and dispute resolution.

Sponsors: Representatives Morrell, Miloscia, O'Brien, Ericks, Hunt, Sells, Green, Flannigan, Williams, Kenney, Appleton, Ormsby, Quall, Haigh, Hasegawa and Lantz.

Brief History:

Committee Activity:

Housing: 1/31/07, 2/8/07 [DPS].

Brief Summary of Substitute Bill

- Authorizes the Attorney General to administer and enforce a Manufactured/Mobile Home Dispute Resolution Program which includes making determinations, negotiating with opposing parties, and issuing notices of violation or non-violation.
- Authorizes the Department of Licensing to register manufactured/mobile home communities and collects registration fees.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Miloscia, Chair; Springer, Vice Chair; Kelley and Ormsby.

Minority Report: Do not pass. Signed by 3 members: Representatives Dunn, Ranking Minority Member; McCune and Schindler.

Staff: Robyn Dupuis (786-7166).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

According to the Department of Community, Trade and Economic Development (DCTED) there are 1,829 known manufactured/mobile home communities containing about 62,000 homes.

The 2005 Legislature passed ESHB 1640 to temporarily expand the complaint investigation and dispute resolution resources of the DCTED Office of Mobile Home Affairs (OMH). The DCTED was also required to register manufactured/mobile home communities and submit data to the Legislature. The bill went into effect May 13, 2005 and expired December 31, 2005.

The DCTED presented a report to the Legislature in December 2005 in which it provided information regarding complaints, the estimated number of parks and communities in the state, and an outline of recommendations for legislative action which included continuing the OMH program as expanded under ESHB 1640 with a few changes including:

- authorizing the DCTED to issue findings as to whether or not violations occurred;
- eliminating the requirement that complainants need notify respondents; and
- revising the formula for the calculation of registration late fees.

The 2006 Legislature included a proviso in the Capital Budget (ESSB 6384, Section 108) which appropriated \$200,000 to continue the program within the financial means provided and directed OMH to estimate the number and types of complaints since the onset of the 2005 program that do present violations of the Manufactured/Mobile Home Landlord-Tenant Act. The DCTED presented a report to the Legislature in January 2007 which included the following information reflecting the opinions of the DCTED staff:

- Of the 827 issues reviewed, 55 percent presented a violation and 44 percent did not present a violation.
- Of the 55 percent determined to present violations, 100 percent were landlord violations.
- Most prevalent issues consisted of "Park Rules, Difficulties with Community Manager, Park Maintenance, and Park Amenities."

Summary of Substitute Bill:

The Manufactured/Mobile Home Dispute Resolution Program - Attorney General

The Attorney General is authorized to administer a Manufactured/Mobile Home Dispute Resolution Program to attempt to resolve disputes regarding alleged violations of the Manufactured/Mobile Home Landlord-Tenant Act.

The Attorney General will:

- take complaints from manufactured/mobile home tenants and landlords;
- investigate complaints; and
- attempt to negotiate an agreement.

If no agreement can be reached, the Attorney General may:

- make written determinations about whether a violation has occurred; and
- deliver a citation, if necessary, to any violator. The citation will specify the violation and the corrective action required.

If no corrective action has been taken (as per citation order) and no administrative hearing has been requested within the allowed 15 business day time frame, the Attorney General may issue a fine up to a maximum of \$250 a day per fine until the violation is corrected.

Determinations, citations, fines, other penalties and orders to cease and desist may be contested through an administrative hearing before an administrative judge.

Other Attorney General Responsibilities

Other Attorney General responsibilities include:

- create and provide to tenants and landlords educational materials about the Manufactured/Mobile Home Dispute Resolution Program and the Manufactured/Mobile Home Landlord-Tenant Act; and
- maintain a database of complaints and report annually to the Legislature.

Dispute Resolution Program Funding

The Manufactured/Mobile Home Dispute Resolution Program is funded with \$9 of every \$10 of the annual registration assessment for each manufactured/mobile home and any fines collected as a result of the Dispute Resolution Program. The Attorney General also receives a \$400,000 General Fund appropriation for program start-up costs.

Manufactured/Mobile Home Registration - The Department of Licensing (DOL)

The DOL is authorized to:

- register all manufactured/mobile home communities annually and collect a registration assessment of \$10 for each home, subject to the Manufactured/Mobile Home Landlord Tenant Act; and
- maintain a database of communities.

The DOL will charge a \$15 master application fee for the initial registration of a community and a \$9 master application renewal fee. The DOL may charge late fees for failure of a community to register on time.

Registration Program Funding

The DOL will receive the master application fee, \$1 of every \$10 of the annual home assessment, and all late registration fines.

Substitute Bill Compared to Original Bill:

The Department of Licensing (DOL) replaces the The Department of Community, Trade and Economic Development as the entity charged with registering manufactured/mobile home communities. The per lot annual assessment fee is raised from \$5 to \$10, \$5 of which may be passed on to tenants. The DOL will also charge each park an annual fee of \$15 for first-time registrations and \$9 for renewal registrations and will charge late fees. The late fee for an initial park registration is changed to a flat \$250 instead of a per-day rate of \$20. The

Attorney General will produce and distribute educational materials to landlords, and to complainants and respondents upon request. The fine the Attorney General may impose on violators is changed from a maximum of \$500 a day to a maximum of \$250 a day. Respondents have 15 business days, instead of just 15 days to remedy violations or to request an administrative hearing. The emergency clause is removed. References to RCW 19.86 and the Consumer Protection Act are removed throughout the bill except for a single Consumer Protection Act section. A \$400,000 appropriation is added to the Manufactured/Mobile Home Dispute Resolution Account to cover program start-up costs.

Appropriation: The sum of \$400,000.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) Landlords have recourse for tenants who violate the law through the unlawful detainer and eviction process. The only resource available for tenants is the legal system, which is prohibitively expensive and time consuming. The dispute resolution process proposed in this bill to be administered by the Attorney General provides a less expensive and faster way to resolve disputes between landlords and tenants. Currently, many tenants are afraid of filing complaints with the DCTED for fear of retaliation by their landlords. Tenants will feel more comfortable making complaints to the Attorney General because they know that the Attorney General has the enforcement power to resolve the situation. Mediation is a great first step, however tenants have found that landlords are not willing to negotiate in good faith so typically nothing is accomplished. Tenants have tried in vain to negotiate with their landlords for many years; now is the time for an agency to enforce the law. As time goes on, the costs of this program will be reduced as landlords recognize that they will be held accountable for violations.

(Opposed) More analysis of the past complaints needs to be done before the state can make an informed decision about whether or not a program such as the one proposed for the Office of the Attorney General should be created in statute. The staff of the DCTED Office of Manufactured Housing are not legally trained to decide whether something is or is not a violation. The landlord groups are willing to review the complaints and help to determine the validity of those complaints but have not been given an opportunity to review the documents. There are a lot of free legal services available to tenants and there are also many lawyers who will take cases for tenants on a contingency basis; on the other hand, landlords incur enormous legal costs when a dispute goes to court. This bill will create more lawsuits, not less. There is fear that if passed, this bill will create a legal precedent for other landlord-tenant enforcement initiatives.

Persons Testifying:

(In support) Representative Morrell, prime sponsor; Ishbel Dickens, Columbia Legal Services; Fred Jones and Jim Dean, Mobile Home Owners of America; Wolfgang Priebe, Ken Newton and Sarah Rivers, Manufactured Home Owners Association; Susan Doran and Shirley Turner, Manor Heights Estates residents; and Lorraine Schafner, manufactured home resident.

(Opposed) John Woodring and Ken Spencer, Manufactured Home Communities of Washington; and Jennifer Kellogg and Jim Throckmorton, Property Owners Perspective.

Persons Signed In To Testify But Not Testifying: None.