

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1461

60th Legislature
2007 Regular Session

Passed by the House April 16, 2007
Yeas 94 Nays 1

Speaker of the House of Representatives

Passed by the Senate March 31, 2007
Yeas 28 Nays 18

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 SECOND SUBSTITUTE HOUSE BILL 1461** 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 SECOND SUBSTITUTE HOUSE BILL 1461

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Morrell, Miloscia, O'Brien, Ericks, Hunt, Sells, Green, Flannigan, Williams, Kenney, Appleton, Ormsby, Quall, Haigh, Hasegawa and Lantz)

READ FIRST TIME 3/5/07.

1 AN ACT Relating to manufactured/mobile home community registrations
2 and dispute resolution; amending RCW 59.22.050; adding a new section to
3 chapter 34.12 RCW; adding a new chapter to Title 59 RCW; creating a new
4 section; and prescribing penalties.

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 home
8 tenant and a manufactured/mobile home community landlord. Once
9 occupancy has commenced, the difficulty and expense in moving and
10 relocating a manufactured/mobile home can affect the operation of
11 market forces and lead to an inequality of the bargaining position of
12 the parties. Once occupancy has commenced, a tenant may be subject to
13 violations of the manufactured/mobile home landlord-tenant act without
14 an adequate remedy at law. This chapter is created for the purpose of
15 protecting the public, fostering fair and honest competition, and
16 regulating the factors unique to the relationship between the
17 manufactured/mobile home tenant and the manufactured/mobile home
18 community landlord.

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

8 (3)(a) Therefore, it is the intent of the legislature to provide an
9 equitable as well as a less costly and more efficient way for
10 manufactured/mobile home tenants and manufactured/mobile home community
11 landlords to resolve disputes, and to provide a mechanism for state
12 authorities to quickly locate manufactured/mobile home community
13 landlords.

14 (b) The legislature intends to authorize the department of
15 licensing to register manufactured/mobile home communities and collect
16 a registration fee.

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

18 (i) Produce and distribute educational materials regarding the
19 manufactured/mobile home landlord-tenant act and the
20 manufactured/mobile home dispute resolution program created in section
21 3 of this act;

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

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

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

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

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

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

35 (4) "Landlord" or "community owner" means the owner of a mobile
36 home park or a manufactured housing community and includes the agents
37 of a landlord;

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

10 (6) "Mobile home" means a factory-built dwelling built prior to
11 June 15, 1976, to standards other than the United States department of
12 housing and urban development code, and acceptable under applicable
13 state codes in effect at the time of construction or introduction of
14 the home into the state. Mobile homes have not been built since the
15 introduction of the United States department of housing and urban
16 development manufactured home construction and safety act;

17 (7) "Manufactured/mobile home" means either a manufactured home or
18 a mobile home;

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

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

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

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

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

36 (11) "Park model" means a recreational vehicle intended for
37 permanent or semi-permanent installation and is used as a permanent
38 residence;

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

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

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

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

11 (2) The purpose of the manufactured/mobile home dispute resolution
12 program is to provide manufactured/mobile home community landlords and
13 tenants with a cost-effective and time-efficient process to resolve
14 disputes regarding alleged violations of the manufactured/mobile home
15 landlord-tenant act.

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

18 (a) Produce educational materials regarding chapter 59.20 RCW and
19 the manufactured/mobile home dispute resolution program, including a
20 notice in a format that a landlord can reasonably post in a
21 manufactured/mobile home community that summarizes tenant rights and
22 responsibilities, includes information on how to file a complaint with
23 the attorney general, and includes a toll-free telephone number and web
24 site address that landlords and tenants can use to seek additional
25 information and communicate complaints;

26 (b) Distribute the educational materials described in (a) of this
27 subsection to all known landlords and information alerting landlords
28 that:

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

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

36 (iii) The attorney general may issue a fine or other penalty if the

1 attorney general discovers that the landlord has not appropriately
2 posted the notice or that the landlord has not maintained the posted
3 notice so that it is clearly visible to tenants;

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

6 (d) Perform dispute resolution activities, including
7 investigations, negotiations, determinations of violations, and
8 imposition of fines or other penalties as described in section 4 of
9 this act;

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

14 (i) The number of complaints received;

15 (ii) The nature and extent of the complaints received;

16 (iii) The violation of law complained of; and

17 (iv) The manufactured/mobile home dispute resolution program
18 outcomes for each complaint;

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

24 (4) The manufactured/mobile home dispute resolution program,
25 including all of the duties of the attorney general under the program
26 as described in this section, shall be funded by the collection of
27 fines, other penalties, and fees deposited into the manufactured/mobile
28 home dispute resolution program account created in section 8 of this
29 act, and all other sources directed to the manufactured/mobile home
30 dispute resolution program.

31 NEW SECTION. **Sec. 4.** (1) An aggrieved party has the right to file
32 a complaint with the attorney general alleging a violation of chapter
33 59.20 RCW.

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

36 (a) Inform the complainant of any notification requirements under

1 RCW 59.20.080 for tenant violations or RCW 59.20.200 for landlord
2 violations and encourage the complainant to appropriately notify the
3 respondent of the complaint; and

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

8 (3) After receiving a complaint under this act, the attorney
9 general shall initiate the manufactured/mobile home dispute resolution
10 program by investigating the alleged violations at its discretion and,
11 if appropriate, facilitating negotiations between the complainant and
12 the respondent.

13 (4)(a) Complainants and respondents shall cooperate with the
14 attorney general in the course of an investigation by (i) responding to
15 subpoenas issued by the attorney general, which may consist of
16 providing access to papers or other documents, and (ii) providing
17 access to the manufactured/mobile home facilities relevant to the
18 investigation. Complainants and respondents must respond to attorney
19 general subpoenas within thirty days.

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

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

26 (a) If the attorney general finds by a written determination that
27 a violation of chapter 59.20 RCW has occurred, the attorney general
28 shall deliver a written notice of violation to the respondent who
29 committed the violation by certified mail. The notice of violation
30 must specify the violation, the corrective action required, the time
31 within which the corrective action must be taken, the penalties
32 including fines, other penalties, and actions that will result if
33 corrective action is not taken within the specified time period, and
34 the process for contesting the determination, fines, penalties, and
35 other actions included in the notice of violation through an
36 administrative hearing. The attorney general must deliver to the
37 complainant a copy of the notice of violation by certified mail.

1 (b) If the attorney general finds by a written determination that
2 a violation of chapter 59.20 RCW has not occurred, the attorney general
3 shall deliver a written notice of nonviolation to both the complainant
4 and the respondent by certified mail. The notice of nonviolation must
5 include the process for contesting the determination included in the
6 notice of nonviolation through an administrative hearing.

7 (6) Corrective action must take place within fifteen business days
8 of the respondent's receipt of a notice of violation, except as
9 required otherwise by the attorney general, unless the respondent has
10 submitted a timely request for an administrative hearing to contest the
11 notice of violation as required under subsection (8) of this section.
12 If a respondent, which includes either a landlord or a tenant, fails to
13 take corrective action within the required time period and the attorney
14 general has not received a timely request for an administrative
15 hearing, the attorney general may impose a fine, up to a maximum of two
16 hundred fifty dollars per violation per day, for each day that a
17 violation remains uncorrected. The attorney general must consider the
18 severity and duration of the violation and the violation's impact on
19 other community residents when determining the appropriate amount of a
20 fine or the appropriate penalty to impose on a respondent. If the
21 respondent shows upon timely application to the attorney general that
22 a good faith effort to comply with the corrective action requirements
23 of the notice of violation has been made and that the corrective action
24 has not been completed because of mitigating factors beyond the
25 respondent's control, the attorney general may delay the imposition of
26 a fine or penalty.

27 (7) The attorney general may issue an order requiring the
28 respondent, or its assignee or agent, to cease and desist from an
29 unlawful practice and take affirmative actions that in the judgment of
30 the attorney general 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 this chapter;

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

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

1 (8) A complainant or respondent may request an administrative
2 hearing before an administrative law judge under chapter 34.05 RCW to
3 contest:

4 (a) A notice of violation issued under subsection (5)(a) of this
5 section or a notice of nonviolation issued under subsection (5)(b) of
6 this section;

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

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

11 The complainant or respondent must request an administrative
12 hearing within fifteen business days of receipt of a notice of
13 violation, notice of nonviolation, fine, other penalty, order, or
14 action. If an administrative hearing is not requested within this time
15 period, the notice of violation, notice of nonviolation, fine, other
16 penalty, order, or action constitutes a final order of the attorney
17 general and is not subject to review by any court or agency.

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

20 (10) The administrative law judge appointed under chapter 34.12 RCW
21 shall:

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

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

25 (c) Enter an appropriate order within thirty days after the close
26 of the hearing and immediately mail copies of the order to the affected
27 parties.

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

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

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

1 (13) This section is not exclusive and does not limit the right of
2 landlords or tenants to take legal action against another party as
3 provided in chapter 59.20 RCW or otherwise. Exhaustion of the
4 administrative remedy provided in this chapter is not required before
5 a landlord or tenants may bring a legal action. This section does not
6 apply to unlawful detainer actions initiated under RCW 59.20.080 prior
7 to the filing and service of an unlawful detainer court action;
8 however, a tenant is not precluded from seeking relief under this
9 chapter if the complaint claims the notice of termination violates RCW
10 59.20.080 prior to the filing and service of an unlawful detainer
11 action.

12 NEW SECTION. **Sec. 5.** The attorney general, director, or
13 individuals acting on behalf of the attorney general or director are
14 immune from suit in any action, civil or criminal, based upon any
15 disciplinary actions or other official acts performed in the course of
16 their duties under this chapter, except their intentional or willful
17 misconduct.

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

- 23 (a) Registration forms; and
24 (b) Registration assessment information, including registration due
25 dates and late fees, and the collections procedures, liens, and
26 charging costs to tenants.

27 (2) To apply for registration, the landlord of a
28 manufactured/mobile home community must file with the department an
29 application for registration on a form provided by the department and
30 must pay a registration fee as described in subsection (3) of this
31 section. The department may require the submission of information
32 necessary to assist in identifying and locating a manufactured/mobile
33 home community and other information that may be useful to the state,
34 which must include, at a minimum:

- 35 (a) The names and addresses of the owners of the
36 manufactured/mobile home community;

1 (b) The name and address of the manufactured/mobile home community;
2 (c) The name and address of the landlord and manager of the
3 manufactured/mobile home community;

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

6 (e) The addresses of each manufactured/mobile home lot within the
7 manufactured/mobile home community that is subject to chapter 59.20
8 RCW.

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

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

14 (b) An annual registration assessment of ten dollars for each
15 manufactured/mobile home that is subject to chapter 59.20 RCW within a
16 manufactured/mobile home community. Manufactured/mobile home community
17 landlords may charge a maximum of five dollars of this assessment to
18 tenants. Nine dollars of the registration assessment for each
19 manufactured/mobile home shall be deposited into the
20 manufactured/mobile home dispute resolution program account created in
21 section 8 of this act to fund the costs associated with the
22 manufactured/mobile home dispute resolution program. The remaining one
23 dollar shall be deposited into the master license fund created in RCW
24 19.02.210. The annual registration assessment must be reviewed once
25 each biennium by the department and the attorney general and may be
26 adjusted to reasonably relate to the cost of administering this
27 chapter. The registration assessment may not exceed ten dollars, but
28 if the assessment is reduced, the portion allocated to the
29 manufactured/mobile home dispute resolution program account and the
30 master license fund shall be adjusted proportionately.

31 (4) Initial registrations of mobile/manufactured housing
32 communities must be filed with the department before November 1, 2007,
33 or within three months of the availability of mobile home lots for rent
34 within the community. The manufactured/mobile home community is
35 subject to a delinquency fee of two hundred fifty dollars for late
36 initial registrations. The delinquency fee shall be deposited in the
37 master license fund. Renewal registrations that are not renewed by the

1 expiration date as assigned by the department are subject to
2 delinquency fees under RCW 19.02.085.

3 (5) Thirty days after sending late fee notices to a noncomplying
4 landlord, the department may refer the past due account to a collection
5 agency. If there is no response from a noncomplying landlord after
6 sixty days in collections, the department may file an action to enforce
7 payment of unpaid registration assessments and late fees in the
8 superior court for Thurston county or in the county in which the
9 manufactured/mobile home community is located. If the department
10 prevails, the manufactured/mobile home community landlord shall pay the
11 department's costs, including reasonable attorneys' fees, for the
12 enforcement proceedings.

13 (6) Registration is effective on the date determined by the
14 department, and the department shall issue a registration number to
15 each registered manufactured/mobile home community. The department
16 must provide an expiration date, assigned by the department, to each
17 manufactured/mobile home community who registers.

18 NEW SECTION. **Sec. 7.** The department must have the capability to
19 compile, update, and maintain the most accurate database possible of
20 all the manufactured/mobile home communities in the state, which must
21 include all of the information collected under section 6 of this act,
22 except for the addresses of each manufactured/mobile home lot within
23 the manufactured/mobile home community that is subject to chapter 59.20
24 RCW, which must be made available to the attorney general and the
25 department of community, trade, and economic development in a format to
26 be determined by a collaborative agreement between the department of
27 licensing and the attorney general.

28 NEW SECTION. **Sec. 8.** The manufactured/mobile home dispute
29 resolution program account is created in the custody of the state
30 treasurer. All receipts from sources directed to the
31 manufactured/mobile home dispute resolution program must be deposited
32 in the account. Expenditures from the account may be used only for the
33 costs associated with administering the manufactured/mobile home
34 dispute resolution program. Only the attorney general or the attorney
35 general's designee may authorize expenditures from the account. The

1 account is subject to allotment procedures under chapter 43.88 RCW, but
2 an appropriation is not required for expenditures.

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

5 When requested by the attorney general, the chief administrative
6 law judge shall assign an administrative law judge to conduct
7 proceedings under Title 59 RCW.

8 **Sec. 10.** RCW 59.22.050 and 1991 c 327 s 3 are each amended to read
9 as follows:

10 (1) In order to provide general assistance to mobile home resident
11 organizations, park owners, and landlords and tenants, the department
12 (~~shall establish an office of mobile home affairs which will serve as~~
13 ~~the coordinating office within state government for matters relating to~~
14 ~~mobile homes or manufactured housing.~~

15 ~~This office will provide an ombudsman service to mobile home park~~
16 ~~owners and mobile home tenants with respect to problems and disputes~~
17 ~~between park owners and park residents and to)) will provide technical
18 assistance to resident organizations or persons in the process of
19 forming a resident organization pursuant to chapter 59.22 RCW. The
20 (~~office)) department will keep records of its activities in this area.~~~~

21 (2) The (~~office)) department shall perform all the consumer
22 complaint and related functions of the state administrative agency that
23 are required for purposes of complying with the regulations established
24 by the federal department of housing and urban development for
25 manufactured housing, including the preparation and submission of the
26 state administrative plan.~~

27 (3) The (~~office)) department shall administer the mobile home
28 relocation assistance program established in chapter 59.21 RCW,
29 including verifying the eligibility of tenants for relocation
30 assistance.~~

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

1 NEW SECTION. **Sec. 12.** The attorney general may take the necessary
2 steps to ensure that this act is implemented on its effective date.

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