

---

**SUBSTITUTE HOUSE BILL 1140**

---

**State of Washington                      61st Legislature                      2009 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Lias, Morrell, Ericks, Miloscia, Ormsby, Rolfes, Simpson, and Nelson)

READ FIRST TIME 02/20/09.

1            AN ACT Relating to the manufactured/mobile home dispute resolution  
2 program; amending RCW 59.30.040; and adding new sections to chapter  
3 59.30 RCW.

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

5            **Sec. 1.** RCW 59.30.040 and 2007 c 431 s 4 are each amended to read  
6 as follows:

7            (1) An aggrieved party has the right to file a complaint with the  
8 attorney general alleging a violation of chapter 59.20 RCW.

9            (2) Upon receiving a complaint under this chapter, the attorney  
10 general must:

11            (a) Inform the complainant of any notification requirements under  
12 RCW 59.20.080 for tenant violations or RCW 59.20.200 for landlord  
13 violations and encourage the complainant to appropriately notify the  
14 respondent of the complaint; and

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

1 (3) After receiving a complaint under this chapter, the attorney  
2 general shall initiate the manufactured/mobile home dispute resolution  
3 program by (~~investigating~~) obtaining information in an informal  
4 manner and facilitating communication between the parties with the goal  
5 of resolving the dispute. If the dispute is not resolved, the attorney  
6 general may initiate a formal investigation of the alleged violations  
7 at its discretion and, if appropriate, (~~facilitating~~) facilitate  
8 further negotiations between the complainant and the respondent.  
9 Unless a formal investigation is opened, the procedures outlined in  
10 subsection (8) of this section do not apply.

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

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

21 (5) If after (~~an~~) a formal investigation the attorney general  
22 determines that an agreement cannot be negotiated between the parties,  
23 the attorney general shall make a written determination on whether a  
24 violation of chapter 59.20 RCW has occurred. If an agreement has been  
25 negotiated following a formal investigation, the parties shall enter  
26 into a written settlement agreement signed by both parties. The  
27 attorney general shall retain a copy of the settlement agreement. A  
28 violation of the settlement agreement is a violation of chapter 59.20  
29 RCW and is subject to fines and other penalties as described under this  
30 chapter.

31 (a) If the attorney general finds by a written determination that  
32 a violation of chapter 59.20 RCW has occurred, the attorney general  
33 shall deliver a written notice of violation to the respondent who  
34 committed the violation by certified mail. The notice of violation  
35 must specify the violation, the corrective action required, the time  
36 within which the corrective action must be taken, the penalties  
37 including fines, other penalties, and actions that will result if  
38 corrective action is not taken within the specified time period, and

1 the process for contesting the determination, fines, penalties, and  
2 other actions included in the notice of violation through an  
3 administrative hearing. The attorney general must deliver to the  
4 complainant a copy of the notice of violation by certified mail.

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

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

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

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

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

3 (c) Reasonable action necessary to correct a statutory or rule  
4 violation.

5 (8) A complainant or respondent may request an administrative  
6 hearing before an administrative law judge under chapter 34.05 RCW to  
7 contest:

8 (a) A notice of violation issued under subsection (5)(a) of this  
9 section or a notice of nonviolation issued under subsection (5)(b) of  
10 this section;

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

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

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

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

24 (10) The administrative law judge appointed under chapter 34.12 RCW  
25 shall:

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

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

29 (c) Enter an appropriate order within thirty days after the close  
30 of the hearing and immediately mail copies of the order to the affected  
31 parties.

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

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

1 (12) All receipts from the imposition of fines or other penalties  
2 collected under this section other than those due to a complainant must  
3 be deposited into the manufactured/mobile home dispute resolution  
4 program account created in RCW 59.30.070.

5 (13) This section is not exclusive and does not limit the right of  
6 landlords or tenants to take legal action against another party as  
7 provided in chapter 59.20 RCW or otherwise. Exhaustion of the  
8 administrative remedy provided in this chapter is not required before  
9 a landlord or tenants may bring a legal action. This section does not  
10 apply to unlawful detainer actions initiated under RCW 59.20.080 prior  
11 to the filing and service of an unlawful detainer court action;  
12 however, a tenant is not precluded from seeking relief under this  
13 chapter if the complaint claims the notice of termination violates RCW  
14 59.20.080 prior to the filing and service of an unlawful detainer  
15 action.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 59.30 RCW  
17 to read as follows:

18 If, during the course of a formal investigation that is based on a  
19 prior written complaint, the attorney general becomes aware of a  
20 potential violation of chapter 59.20 RCW that affects the health,  
21 safety, or welfare of the manufactured/mobile home community and the  
22 potential violation is not the subject of the written complaint, the  
23 attorney general may investigate the potential violation and issue a  
24 notice of violation or notice of nonviolation or a cease and desist  
25 order as set forth in this chapter. A respondent who receives a notice  
26 of violation or a cease and desist order pursuant to an investigation  
27 initiated under this section may request a hearing pursuant to RCW  
28 59.30.040.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 59.30 RCW  
30 to read as follows:

31 The attorney general shall adopt rules for the uniform  
32 administration of the processes and procedures created under this  
33 chapter, including rules for conducting informal dispute resolution and  
34 formal investigations, making written determinations, and the processes

1 for appeal. All rules must be adopted following the procedures under  
2 chapter 34.05 RCW.

--- END ---