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SENATE BILL 6309

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Sheldon and Benton

Read first time 01/20/14. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to legal fees and costs affiliated with notice of  
2 violation review under the manufactured/mobile home dispute resolution  
3 program; amending RCW 59.30.040; and adding a new section to chapter  
4 59.30 RCW.

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

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

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

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

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

16 (b) If a statutory time period is applicable, inform the  
17 complainant of the time frame that the respondent has to remedy the  
18 complaint under RCW 59.20.080 for tenant violations or RCW 59.20.200  
19 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 the alleged violations at its discretion and,  
4 if appropriate, facilitating negotiations between the complainant and  
5 the respondent.

6 (4)(a) Complainants and respondents shall cooperate with the  
7 attorney general in the course of an investigation by (i) responding to  
8 subpoenas issued by the attorney general, which may consist of  
9 providing access to papers or other documents, and (ii) providing  
10 access to the manufactured/mobile home facilities relevant to the  
11 investigation. Complainants and respondents must respond to attorney  
12 general subpoenas within thirty days.

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

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

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

31 (b) If the attorney general finds by a written determination that  
32 a violation of chapter 59.20 RCW has not occurred, the attorney general  
33 shall deliver a written notice of nonviolation to both the complainant  
34 and the respondent by certified mail. The notice of nonviolation must  
35 include the process for contesting the determination included in the  
36 notice of nonviolation through an administrative hearing.

37 (6) Corrective action must take place within fifteen business days  
38 of the respondent's receipt of a notice of violation, except as

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

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

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

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

28 (c) Reasonable action necessary to correct a statutory or rule  
29 violation.

30 (8) A complainant or respondent may request an administrative  
31 hearing before an administrative law judge under chapter 34.05 RCW to  
32 contest:

33 (a) A notice of violation issued under subsection (5)(a) of this  
34 section or a notice of nonviolation issued under subsection (5)(b) of  
35 this section;

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

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

3 The complainant or respondent must request an administrative  
4 hearing within fifteen business days of receipt of a notice of  
5 violation, notice of nonviolation, fine, other penalty, order, or  
6 action. If an administrative hearing is not requested within this time  
7 period, the notice of violation, notice of nonviolation, fine, other  
8 penalty, order, or action constitutes a final order of the attorney  
9 general and is not subject to review by any court or agency.

10 ~~((If an administrative hearing is initiated, the respondent and  
11 complainant shall each bear the cost of his or her own legal expenses.~~

12 ~~(+10+))~~ The administrative law judge appointed under chapter 34.12  
13 RCW shall:

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

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

17 (c) Enter an appropriate order within thirty days after the close  
18 of the hearing and immediately mail copies of the order to the affected  
19 parties.

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

23 ~~((+11+))~~ (10) When the attorney general imposes a fine, refund, or  
24 other penalty against a respondent, the respondent may not seek any  
25 recovery or reimbursement of the fine, refund, or other penalty from a  
26 complainant or from other manufactured/mobile home tenants.

27 ~~((+12+))~~ (11) All receipts from the imposition of fines or other  
28 penalties collected under this section other than those due to a  
29 complainant must be deposited into the manufactured/mobile home dispute  
30 resolution program account created in RCW 59.30.070.

31 ~~((+13+))~~ (12) This section is not exclusive and does not limit the  
32 right of landlords or tenants to take legal action against another  
33 party as provided in chapter 59.20 RCW or otherwise. Exhaustion of the  
34 administrative remedy provided in this chapter is not required before  
35 a landlord or tenants may bring a legal action. This section does not  
36 apply to unlawful detainer actions initiated under RCW 59.20.080 prior  
37 to the filing and service of an unlawful detainer court action;  
38 however, a tenant is not precluded from seeking relief under this

1 chapter if the complaint claims the notice of termination violates RCW  
2 59.20.080 prior to the filing and service of an unlawful detainer  
3 action.

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

6 In any administrative or judicial review of any notice of violation  
7 issued by the attorney general under RCW 59.30.040, the prevailing  
8 party is entitled to reasonable attorneys' fees and costs.

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