
HOUSE BILL 2799

State of Washington

64th Legislature

2016 Regular Session

By Representatives McBride, Robinson, Zeiger, Ormsby, Gregerson, Orwall, Goodman, Tharinger, Tarleton, and Appleton

Read first time 01/20/16. Referred to Committee on Judiciary.

1 AN ACT Relating to the sale of manufactured/mobile home
2 communities; amending RCW 59.20.030 and 82.45.010; adding new
3 sections to chapter 59.20 RCW; creating a new section; and
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) It is the policy of this state to encourage affordable
8 housing ownership, including manufactured/mobile home community
9 living.

10 (b) Manufactured/mobile home communities provide a significant
11 source of homeownership opportunities for Washington residents.
12 However, the increasing closure and conversion of manufactured/mobile
13 home communities to other uses, combined with increasing
14 manufactured/mobile home lot rents, low vacancy rates in existing
15 manufactured/mobile home communities, and the extremely high cost of
16 moving homes when manufactured/mobile home communities close,
17 increasingly make manufactured/mobile home community living insecure
18 for manufactured/mobile home tenants.

19 (c) Many tenants who reside in manufactured/mobile home
20 communities are part of low-income households and senior citizens and
21 are, therefore, those residents most in need of reasonable security

1 in the siting of their manufactured/mobile homes because such tenants
2 experience adverse impacts on their health, safety, and welfare when
3 forced to move due to closure, change of use, or discontinuance of
4 manufactured/mobile home communities.

5 (2) It is the intent of the legislature to encourage and
6 facilitate the preservation of existing manufactured/mobile home
7 communities in the event of voluntary sales of manufactured/mobile
8 home communities and, to the extent necessary and possible, to
9 involve manufactured/mobile home community tenants or an eligible
10 organization, such as a nonprofit organization, housing authority,
11 community land trust, or local government, in the preservation of
12 manufactured/mobile home communities.

13 **Sec. 2.** RCW 59.20.030 and 2008 c 116 s 2 are each amended to
14 read as follows:

15 For purposes of this chapter:

16 (1) "Abandoned" as it relates to a mobile home, manufactured
17 home, or park model owned by a tenant in a mobile home park, mobile
18 home park cooperative, or mobile home park subdivision or tenancy in
19 a mobile home lot means the tenant has defaulted in rent and by
20 absence and by words or actions reasonably indicates the intention
21 not to continue tenancy;

22 (2) "Eligible organization" includes local governments, local
23 housing authorities, nonprofit community or neighborhood-based
24 organizations, federally recognized Indian tribes in the state of
25 Washington, and regional or statewide nonprofit housing assistance
26 organizations;

27 (3) "Housing authority" or "authority" means any of the public
28 body corporate and politic created in RCW 35.82.030;

29 (4) "Landlord" means the owner of a mobile home park and includes
30 the agents of a landlord;

31 (5) "Local government" means a town government, city government,
32 code city government, or county government in the state of
33 Washington;

34 (6) "Manufactured home" means a single-family dwelling built
35 according to the United States department of housing and urban
36 development manufactured home construction and safety standards act,
37 which is a national preemptive building code. A manufactured home
38 also: (a) Includes plumbing, heating, air conditioning, and
39 electrical systems; (b) is built on a permanent chassis; and (c) can

1 be transported in one or more sections with each section at least
2 eight feet wide and forty feet long when transported, or when
3 installed on the site is three hundred twenty square feet or greater;

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

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

14 (9) "Mobile home lot" means a portion of a mobile home park or
15 manufactured housing community designated as the location of one
16 mobile home, manufactured home, or park model and its accessory
17 buildings, and intended for the exclusive use as a primary residence
18 by the occupants of that mobile home, manufactured home, or park
19 model;

20 (10) "Mobile home park," "manufactured housing community," or
21 "manufactured/mobile home community" means any real property which is
22 rented or held out for rent to others for the placement of two or
23 more mobile homes, manufactured homes, or park models for the primary
24 purpose of production of income, except where such real property is
25 rented or held out for rent for seasonal recreational purpose only
26 and is not intended for year-round occupancy;

27 (11) "Mobile home park cooperative" or "manufactured housing
28 cooperative" means real property consisting of common areas and two
29 or more lots held out for placement of mobile homes, manufactured
30 homes, or park models in which both the individual lots and the
31 common areas are owned by an association of shareholders which leases
32 or otherwise extends the right to occupy individual lots to its own
33 members;

34 (12) "Mobile home park subdivision" or "manufactured housing
35 subdivision" means real property, whether it is called a subdivision,
36 condominium, or planned unit development, consisting of common areas
37 and two or more lots held for placement of mobile homes, manufactured
38 homes, or park models in which there is private ownership of the
39 individual lots and common, undivided ownership of the common areas
40 by owners of the individual lots;

1 (13) "Notice of sale" means a notice required under RCW 59.20.300
2 to be delivered to all tenants of a manufactured/mobile home
3 community and other specified parties within fourteen days after the
4 date on which any advertisement, multiple listing, or public notice
5 advertises that a manufactured/mobile home community is for sale;

6 (14) "Park model" means a recreational vehicle intended for
7 permanent or semi-permanent installation and is used as a primary
8 residence;

9 (15) "Qualified sale of manufactured/mobile home community" means
10 the sale, as defined in RCW 82.45.010, of land and improvements
11 comprising a manufactured/mobile home community that is transferred
12 in a single purchase to a qualified tenant organization or to an
13 eligible organization for the purpose of preserving the property as a
14 manufactured/mobile home community;

15 (16) "Qualified tenant organization" means a formal organization
16 of tenants within a manufactured/mobile home community, with the only
17 requirement for membership consisting of being a tenant;

18 (17) "Recreational vehicle" means a travel trailer, motor home,
19 truck camper, or camping trailer that is primarily designed and used
20 as temporary living quarters, is either self-propelled or mounted on
21 or drawn by another vehicle, is transient, is not occupied as a
22 primary residence, and is not immobilized or permanently affixed to a
23 mobile home lot;

24 (18) "Tenant" means any person, except a transient, who rents a
25 mobile home lot;

26 (19) "Transient" means a person who rents a mobile home lot for a
27 period of less than one month for purposes other than as a primary
28 residence;

29 (20) "Occupant" means any person, including a live-in care
30 provider, other than a tenant, who occupies a mobile home,
31 manufactured home, or park model and mobile home lot;

32 (21) "Notice of opportunity to purchase" means a notice required
33 under section 3 of this act to be delivered to all specified parties
34 within two days after the date on which a landlord receives any offer
35 to purchase his or her manufactured/mobile home community.

36 NEW SECTION. Sec. 3. A new section is added to chapter 59.20
37 RCW to read as follows:

38 (1) A landlord must provide a written notice of opportunity to
39 purchase a manufactured/mobile home community by certified mail or

1 personal delivery to all eligible organizations on the list
2 maintained by the department of commerce pursuant to section 5 of
3 this act.

4 (2) A notice of opportunity to purchase must include:

5 (a) A statement that the landlord intends to sell the
6 manufactured/mobile home community;

7 (b) The contact information for the landlord or landlord's agent
8 who is responsible for communicating with the qualified tenant
9 organization or eligible organization regarding the sale of the
10 property; and

11 (c) The terms of any offer or agreement for the purchase and sale
12 of the manufactured/mobile home community, including the terms of any
13 seller financing.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 59.20
15 RCW to read as follows:

16 (1) Except as provided in subsection (2) of this section, a
17 landlord may not close on the sale of his or her manufactured/mobile
18 home community until one hundred twenty days after the date on which
19 the notice of opportunity to purchase was delivered.

20 (2) During the period of one hundred twenty days after delivery
21 of a notice of opportunity to purchase, a landlord may sell his or
22 her manufactured/mobile home community to either a qualified tenant
23 organization or an eligible organization.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 59.20
25 RCW to read as follows:

26 (1) The department of commerce must maintain a list of all
27 eligible organizations that submit to the department of commerce a
28 written request to receive notices of opportunity to purchase
29 manufactured/mobile home communities, as provided in section 3 of
30 this act, containing the following information:

31 (a) The name and mailing address of the eligible organization;
32 and

33 (b) A statement that the eligible organization wishes to purchase
34 a manufactured/mobile home community.

35 (2) The department of commerce must provide a copy of the list
36 required under this section to any person upon request.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 59.20
2 RCW to read as follows:

3 (1) A landlord who sells or transfers a manufactured/mobile home
4 community and willfully fails to comply with section 3 or 4 of this
5 act is liable to the state of Washington in the amount of five
6 thousand dollars or five percent of the total sales price, whichever
7 is greater. This penalty is the exclusive remedy for a violation of
8 section 3 or 4 of this act.

9 (2) The attorney general may bring a civil action in superior
10 court in the name of the state against a landlord under this section.

11 **Sec. 7.** RCW 82.45.010 and 2014 c 58 s 24 are each amended to
12 read as follows:

13 (1) As used in this chapter, the term "sale" has its ordinary
14 meaning and includes any conveyance, grant, assignment, quitclaim, or
15 transfer of the ownership of or title to real property, including
16 standing timber, or any estate or interest therein for a valuable
17 consideration, and any contract for such conveyance, grant,
18 assignment, quitclaim, or transfer, and any lease with an option to
19 purchase real property, including standing timber, or any estate or
20 interest therein or other contract under which possession of the
21 property is given to the purchaser, or any other person at the
22 purchaser's direction, and title to the property is retained by the
23 vendor as security for the payment of the purchase price. The term
24 also includes the grant, assignment, quitclaim, sale, or transfer of
25 improvements constructed upon leased land.

26 (2)(a) The term "sale" also includes the transfer or acquisition
27 within any twelve-month period of a controlling interest in any
28 entity with an interest in real property located in this state for a
29 valuable consideration.

30 (b) For the sole purpose of determining whether, pursuant to the
31 exercise of an option, a controlling interest was transferred or
32 acquired within a twelve-month period, the date that the option
33 agreement was executed is the date on which the transfer or
34 acquisition of the controlling interest is deemed to occur. For all
35 other purposes under this chapter, the date upon which the option is
36 exercised is the date of the transfer or acquisition of the
37 controlling interest.

38 (c) For purposes of this subsection, all acquisitions of persons
39 acting in concert must be aggregated for purposes of determining

1 whether a transfer or acquisition of a controlling interest has taken
2 place. The department must adopt standards by rule to determine when
3 persons are acting in concert. In adopting a rule for this purpose,
4 the department must consider the following:

5 (i) Persons must be treated as acting in concert when they have a
6 relationship with each other such that one person influences or
7 controls the actions of another through common ownership; and

8 (ii) When persons are not commonly owned or controlled, they must
9 be treated as acting in concert only when the unity with which the
10 purchasers have negotiated and will consummate the transfer of
11 ownership interests supports a finding that they are acting as a
12 single entity. If the acquisitions are completely independent, with
13 each purchaser buying without regard to the identity of the other
14 purchasers, then the acquisitions are considered separate
15 acquisitions.

16 (3) The term "sale" does not include:

17 (a) A transfer by gift, devise, or inheritance.

18 (b) A transfer by transfer on death deed, to the extent that it
19 is not in satisfaction of a contractual obligation of the decedent
20 owed to the recipient of the property.

21 (c) A transfer of any leasehold interest other than of the type
22 mentioned above.

23 (d) A cancellation or forfeiture of a vendee's interest in a
24 contract for the sale of real property, whether or not such contract
25 contains a forfeiture clause, or deed in lieu of foreclosure of a
26 mortgage.

27 (e) The partition of property by tenants in common by agreement
28 or as the result of a court decree.

29 (f) The assignment of property or interest in property from one
30 spouse or one domestic partner to the other spouse or other domestic
31 partner in accordance with the terms of a decree of dissolution of
32 marriage or state registered domestic partnership or in fulfillment
33 of a property settlement agreement.

34 (g) The assignment or other transfer of a vendor's interest in a
35 contract for the sale of real property, even though accompanied by a
36 conveyance of the vendor's interest in the real property involved.

37 (h) Transfers by appropriation or decree in condemnation
38 proceedings brought by the United States, the state or any political
39 subdivision thereof, or a municipal corporation.

1 (i) A mortgage or other transfer of an interest in real property
2 merely to secure a debt, or the assignment thereof.

3 (j) Any transfer or conveyance made pursuant to a deed of trust
4 or an order of sale by the court in any mortgage, deed of trust, or
5 lien foreclosure proceeding or upon execution of a judgment, or deed
6 in lieu of foreclosure to satisfy a mortgage or deed of trust.

7 (k) A conveyance to the federal housing administration or
8 veterans administration by an authorized mortgagee made pursuant to a
9 contract of insurance or guaranty with the federal housing
10 administration or veterans administration.

11 (l) A transfer in compliance with the terms of any lease or
12 contract upon which the tax as imposed by this chapter has been paid
13 or where the lease or contract was entered into prior to the date
14 this tax was first imposed.

15 (m) The sale of any grave or lot in an established cemetery.

16 (n) A sale by the United States, this state or any political
17 subdivision thereof, or a municipal corporation of this state.

18 (o) A sale to a regional transit authority or public corporation
19 under RCW 81.112.320 under a sale/leaseback agreement under RCW
20 81.112.300.

21 (p) A transfer of real property, however effected, if it consists
22 of a mere change in identity or form of ownership of an entity where
23 there is no change in the beneficial ownership. These include
24 transfers to a corporation or partnership which is wholly owned by
25 the transferor and/or the transferor's spouse or domestic partner or
26 children of the transferor or the transferor's spouse or domestic
27 partner. However, if thereafter such transferee corporation or
28 partnership voluntarily transfers such real property, or such
29 transferor, spouse or domestic partner, or children of the transferor
30 or the transferor's spouse or domestic partner voluntarily transfer
31 stock in the transferee corporation or interest in the transferee
32 partnership capital, as the case may be, to other than (i) the
33 transferor and/or the transferor's spouse or domestic partner or
34 children of the transferor or the transferor's spouse or domestic
35 partner, (ii) a trust having the transferor and/or the transferor's
36 spouse or domestic partner or children of the transferor or the
37 transferor's spouse or domestic partner as the only beneficiaries at
38 the time of the transfer to the trust, or (iii) a corporation or
39 partnership wholly owned by the original transferor and/or the
40 transferor's spouse or domestic partner or children of the transferor

1 or the transferor's spouse or domestic partner, within three years of
2 the original transfer to which this exemption applies, and the tax on
3 the subsequent transfer has not been paid within sixty days of
4 becoming due, excise taxes become due and payable on the original
5 transfer as otherwise provided by law.

6 (q)(i) A transfer that for federal income tax purposes does not
7 involve the recognition of gain or loss for entity formation,
8 liquidation or dissolution, and reorganization, including but not
9 limited to nonrecognition of gain or loss because of application of
10 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
11 revenue code of 1986, as amended.

12 (ii) However, the transfer described in (q)(i) of this subsection
13 cannot be preceded or followed within a twelve-month period by
14 another transfer or series of transfers, that, when combined with the
15 otherwise exempt transfer or transfers described in (q)(i) of this
16 subsection, results in the transfer of a controlling interest in the
17 entity for valuable consideration, and in which one or more persons
18 previously holding a controlling interest in the entity receive cash
19 or property in exchange for any interest the person or persons acting
20 in concert hold in the entity. This subsection (3)(q)(ii) does not
21 apply to that part of the transfer involving property received that
22 is the real property interest that the person or persons originally
23 contributed to the entity or when one or more persons who did not
24 contribute real property or belong to the entity at a time when real
25 property was purchased receive cash or personal property in exchange
26 for that person or persons' interest in the entity. The real estate
27 excise tax under this subsection (3)(q)(ii) is imposed upon the
28 person or persons who previously held a controlling interest in the
29 entity.

30 (r) A qualified sale of a manufactured/mobile home community, as
31 defined in RCW 59.20.030, that takes place on or after June 12,
32 2008(~~(, but before December 31, 2018)~~).

33 NEW SECTION. **Sec. 8.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

--- END ---