

# HOUSE BILL REPORT

## HB 1798

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**As Reported by House Committee On:**  
Judiciary

**Title:** An act relating to the sale of manufactured/mobile home communities.

**Brief Description:** Concerning the sale of manufactured/mobile home communities.

**Sponsors:** Representatives McBride, Gregerson, Robinson, Appleton, Ormsby, Macri, McDonald, Orwall, Reeves, Kagi, Sells, Bergquist and Pollet.

**Brief History:**

**Committee Activity:**

Judiciary: 2/8/17, 2/16/17, 1/10/18, 2/1/18 [DPS].

**Brief Summary of Substitute Bill**

- Requires landlords, under the Manufactured/Mobile Home Landlord-Tenant Act, to provide a written notice of opportunity to purchase to the Department of Commerce within 10 days after receipt of a bona fide offer to purchase.
- Encourages landlords to wait to close on the sale of a manufactured/mobile home community until 75 days after delivery of the notice of opportunity to purchase.
- Extends the complete exemption from the real estate excise tax (REET) for a qualified sale of a manufactured/mobile home community from December 31, 2018, to December 31, 2026.
- Reduces the REET for sales that are not qualified sales (and therefore not exempt) if the seller provides satisfactory evidence that he or she complied with the notice requirement, indicated that he or she would wait at least 75 days before closing, and did in fact wait that length of time before closing.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Jinkins, Chair; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Muri, Orwall and Valdez.

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*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.*

**Minority Report:** Do not pass. Signed by 2 members: Representatives Klippert and Shea.

**Staff:** Cece Clynch (786-7195).

**Background:**

A landlord must provide a written notice of sale of a manufactured/mobile home community, by certified mail or personal delivery, to:

- each tenant in the community;
- the officers of any known qualified tenant organization, defined as a formal organization of tenants within a manufactured/mobile home community, with the only requirement for membership consisting of being a tenant;
- the Office of Mobile/Manufactured Home Relocation Assistance in the Department of Commerce;
- the local government and the local housing authority within whose jurisdiction all or part of the community exists; and
- the Washington State Housing Finance Commission.

The notice of sale must be delivered within 14 days after the date on which any advertisement, multiple listing, or public notice advertises that a manufactured/mobile home community is for sale. The notice must include a statement that the landlord intends to sell the community and the contact information of the landlord or landlord's agent who is responsible for communicating with the qualified tenant organization or eligible organization. "Eligible organization" includes local governments, local housing authorities, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state, and regional or statewide nonprofit housing assistance organizations.

A landlord intending to sell a manufactured/mobile home community is encouraged to negotiate in good faith with qualified tenant organizations and eligible organizations. A sale of a manufactured/mobile home community to a qualified tenant organization or an eligible organization is a qualified sale. A qualified sale that takes place between June 12, 2008, and December 31, 2018, is exempt from the state and local real estate excise tax of 1.28 percent of the selling price

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**Summary of Substitute Bill:**

Within 10 business days after receiving a bona fide purchase offer, a landlord must provide written notice of opportunity to purchase (notice), by certified mail or personal delivery, to the Department of Commerce (Department). This notice must include:

- a statement that the landlord is, or is not, considering the sale of the community;
- a statement indicating whether or not the landlord intends to wait to close any sale until at least 75 days after the date of delivery of the notice; and
- contact information for the landlord or the landlord's agent who is responsible for communicating with the qualified tenant organization or eligible organization regarding an opportunity to make an offer for the sale of the property.

A landlord is encouraged not to close on a sale of a manufactured/mobile home community until at least 75 days after the date on which the notice was delivered.

Eligible organizations and qualified tenant organizations may submit to the Department a written request to receive notices. The Department is required to keep a list of those making such a request and to furnish this to any person that asks for it.

The expiration date of the complete exemption from the state and local real estate excise tax (REET) for qualified sales is extended to December 31, 2026. The REET on a sale of a manufactured/mobile home community to a person other than an eligible organization or qualified tenant organization is reduced to 0.64 percent if the seller provides satisfactory evidence that he or she: complied with the notice requirement; included a statement on the notice expressing an intention to wait at least 75 days to close; and waited at least 75 days to close.

A severability clause is included, providing that if any provisions of the act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill makes the following additions and changes:

- encourages, rather than mandates, that a landlord wait a certain number of days after delivering the notice of opportunity to purchase before closing on a sale, and changes the number of days to 75 days rather than 90 days;
- continues to require that a landlord provide to the Department of Commerce a written notice of opportunity to purchase a manufactured/mobile home community, but requires delivery within 10 days rather than three, and additionally requires that the notice include a statement as to whether the landlord intends to wait at least 75 days to close;
- strikes the entire penalty provision;
- strikes the provision that increased the real estate excise tax (REET) to 5.12 percent for sales other than "qualified sales"; and
- includes a reduced REET rate (0.64 percent rather than 1.28 percent) for sales that are not "qualified sales" if the seller provides satisfactory evidence that he or she complied with the notice requirement, included a statement on that notice of an intention to wait at least 75 days to close, and did in fact wait 75 days to close.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 1, 2018.

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

**Staff Summary of Public Testimony:**

(In support) Several years ago, the only mobile home park in Kirkland was sold. Neither the local government nor any tenant organization knew of the sale until it was too late. This park was an amazing and diverse community, full of children, veterans, and young families. This bill will not require that a park owner sell to anyone in particular. Rather, it requires notice. With notice, a local government or a tenant organization can perhaps make arrangements to buy the park, as King County did recently in one situation and thereby saved that community. It is a different bill than last year. Transparency is important. The residents should be made aware that there is a risk that their park will be sold. It is important that these parks be maintained so that people have an opportunity to live in a home in geographic areas that are otherwise unaffordable. One retiree moved into a park to care for her mother, and then after she lost her job and her mother died she decided to stay in the park with its helpful and diverse community of people. Continuation of the real estate excise tax (REET) exemption is important as it may help facilitate sales to nonprofits and thereby stabilize the living situation of residents of the park. Several states have already done this, including Oregon. Historically, there has been a debate about this bill and whether it is constitutional, but as the attorney's letter to the committee makes clear this bill is constitutional. There are thousands of households that will benefit from this bill. Two persons who testified on the bill last year were threatened and received eviction notices; it is not known whether these were directly related to their testimony but some mobile home park owners are afraid to testify on this bill because they fear retaliation. For one and one-half years, the residents of one park have been trying to find support to purchase their park. If this can be accomplished, it would provide security to many vulnerable people, including children. There must be a just solution for park owners and tenants. The Department of Commerce (Department) reports that between 2007 and November of 2016, 90 mobile home communities were sold, displacing 1,806 residential units. In 2017, 200 more were in the same situation, and already in 2018 there are over 200 on the list to be sold. There are over 1,600 parks in Washington, with about 75,000 residents.

(Opposed) This will place an additional burden on a single source, that being park owners. There is already a notice that is sent regarding sale. That is enough. The committee members should have received a letter from one attorney focusing on two cases in particular, and questioning the constitutionality of this bill in light of those cases. Any attorney who proclaims that this is absolutely constitutional is posturing. One park owner receives purchase offers all of the time, despite the fact that the owner has no intention of selling. Under this bill, the owner would nevertheless have to notify the Department quite often. This requirement is an egregious invasion of privacy. The higher REET imposed on sales to persons other than qualified organizations will really hurt. People will not want to invest in this type of property anymore. Moreover, if money is lost on the purchase and sale, that is likely to result in higher rents. Many parks are old and difficult to sell. This bill would cause closure instead of sale because it would make it more worthwhile to convert it to a higher and better use. Property rights are at the core of the federal and state constitutions, and this bill takes rights away. Currently, no one is prevented from making an offer to purchase a park at any time, and it is ludicrous to think that one person or entity will only want to buy a park if someone else has already made an offer. There are a number of terms that are not defined in the bill, which will lead to litigation.

**Persons Testifying:** (In support) Representative McBride, prime sponsor; Don Carlson, Deborah Bartos, Joanna Crocker, and Ishbel Dickens, Association of Manufactured Home

Owners; Crisanto Medina and Cruz Medina, Firs Home Owners Association; and John Dawson, Manufactured Home Owners Association.

(Opposed) Tony Branson, Robert Cochran, and Beau Harer, Manufactured Housing Communities of Washington.

**Persons Signed In To Testify But Not Testifying:** None.