

HOUSE BILL REPORT

HB 2610

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to the sale or lease of manufactured/mobile home communities and the property on which they sit.

Brief Description: Concerning the sale or lease of manufactured/mobile home communities and the property on which they sit.

Sponsors: Representatives Duerr, Ramel, Kloba, Appleton, Walen, Harris, Ryu, Gregerson, Doglio, Dolan, Valdez, Tharinger, Santos, Pollet and Macri.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/31/20, 2/5/20 [DP].

Brief Summary of Bill

- Amends the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA) as follows:
 - requires landlords to provide notices of opportunity to purchase with respect to the sale or lease of a manufactured/mobile home community;
 - provides certain organizations and associations a fixed period of time within which to express intent to purchase or lease and make an offer, during which time the landlord shall not make a final unconditional acceptance of an offer from others;
 - requires, rather than encourages, landlords to negotiate in good faith; and
 - imposes civil penalties for failure to comply.
- Adds and amends definitions and terms.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Kilduff, Chair; Thai, Vice Chair; Goodman, Hansen, Kirby, Orwall, Peterson, Valdez and Walen.

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 4 members: Representatives Dufault, Assistant Ranking Minority Member; Klippert, Rude and Ybarra.

Staff: Cece Clynch (786-7195).

Background:

Pursuant to the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA), 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, 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 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 a qualified tenant organization or eligible organization regarding the sale of the property. The MHLTA defines these organizations as follows:

- "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.
- "Qualified tenant organization" means a formal organization of tenants within a manufactured/mobile home community, with the only requirement for membership consisting of being a tenant.

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 from January 1, 2020, through December 31, 2029, is exempt from the state and local real estate excise tax of 1.28 percent of the selling price.

Summary of Bill:

Terms and Definitions.

The following changes and additions are made with respect to terms and definitions under the Manufactured/Mobile Home Landlord-Tenant Act:

- "Eligible organization" also includes community land trusts and resident nonprofit cooperatives.
- The definition of "notice of sale" is amended to mean a notice required to be delivered to all tenants of a community and other specified parties within 14 days after the date on which any advertisement, listing (rather than multiple listing), or public notice is first made advertising that the community, or the property on which it sits, is for sale or lease (rather than just sale).
- A new term, "notice of opportunity to purchase," is added, as explained more fully below.
- "Qualified tenant organization" is renamed "homeowners' association," but the definition remains the same.
- A new term, "resident nonprofit cooperative," is added and defined as a nonprofit cooperative corporation formed by a group of manufactured/mobile home community residents for the purpose of acquiring the community in which they reside and converting the community to a mobile home park cooperative or manufactured housing cooperative.

Notice of Opportunity to Purchase.

In addition to requirements related to the notice of sale, a landlord must provide a written notice of opportunity to purchase a community to each tenant, the Department of Commerce (Commerce), and the Housing Finance Commission within:

- three days after the date on which a landlord receives a bona fide offer to purchase or lease the community or the property on which it is located; or
- 14 days after the date on which any advertisement, listing, or public notice is first made that the community, or property on which it sits, is for sale or lease.

A notice of opportunity to purchase must include:

- a statement that the landlord is, or is not, considering the sale or lease of the community or the property on which it sits;
- a statement that:
 - homeowners' associations and eligible organizations have 45 days from the date of delivery or postmark to provide the landlord with notice of intent to consider purchasing or leasing the manufactured/mobile home park (park), during which time the landlord shall not make a final acceptance of an offer to purchase or lease the park; and
 - if notice of intent is provided to the landlord within that time that the landlord shall not make a final unconditional acceptance of an offer to purchase or lease the park from a person or entity other than a homeowners' association or eligible organization for an additional 120 days; and
- the contact information for the landlord or agent who is responsible for communication regarding the opportunity to make an offer.

A notice of opportunity to purchase is not required with respect to a sale, transfer, conveyance, or lease where the transaction is due to foreclosure, incidental to financing, pursuant to a tax sale, between joint tenants or tenants in common, among partners or shareholders who own the community, or to a member of the owner's family or to a trust for the sole benefit of members of the owner's family.

If, within 45 days of delivery or postmark of this new notice, the landlord receives notice from a homeowners' association or eligible organization expressing an intent to consider purchasing or leasing the community, the landlord shall not make a final unconditional acceptance of an offer to purchase or lease the park from a person or entity other than a homeowners' association or eligible organization for an additional 120 days. If no such association or organization provides notice of intent within 45 days, the landlord is not subject to the additional 120-day restriction on sale.

Landlords are required, rather than encouraged, to negotiate in good faith with homeowners' associations and eligible organizations.

Commerce must maintain a list of all homeowners' associations and eligible organizations that submit a written request to receive notices of opportunity to purchase and must provide a copy of the list to any person upon request.

Landlords who willfully fail to comply with the notice, waiting period, or good faith requirements are liable to the state for a civil penalty in the amount of \$10,000 or 10 percent of the total sale price, whichever is greater. The Attorney General is authorized to bring such an action.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) There is a housing affordability and a homelessness crisis. In some communities the only affordable housing is in manufactured/mobile home communities. It is much cheaper to preserve housing that is already in existence than to rebuild. It is not easy to move a manufactured home. This bill will afford homeowners the opportunity to purchase the communities in which they live, stay in their homes, and will help prevent homelessness.

This bill offers a win/win/win situation. First, the bill allows eligible organizations and homeowners' associations to make an offer to purchase. Second, the bill allows local governments to include these communities as part of their affordable housing stock. And, third, landlords receive a fair price for their property and a real estate excise tax exemption. There is not a requirement that the landlord sell to these organizations, but they are afforded an opportunity to purchase. There is openness to working on a solution to the issue of what constitutes a "bona fide offer" for purposes of triggering the notice of opportunity to purchase. The bill includes realistic time frames.

Many people choose to live in manufactured housing communities because they are more affordable. This does not make these homeowners any less homeowners than those who

reside in stick-built homes. Many of these people would be homeless if it were not for these communities. In the case of stick-built homes, if a developer purchases the land then homeowners receive compensation. In the case of mobile home owners in these manufactured/mobile home communities, the homeowners lose the value of their homes and may also have to pay to have their homes demolished.

From the perspective of a community owner, it is clear that these communities provide affordable housing for veterans, senior citizens, low-income persons, and persons with disabilities. Resident-owned communities do very well and allow persons to age in their homes. Ten years ago, one group of residents went through the cooperative process and purchased the community in which they lived. Since that time, the rent has not gone up. It is still \$390 per month because there is not a need to make a profit.

(Opposed) This bill will introduce great complexity for owners and set the stage for conflicts. There is no definition of what constitutes a "bona fide offer." With this requirement in place, owners might have to repeatedly send out notices of opportunity to purchase, and face penalties if they do not. Owners get unsolicited offers all the time, many of them in the form of postcards, and per this language the notice of opportunity to purchase may be triggered. Upon receipt of such notices from the owners, residents would naturally ask whether the park is for sale and then owners would say no, that the park really is not for sale, but the law requires the owner to issue the notices anyway.

Offers to purchase can be structured in a variety of ways. It may be difficult for an owner, who must under the bill negotiate in good faith, to determine what is the best offer. The language is too vague and broad.

Just the subject of a possible sale causes stress for management and panic on the part of residents. There have been incidents when persons visited one park to determine whether they wanted to purchase a home in the park, and within an hour more than half of the residents called in a panic after jumping to the conclusion that the park was for sale. A tenant group can already put together an offer to purchase anytime. Under this bill, owners receiving an all-cash offer from a purchaser who wants to close in a short time period would lose the opportunity to accept that offer. Owners should not be restricted from selling their property to the person or entity with the highest offer.

Last year, legislation was enacted which put into place some great policies. Also, per last year's legislation, there was a Department of Commerce process put in place with a report due this coming summer that will address some of these very issues that are in this bill. There should not be a rush to pass this bill. Wait for the process to finish.

Persons Testifying: (In support) Representative Duerr, prime sponsor; Ishbel Dickens, Association of Manufactured Home Owners; Duane Love, Canyon Mobile Park; Stacey Valenzuela; and Mary Testa-Smith, Hidden Village Owners Association.

(Opposed) Mike Simonitch, Shelter Property Management; Jamie Nowogroski, Alpine Pioneer; Todd Fisher, Lake Bowman Mobile Home Park; and Bob Schroeter, Manufactured Housing Communities of Washington.

Persons Signed In To Testify But Not Testifying: Joanna Crocker, Association of Manufactured Home Owners; Sam Green, Roc Northwest; Mike Hoover, Detente; John Krumweide; Linda McCoy, Halcyon Mobile Home Park Home Owners Association; Isaac Organista; and Peggy Scarce, Hidden Village Homeowners Association.