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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1461

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State of Washington

60th Legislature

2007 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Morrell, Miloscia, O'Brien, Ericks, Hunt, Sells, Green, Flannigan, Williams, Kenney, Appleton, Ormsby, Quall, Haigh, Hasegawa and Lantz)

READ FIRST TIME 3/5/07.

1 AN ACT Relating to manufactured/mobile home community registrations  
2 and dispute resolution; adding a new section to chapter 34.12 RCW;  
3 adding a new chapter to Title 59 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 there are  
7 factors unique to the relationship between a manufactured/mobile home  
8 tenant and a manufactured/mobile home community landlord. Once  
9 occupancy has commenced, the difficulty and expense in moving and  
10 relocating a manufactured/mobile home can affect the operation of  
11 market forces and lead to an inequality of the bargaining position of  
12 the parties. Once occupancy has commenced, a tenant may be subject to  
13 violations of the manufactured/mobile home landlord-tenant act without  
14 an adequate remedy at law. This chapter is created for the purpose of  
15 protecting the public, fostering fair and honest competition, and  
16 regulating the factors unique to the relationship between the  
17 manufactured/mobile home tenant and the manufactured/mobile home  
18 community landlord.

1 (2) The legislature finds that taking legal action against a  
2 manufactured/mobile home community landlord for violations of the  
3 manufactured/mobile home landlord-tenant act can be a costly and  
4 lengthy process, and that many people cannot afford to pursue a court  
5 process to vindicate statutory rights. Manufactured/mobile home  
6 community landlords will also benefit by having access to a process  
7 that resolves disputes quickly and efficiently.

8 (3)(a) Therefore, it is the intent of the legislature to provide an  
9 equitable as well as a less costly and more efficient way for  
10 manufactured/mobile home tenants and manufactured/mobile home community  
11 landlords to resolve disputes, and to provide a mechanism for state  
12 authorities to quickly locate manufactured/mobile home community  
13 landlords.

14 (b) The legislature intends to authorize the department of  
15 licensing to register manufactured/mobile home communities and collect  
16 a registration fee.

17 (c) The legislature intends to authorize the attorney general to:

18 (i) Produce and distribute educational materials regarding the  
19 manufactured/mobile home landlord-tenant act and the  
20 manufactured/mobile home dispute resolution program created in section  
21 3 of this act;

22 (ii) Administer the dispute resolution program by taking  
23 complaints, conducting investigations, making determinations, issuing  
24 fines and other penalties, and participating in administrative dispute  
25 resolutions, when necessary, when there are alleged violations of the  
26 manufactured/mobile home landlord-tenant act; and

27 (iii) Collect and annually report upon data related to disputes and  
28 violations, and make recommendations on modifying chapter 59.20 RCW, to  
29 the appropriate committees of the legislature.

30 NEW SECTION. **Sec. 2.** For purposes of this chapter:

31 (1) "Complainant" means a landlord, community owner, or tenant, who  
32 has a complaint alleging a violation of chapter 59.20 RCW;

33 (2) "Department" means the department of licensing;

34 (3) "Director" means the director of licensing;

35 (4) "Landlord" or "community owner" means the owner of a mobile  
36 home park or a manufactured housing community and includes the agents  
37 of a landlord;

1 (5) "Manufactured home" means a single-family dwelling built  
2 according to the United States department of housing and urban  
3 development manufactured home construction and safety standards act,  
4 which is a national preemptive building code. A manufactured home  
5 also: (a) Includes plumbing, heating, air conditioning, and electrical  
6 systems; (b) is built on a permanent chassis; and (c) can be  
7 transported in one or more sections with each section at least eight  
8 feet wide and forty feet long when transported, or when installed on  
9 the site is three hundred twenty square feet or greater;

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

17 (7) "Manufactured/mobile home" means either a manufactured home or  
18 a mobile home;

19 (8) "Manufactured/mobile home lot" means a portion of a  
20 manufactured/mobile home community designated as the location of one  
21 mobile home, manufactured home, or park model and its accessory  
22 buildings, and intended for the exclusive use as a primary residence by  
23 the occupants of that mobile home, manufactured home, or park model;

24 (9) "Mobile home park," "manufactured housing community," or  
25 "manufactured/mobile home community" means any real property that is  
26 rented or held out for rent to others for the placement of two or more  
27 mobile homes, manufactured homes, park models, or recreational vehicles  
28 for the primary purpose of production of income, except where the real  
29 property is rented or held out for rent for seasonal recreational  
30 purposes only and is not used for year-round occupancy;

31 (10) "Owner" means one or more persons, jointly or severally, in  
32 whom is vested:

33 (a) All or part of the legal title to the real property; or

34 (b) All or part of the beneficial ownership, and a right to present  
35 use and enjoyment of the real property;

36 (11) "Park model" means a recreational vehicle intended for  
37 permanent or semi-permanent installation and is used as a permanent  
38 residence;

1 (12) "Recreational vehicle" means a travel trailer, motor home,  
2 truck camper, or camping trailer that is primarily used as a permanent  
3 residence located in a mobile home park or manufactured housing  
4 community;

5 (13) "Respondent" means a landlord, community owner, or tenant,  
6 alleged to have committed violation of chapter 59.20 RCW;

7 (14) "Tenant" means any person, except a transient as defined in  
8 RCW 59.20.030, who rents a mobile home lot.

9 NEW SECTION. **Sec. 3.** (1) The attorney general shall administer a  
10 manufactured/mobile home dispute resolution program.

11 (2) The purpose of the manufactured/mobile home dispute resolution  
12 program is to provide manufactured/mobile home community landlords and  
13 tenants with a cost-effective and time-efficient process to resolve  
14 disputes regarding alleged violations of the manufactured/mobile home  
15 landlord-tenant act.

16 (3) The attorney general under the manufactured/mobile home dispute  
17 resolution program shall:

18 (a) Produce educational materials regarding chapter 59.20 RCW and  
19 the manufactured/mobile home dispute resolution program, including a  
20 notice in a format that a landlord can reasonably post in a  
21 manufactured/mobile home community that summarizes tenant rights and  
22 responsibilities, includes information on how to file a complaint with  
23 the attorney general, and includes a toll-free telephone number and web  
24 site address that landlords and tenants can use to seek additional  
25 information and communicate complaints;

26 (b) Distribute the educational materials described in (a) of this  
27 subsection to all known landlords and information alerting landlords  
28 that:

29 (i) All landlords must post the notice provided by the attorney  
30 general that summarizes tenant rights and responsibilities and includes  
31 information on how to file complaints, in a clearly visible location in  
32 all common areas of manufactured/mobile home communities, including in  
33 each clubhouse;

34 (ii) The attorney general may visually confirm that the notice is  
35 appropriately posted; and

36 (iii) The attorney general may issue a fine or other penalty if the

1 attorney general discovers that the landlord has not appropriately  
2 posted the notice or that the landlord has not maintained the posted  
3 notice so that it is clearly visible to tenants;

4 (c) Distribute the educational materials described in (a) of this  
5 subsection to any complainants and respondents, as requested;

6 (d) Perform dispute resolution activities, including  
7 investigations, negotiations, determinations of violations, and  
8 imposition of fines or other penalties as described in section 4 of  
9 this act;

10 (e) Create and maintain a database of manufactured/mobile home  
11 communities that have had complaints filed against them. For each  
12 manufactured/mobile home community in the database, the following  
13 information must be contained, at a minimum:

14 (i) The number of complaints received;

15 (ii) The nature and extent of the complaints received;

16 (iii) The violation of law complained of; and

17 (iv) The manufactured/mobile home dispute resolution program  
18 outcomes for each complaint;

19 (f) Provide an annual report to the appropriate committees of the  
20 legislature on the data collected under this section, including program  
21 performance measures and recommendations regarding how the  
22 manufactured/mobile home dispute resolution program may be improved, by  
23 December 31st, beginning in 2007.

24 (4) The manufactured/mobile home dispute resolution program,  
25 including all of the duties of the attorney general under the program  
26 as described in this section, shall be funded by the collection of  
27 fines, other penalties, and fees deposited into the manufactured/mobile  
28 home dispute resolution program account created in section 8 of this  
29 act, and all other sources directed to the manufactured/mobile home  
30 dispute resolution program.

31 NEW SECTION. **Sec. 4.** (1) An aggrieved party has the right to file  
32 a complaint with the attorney general alleging a violation of chapter  
33 59.20 RCW.

34 (2) Upon receiving a complaint under this act, the attorney general  
35 must:

36 (a) Inform the complainant of any notification requirements under

1 RCW 59.20.080 for tenant violations or RCW 59.20.200 for landlord  
2 violations and encourage the complainant to appropriately notify the  
3 respondent of the complaint; and

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

8 (3) After receiving a complaint under this act, the attorney  
9 general shall initiate the manufactured/mobile home dispute resolution  
10 program by investigating the alleged violations at its discretion and,  
11 if appropriate, facilitating negotiations between the complainant and  
12 the respondent.

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

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

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

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

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

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

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

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

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

36 (c) Reasonable action necessary to correct a statutory or rule  
37 violation.

1 (8) A complainant or respondent may request an administrative  
2 hearing before an administrative law judge under chapter 34.05 RCW to  
3 contest:

4 (a) A notice of violation issued under subsection (5)(a) of this  
5 section or a notice of nonviolation issued under subsection (5)(b) of  
6 this section;

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

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

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

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

20 (10) The administrative law judge appointed under chapter 34.12 RCW  
21 shall:

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

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

25 (c) Enter an appropriate order within thirty days after the close  
26 of the hearing and immediately mail copies of the order to the affected  
27 parties.

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

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

35 (12) All receipts from the imposition of fines or other penalties  
36 collected under this section other than those due to a complainant must  
37 be deposited into the manufactured/mobile home dispute resolution  
38 program account created in section 8 of this act.



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

12 NEW SECTION. **Sec. 5.** The attorney general, director, or  
13 individuals acting on behalf of the attorney general or director are  
14 immune from suit in any action, civil or criminal, based upon any  
15 disciplinary actions or other official acts performed in the course of  
16 their duties under this chapter, except their intentional or willful  
17 misconduct.

18 NEW SECTION. **Sec. 6.** (1) The department shall annually register  
19 all manufactured/mobile home communities. Each community must be  
20 registered separately. The department must deliver by mail  
21 registration notifications to all known manufactured/mobile home  
22 community landlords. Registration information packets must include:

- 23 (a) Registration forms; and  
24 (b) Registration assessment information, including registration due  
25 dates and late fees, and the collections procedures, liens, and  
26 charging costs to tenants.

27 (2) To apply for registration, the landlord of a  
28 manufactured/mobile home community must file with the department an  
29 application for registration on a form provided by the department and  
30 must pay a registration fee as described in subsection (3) of this  
31 section. The department may require the submission of information  
32 necessary to assist in identifying and locating a manufactured/mobile  
33 home community and other information that may be useful to the state,  
34 which must include, at a minimum:

- 35 (a) The names and addresses of the owners of the  
36 manufactured/mobile home community;

1 (b) The name and address of the manufactured/mobile home community;  
2 (c) The name and address of the landlord and manager of the  
3 manufactured/mobile home community;

4 (d) The number of lots within the manufactured/mobile home  
5 community that are subject to chapter 59.20 RCW; and

6 (e) The addresses of each manufactured/mobile home lot within the  
7 manufactured/mobile home community that is subject to chapter 59.20  
8 RCW.

9 (3) Each manufactured/mobile home community landlord shall pay to  
10 the department:

11 (a) A one-time master application fee for the first year of  
12 registration and, in subsequent years, an annual master renewal  
13 application fee, as provided in RCW 19.02.075; and

14 (b) An annual registration assessment of ten dollars for each  
15 manufactured/mobile home that is subject to chapter 59.20 RCW within a  
16 manufactured/mobile home community. Manufactured/mobile home community  
17 landlords may charge a maximum of five dollars of this assessment to  
18 tenants. Nine dollars of the registration assessment for each  
19 manufactured/mobile home shall be deposited into the  
20 manufactured/mobile home dispute resolution program account created in  
21 section 8 of this act to fund the costs associated with the  
22 manufactured/mobile home dispute resolution program. The remaining one  
23 dollar shall be deposited into the master license fund created in RCW  
24 19.02.210. The annual registration assessment must be reviewed once  
25 each biennium by the department and the attorney general and may be  
26 adjusted to reasonably relate to the cost of administering this  
27 chapter. The registration assessment may not exceed ten dollars, but  
28 if the assessment is reduced, the portion allocated to the  
29 manufactured/mobile home dispute resolution program account and the  
30 master license fund shall be adjusted proportionately.

31 (4) Initial registrations of mobile/manufactured housing  
32 communities must be filed with the department before November 1, 2007,  
33 or within three months of the availability of mobile home lots for rent  
34 within the community. The manufactured/mobile home community is  
35 subject to a delinquency fee of two hundred fifty dollars for late  
36 initial registrations. The delinquency fee shall be deposited in the  
37 master license fund. Renewal registrations that are not renewed by the

1 expiration date as assigned by the department are subject to  
2 delinquency fees under RCW 19.02.085.

3 (5) Thirty days after sending late fee notices to a noncomplying  
4 landlord, the department may refer the past due account to a collection  
5 agency. If there is no response from a noncomplying landlord after  
6 sixty days in collections, the department may file an action to enforce  
7 payment of unpaid registration assessments and late fees in the  
8 superior court for Thurston county or in the county in which the  
9 manufactured/mobile home community is located. If the department  
10 prevails, the manufactured/mobile home community landlord shall pay the  
11 department's costs, including reasonable attorneys' fees, for the  
12 enforcement proceedings.

13 (6) Registration is effective on the date determined by the  
14 department, and the department shall issue a registration number to  
15 each registered manufactured/mobile home community. The department  
16 must provide an expiration date, assigned by the department, to each  
17 manufactured/mobile home community who registers.

18 NEW SECTION. **Sec. 7.** The department must have the capability to  
19 compile, update, and maintain the most accurate database possible of  
20 all the manufactured/mobile home communities in the state, which must  
21 include all of the information collected under section 6 of this act,  
22 except for the addresses of each manufactured/mobile home lot within  
23 the manufactured/mobile home community that is subject to chapter 59.20  
24 RCW, which must be made available to the attorney general and the  
25 department of community, trade, and economic development in a format to  
26 be determined by a collaborative agreement between the department of  
27 licensing and the attorney general.

28 NEW SECTION. **Sec. 8.** The manufactured/mobile home dispute  
29 resolution program account is created in the custody of the state  
30 treasurer. All receipts from sources directed to the  
31 manufactured/mobile home dispute resolution program must be deposited  
32 in the account. Expenditures from the account may be used only for the  
33 costs associated with administering the manufactured/mobile home  
34 dispute resolution program. Only the attorney general or the attorney  
35 general's designee may authorize expenditures from the account. The

1 account is subject to allotment procedures under chapter 43.88 RCW, but  
2 an appropriation is not required for expenditures.

3 NEW SECTION. **Sec. 9.** A new section is added to chapter 34.12 RCW  
4 to read as follows:

5 When requested by the attorney general, the chief administrative  
6 law judge shall assign an administrative law judge to conduct  
7 proceedings under Title 59 RCW.

8 NEW SECTION. **Sec. 10.** Sections 1 through 8 of this act constitute  
9 a new chapter in Title 59 RCW.

10 NEW SECTION. **Sec. 11.** The attorney general may take the necessary  
11 steps to ensure that this act is implemented on its effective date.

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