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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1621

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State of Washington

60th Legislature

2008 Regular Session

By House Finance (originally sponsored by Representatives B. Sullivan, Sells, Morrell, Lovick, Ormsby, Miloscia, Springer, McCoy, Sullivan, Hasegawa, O'Brien, Roberts, Conway, Wood, Haigh, Rolfes, and Simpson)

READ FIRST TIME 02/12/08.

1 AN ACT Relating to the preservation of manufactured/mobile home  
2 communities; amending RCW 82.45.010 and 59.22.050; adding a new chapter  
3 to Title 59 RCW; and repealing RCW 59.23.005, 59.23.010, 59.23.015,  
4 59.23.020, 59.23.025, 59.23.030, 59.23.035, and 59.23.040.

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

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

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

16 (b) Many tenants who reside in manufactured/mobile home  
17 communities are low-income households and senior citizens and are,  
18 therefore, those residents most in need of reasonable security in the  
19 siting of their manufactured/mobile homes because of the adverse

1 impacts on the health, safety, and welfare of tenants forced to move  
2 due to closure, change of use, or discontinuance of manufactured/mobile  
3 home communities.

4 (c) The preservation of manufactured/mobile home communities:

5 (i) Is a more economical alternative than providing new replacement  
6 housing units for tenants who are displaced from closing  
7 manufactured/mobile home communities;

8 (ii) Is a strategy by which all local governments can meet the  
9 affordable housing needs of their residents;

10 (iii) Is a strategy by which local governments planning under RCW  
11 36.70A.040 may meet the housing element of their comprehensive plans as  
12 it relates to the provision of housing affordable to all economic  
13 sectors; and

14 (iv) Should be a goal of all housing authorities and local  
15 governments.

16 (d) The loss of manufactured/mobile home communities should not  
17 result in a net loss of affordable housing, thus compromising the  
18 ability of local governments to meet the affordable housing needs of  
19 its residents and the ability of these local governments planning under  
20 RCW 36.70A.040 to meet affordable housing goals under chapter 36.70A  
21 RCW.

22 (e) The closure of manufactured/mobile home communities has serious  
23 environmental, safety, and financial impacts, including:

24 (i) Homes that cannot be moved to other locations add to  
25 Washington's landfills;

26 (ii) Homes that are abandoned might attract crime; and

27 (iii) Vacant homes that will not be reoccupied need to be tested  
28 for asbestos and lead, and these toxic materials need to be removed  
29 prior to demolition.

30 (f) The self-governance aspect of tenants owning  
31 manufactured/mobile home communities results in a lesser usage of  
32 police resources as tenants experience fewer societal conflicts when  
33 they own the real estate as well as their homes.

34 (g) Housing authorities, by their creation and purpose, are the  
35 public body corporate and politic of the city or county responsible for  
36 addressing the availability of safe and sanitary dwelling  
37 accommodations available to persons of low income, senior citizens, and  
38 others.

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

9 NEW SECTION. **Sec. 2.** The definitions in this section apply  
10 throughout this chapter unless the context clearly requires otherwise.

11 (1) "Abandoned" as it relates to a manufactured/mobile home or park  
12 model owned by a tenant in a manufactured/mobile home park,  
13 manufactured/mobile home park cooperative, or manufacture/mobile home  
14 park subdivision or tenancy in a manufactured/mobile home lot, means  
15 the tenant has defaulted in rent and by absence and by words or actions  
16 reasonably indicates the intention not to continue tenancy.

17 (2) "Delivery," with respect to notices discussed in this chapter,  
18 means the date on which a notice was mailed or personally delivered.

19 (3) "Eligible organization" includes local governments, local  
20 housing authorities, nonprofit community or neighborhood-based  
21 organizations, federally recognized Indian tribes in the state of  
22 Washington, and regional or statewide nonprofit housing assistance  
23 organizations.

24 (4) "Housing authority" or "authority" means any of the public body  
25 corporate and politic created in RCW 35.82.030.

26 (5) "Housing project" has the same meaning as in RCW 35.82.020.

27 (6) "Landlord" means the owner of a manufactured/mobile home  
28 community and includes the agents of a landlord.

29 (7) "Local government" means a town government, city government,  
30 code city government, or county government in the state of Washington.

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

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

4 (9) "Mobile home" means a factory-built dwelling built before June  
5 15, 1976, to standards other than the United States department of  
6 housing and urban development code, and acceptable under applicable  
7 state codes in effect at the time of construction or introduction of  
8 the home into the state. Mobile homes have not been built since the  
9 introduction of the United States department of housing and urban  
10 development manufactured home construction and safety act.

11 (10) "Manufactured/mobile home" means either a manufactured home or  
12 a mobile home.

13 (11) "Manufactured/mobile home community" means any real property  
14 that is rented or held out for rent to others for the placement of two  
15 or more manufactured/mobile homes or park models for the primary  
16 purpose of production of income, except where the real property is  
17 rented or held out for rent for seasonal recreational purpose only and  
18 is not intended for year-round occupancy.

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

24 (13) "Manufactured/mobile home cooperative" means real property  
25 consisting of common areas and two or more lots held out for placement  
26 of manufactured/mobile homes or park models in which both the  
27 individual lots and the common areas are owned by an association of  
28 shareholders that leases or otherwise extends the right to occupy  
29 individual lots to its own members.

30 (14) "Manufactured/mobile home community subdivision" means real  
31 property, whether it is called a subdivision, condominium, or planned  
32 unit development, consisting of common areas and two or more lots held  
33 for placement of manufactured/mobile homes or park models in which  
34 there is private ownership of the individual lots and common, undivided  
35 ownership of the common areas by owners of the individual lots.

36 (15) "Notice of sale" means a notice required under section 4 of  
37 this act to be delivered to all tenants of a manufactured/mobile home  
38 community and other specified parties (a) within fourteen days after

1 the date on which any advertisement, listing, or public notice  
2 advertises that a manufactured/mobile home community is for sale, or  
3 that an unconditional offer of sale is being considered and (b) at  
4 least ninety days before the transfer of ownership or title occurs.

5 (16) "Park model" means a recreational vehicle intended for  
6 permanent or semipermanent installation and is used as a primary  
7 residence.

8 (17) "Qualified tenant organization" means a formal organization of  
9 tenants within a manufactured/mobile home community, with the only  
10 requirement for membership consisting of being a tenant.

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

16 (19) "Recreational vehicle" has the same meaning as in RCW  
17 59.20.030.

18 (20) "Sale" has the same meaning as in RCW 82.45.010.

19 (21) "Tenant" means a person who rents a manufactured/mobile home  
20 lot for a term of one month or longer and owns the manufactured/mobile  
21 home on the lot.

22 **Sec. 3.** RCW 82.45.010 and 2000 2nd sp.s. c 4 s 26 are each amended  
23 to read as follows:

24 (1) As used in this chapter, the term "sale" shall have its  
25 ordinary meaning and shall include any conveyance, grant, assignment,  
26 quitclaim, or transfer of the ownership of or title to real property,  
27 including standing timber, or any estate or interest therein for a  
28 valuable consideration, and any contract for such conveyance, grant,  
29 assignment, quitclaim, or transfer, and any lease with an option to  
30 purchase real property, including standing timber, or any estate or  
31 interest therein or other contract under which possession of the  
32 property is given to the purchaser, or any other person at the  
33 purchaser's direction, and title to the property is retained by the  
34 vendor as security for the payment of the purchase price. The term  
35 also includes the grant, assignment, quitclaim, sale, or transfer of  
36 improvements constructed upon leased land.

1           (2) The term "sale" also includes the transfer or acquisition  
2 within any twelve-month period of a controlling interest in any entity  
3 with an interest in real property located in this state for a valuable  
4 consideration. For purposes of this subsection, all acquisitions of  
5 persons acting in concert shall be aggregated for purposes of  
6 determining whether a transfer or acquisition of a controlling interest  
7 has taken place. The department of revenue shall adopt standards by  
8 rule to determine when persons are acting in concert. In adopting a  
9 rule for this purpose, the department shall consider the following:

10           (a) Persons shall be treated as acting in concert when they have a  
11 relationship with each other such that one person influences or  
12 controls the actions of another through common ownership; and

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

21           (3) The term "sale" shall not include:

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

23           (b) A transfer of any leasehold interest other than of the type  
24 mentioned above.

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

29           (d) The partition of property by tenants in common by agreement or  
30 as the result of a court decree.

31           (e) The assignment of property or interest in property from one  
32 spouse to the other in accordance with the terms of a decree of divorce  
33 or in fulfillment of a property settlement agreement.

34           (f) 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           (g) Transfers by appropriation or decree in condemnation

1 proceedings brought by the United States, the state or any political  
2 subdivision thereof, or a municipal corporation.

3 (h) A mortgage or other transfer of an interest in real property  
4 merely to secure a debt, or the assignment thereof.

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

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

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

17 (l) The sale of any grave or lot in an established cemetery.

18 (m) A sale by the United States, this state or any political  
19 subdivision thereof, or a municipal corporation of this state.

20 (n) A sale to a regional transit authority or public corporation  
21 under RCW 81.112.320 under a sale/leaseback agreement under RCW  
22 81.112.300.

23 (o) A transfer of real property, however effected, if it consists  
24 of a mere change in identity or form of ownership of an entity where  
25 there is no change in the beneficial ownership. These include  
26 transfers to a corporation or partnership which is wholly owned by the  
27 transferor and/or the transferor's spouse or children: PROVIDED, That  
28 if thereafter such transferee corporation or partnership voluntarily  
29 transfers such real property, or such transferor, spouse, or children  
30 voluntarily transfer stock in the transferee corporation or interest in  
31 the transferee partnership capital, as the case may be, to other than  
32 (1) the transferor and/or the transferor's spouse or children, (2) a  
33 trust having the transferor and/or the transferor's spouse or children  
34 as the only beneficiaries at the time of the transfer to the trust, or  
35 (3) a corporation or partnership wholly owned by the original  
36 transferor and/or the transferor's spouse or children, within three  
37 years of the original transfer to which this exemption applies, and the

1 tax on the subsequent transfer has not been paid within sixty days of  
2 becoming due, excise taxes shall become due and payable on the original  
3 transfer as otherwise provided by law.

4 (p)(i) A transfer that for federal income tax purposes does not  
5 involve the recognition of gain or loss for entity formation,  
6 liquidation or dissolution, and reorganization, including but not  
7 limited to nonrecognition of gain or loss because of application of  
8 section 332, 337, 351, 368(a)(1), 721, or 731 of the Internal Revenue  
9 Code of 1986, as amended.

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

27 (q) A qualified sale of a manufactured/mobile home community, as  
28 defined in section 2 of this act, that takes place on or after the  
29 effective date of this act but before December 31, 2018.

30 **NEW SECTION. Sec. 4.** (1) A landlord must provide a written notice  
31 of sale by certified mail or personal delivery to:

- 32 (a) Each tenant of the manufactured/mobile home community;  
33 (b) The officers of any known qualified tenant organization;  
34 (c) The office of manufactured housing;  
35 (d) The local government within whose jurisdiction all or part of  
36 the manufactured/mobile home community exists;



1 (e) The housing authority within whose jurisdiction all or part of  
2 the manufactured/mobile home community exists; and

3 (f) The Washington state housing finance commission.

4 (2) A notice of sale must include:

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

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

10 NEW SECTION. **Sec. 5.** A landlord intending to sell a  
11 manufactured/mobile home community is encouraged to negotiate in good  
12 faith with qualified tenant organizations and eligible organizations.

13 **Sec. 6.** RCW 59.22.050 and 2007 c 432 s 9 are each amended to read  
14 as follows:

15 (1) In order to provide general assistance to manufactured/mobile  
16 home resident organizations, ~~qualified tenant organizations,~~  
17 manufactured/mobile home community or park owners, and landlords and  
18 tenants, the department shall establish an office of (~~mobile home~~  
19 ~~affairs~~) manufactured housing.

20 This office will provide (~~an ombudsman service to mobile home park~~  
21 ~~owners and mobile home tenants with respect to problems and disputes~~  
22 ~~between park owners and park residents and to provide~~), either  
23 directly or through contracted services, technical assistance to  
24 qualified tenant organizations as defined in section 2 of this act and  
25 resident organizations or persons in the process of forming a resident  
26 organization pursuant to chapter 59.22 RCW. The office will keep  
27 records of its activities in this area.

28 (2) The office shall administer the mobile home relocation  
29 assistance program established in chapter 59.21 RCW, including  
30 verifying the eligibility of tenants for relocation assistance.

31 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each  
32 repealed:

33 (1) RCW 59.23.005 (Findings--Intent) and 1993 c 66 s 1;

34 (2) RCW 59.23.010 (Obligation of good faith) and 1993 c 66 s 2;

1 (3) RCW 59.23.015 (Application of chapter--Definition of "notice")  
2 and 1993 c 66 s 3;

3 (4) RCW 59.23.020 (Definitions) and 1993 c 66 s 4;

4 (5) RCW 59.23.025 (Notice to qualified tenant organization of sale  
5 of mobile home park--Time frame for negotiations--Terms--Transfer or  
6 sale to relatives) and 1993 c 66 s 5;

7 (6) RCW 59.23.030 (Improper notice by mobile home park owner--Sale  
8 may be set aside--Attorneys' fees) and 1993 c 66 s 6;

9 (7) RCW 59.23.035 (Notice to mobile home park owner of sale of  
10 tenant's mobile home--Time frame for negotiations--Terms--Transfer or  
11 sale to relatives) and 1993 c 66 s 7; and

12 (8) RCW 59.23.040 (Improper notice by mobile home owner--Sale may  
13 be set aside--Attorneys' fees) and 1993 c 66 s 8.

14 NEW SECTION. **Sec. 8.** If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 9.** Sections 1, 2, 4, and 5 of this act  
19 constitute a new chapter in Title 59 RCW.

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