
Commerce & Labor Committee

SSB 5668

Brief Description: Restricting the use of consignment contracts in the sale of used manufactured/mobile homes.

Sponsors: Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Berkey, Schoesler, McCaslin, Benton and Marr).

Brief Summary of Substitute Bill

- Requires a professional agent, dealer, or broker to use a listing contract in the sale and transfer of manufactured and mobile homes, prohibiting the use of consignment contracts in particular circumstances.
- Requires that the listing contract state the amount of compensation to be paid to the professional agent, dealer, or broker for the sale of the used manufactured or mobile home.
- Requires the listing agent or dealer to utilize certain procedures in negotiating the agreement between the seller and buyer.

Hearing Date: 2/17/10

Staff: Rebecca Jones (786-5793) and Alison Hellberg (786-7152).

Background:

Manufactured and Mobile Homes.

In 1976 the U.S. Department of Housing and Urban Development (HUD) promulgated the HUD Manufactured Home Construction and Safety Standards (Code), a preemptive, federal building code. Mobile homes are factory-built dwellings built prior to the introduction of the HUD Code that met the state codes in effect at the time of construction or introduction of the home into the state. Manufactured homes are single-family dwellings built after and according to the HUD Code standards. Manufactured and mobile homes are regulated as dwellings and vehicles. The motor vehicles law, in part, regulates the sale and distribution of manufactured and mobile

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homes, requiring that the law surrounding dealers and manufacturers applies to the sale of manufactured and mobile homes.

The Department of Licensing (Department) is responsible for administering and enforcing the law surrounding vehicle dealers and manufacturers. Vehicle dealers, including a mobile home dealer, must be licensed by the Department. A listing dealer is a used mobile home dealer who makes contracts with sellers for compensation in exchange for the dealer finding a willing purchaser for the seller's mobile home. Manufactured and mobile homes that are not owned by the dealer are sold on consignment or through a listing agreement with a listing dealer.

Consignment Transactions.

Dealers who transact business through consignment are required to obtain a consignment contract for sale and comply with the dealers and manufacturers law. All funds received from the sale of a consigned vehicle must be placed in a trust account until the sale is completed, except a dealer must pay any outstanding liens against the vehicle from these funds. When title has been delivered to the purchaser, the dealer must pay the amount due to a consignor within 10 days after the sale.

Consignment contracts must include: (1) the consignor's statement guaranteeing to deliver title to the dealer-consignee upon sale of the vehicle; (2) the effective duration of the contract; and (3) the amount to be paid to the consignor. A consignment contract is not required to include the amount of compensation to be paid to the dealer-consignee. When the dealer-consignee pays the consignor upon a completed sale, the dealer-consignee must give the consignor a copy of the purchase order used in the sale. Upon a sale, the dealer-consignee must promptly transfer title into the name of the purchaser.

Listing Dealer Transactions.

A listing dealer must obtain a listing agreement for the sale of a used mobile home. Funds from the purchaser must be placed in a trust account until the sale is completed, except a dealer is required to pay any outstanding liens against the vehicle from these funds. When title has been delivered to the purchaser, the dealer must pay the amount due to a seller within 10 days after the sale of the mobile home. A dealer must also provide a seller or consignor with a complete account of all the funds received and disbursed after the completion of the sale. Upon a sale, the dealer must promptly transfer title into the name of the purchaser.

The listing dealer must negotiate the agreement between the seller and purchaser in the following manner: (1) all written offers must be presented to the seller; (2) a copy of the agreement must be delivered to each respective party at various stages of the process; and (3) the listing dealer must retain copies of certain agreements. Upon completion of a sale, the listing dealer may pay any outstanding liens against the mobile home from the trust account before paying the sale proceeds to the seller.

Summary of Bill:

The Legislature finds that restricting the use of consignment contract sales of manufactured and mobile homes in favor of listing contract sales by agents, brokers, or dealers (dealers) protects the interests of homeowners.

If a manufactured or mobile home exists as a home and is intended to remain as a home, a dealer acting on behalf of a seller for the sale of a used manufactured or mobile home must use a listing contract and may not use a consignment contract. The listing contract must specify the amount of compensation to be paid to the dealer for the sale. The compensation can be expressed as a fixed dollar amount, percentage of the sales price, or another means of compensation.

Certain procedures are required to be used when the listing agent or dealer negotiates the purchase agreement between the seller and the buyer of the used manufactured or mobile home including: (1) presenting all written purchase offers to the seller; and (2) delivering copies of the purchase agreement to each respective party at various stages of the process.

A dealer must complete and attach a provided notice to any listing contract. The notice describes the manufactured or mobile home and its location, and it specifies the compensation to be paid to the dealer.

Appropriation: None.

Fiscal Note: Available.

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