
HOUSE BILL 1140

State of Washington 61st Legislature 2009 Regular Session

By Representatives Lias, Morrell, Ericks, Miloscia, Ormsby, Rolfes, Simpson, and Nelson

Read first time 01/14/09. Referred to Committee on Judiciary.

1 AN ACT Relating to the manufactured/mobile home dispute resolution
2 program; amending RCW 59.30.040; and adding new sections to chapter
3 59.30 RCW.

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

5 **Sec. 1.** RCW 59.30.040 and 2007 c 431 s 4 are each amended to read
6 as follows:

7 (1) An aggrieved party has the right to file a complaint with the
8 attorney general alleging a violation of chapter 59.20 RCW.

9 (2) Upon receiving a complaint under this chapter, the attorney
10 general must:

11 (a) Inform the complainant of any notification requirements under
12 RCW 59.20.080 for tenant violations or RCW 59.20.200 for landlord
13 violations and encourage the complainant to appropriately notify the
14 respondent of the complaint; and

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

1 (3) After receiving a complaint under this chapter, the attorney
2 general shall initiate the manufactured/mobile home dispute resolution
3 program by ~~((investigating))~~ obtaining information in an informal
4 manner and facilitating communication between the parties with the goal
5 of resolving the dispute. If the dispute is not resolved, the attorney
6 general may initiate a formal investigation of the alleged violations
7 at its discretion and, if appropriate, ~~((facilitating))~~ facilitate
8 further negotiations between the complainant and the respondent.
9 Unless a formal investigation is opened, the procedures outlined in
10 subsection (8) of this section do not apply.

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

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

21 (5) If after ~~((an))~~ a formal investigation the attorney general
22 determines that an agreement cannot be negotiated between the parties,
23 the attorney general shall make a written determination on whether a
24 violation of chapter 59.20 RCW has occurred. If an agreement has been
25 negotiated following a formal investigation, the parties shall enter
26 into a written settlement agreement signed by both parties. The
27 attorney general shall retain a copy of the settlement agreement. A
28 violation of the settlement agreement is a violation of chapter 59.20
29 RCW and is subject to fines and other penalties as described under this
30 chapter.

31 (a) If the attorney general finds by a written determination that
32 a violation of chapter 59.20 RCW has occurred, the attorney general
33 shall deliver a written notice of violation to the respondent who
34 committed the violation by certified mail. The notice of violation
35 must specify the violation, the corrective action required, the time
36 within which the corrective action must be taken, the penalties
37 including fines, other penalties, and actions that will result if
38 corrective action is not taken within the specified time period, and

1 the process for contesting the determination, fines, penalties, and
2 other actions included in the notice of violation through an
3 administrative hearing. The attorney general must deliver to the
4 complainant a copy of the notice of violation by certified mail.

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

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

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

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

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

3 (c) Reasonable action necessary to correct a statutory or rule
4 violation.

5 (8) A complainant or respondent may request an administrative
6 hearing before an administrative law judge under chapter 34.05 RCW to
7 contest:

8 (a) A notice of violation issued under subsection (5)(a) of this
9 section or a notice of nonviolation issued under subsection (5)(b) of
10 this section;

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

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

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

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

24 (10) The administrative law judge appointed under chapter 34.12 RCW
25 shall:

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

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

29 (c) Enter an appropriate order within thirty days after the close
30 of the hearing and immediately mail copies of the order to the affected
31 parties.

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

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

1 (12) All receipts from the imposition of fines or other penalties
2 collected under this section other than those due to a complainant must
3 be deposited into the manufactured/mobile home dispute resolution
4 program account created in RCW 59.30.070.

5 (13) This section is not exclusive and does not limit the right of
6 landlords or tenants to take legal action against another party as
7 provided in chapter 59.20 RCW or otherwise. Exhaustion of the
8 administrative remedy provided in this chapter is not required before
9 a landlord or tenants may bring a legal action. This section does not
10 apply to unlawful detainer actions initiated under RCW 59.20.080 prior
11 to the filing and service of an unlawful detainer court action;
12 however, a tenant is not precluded from seeking relief under this
13 chapter if the complaint claims the notice of termination violates RCW
14 59.20.080 prior to the filing and service of an unlawful detainer
15 action.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 59.30 RCW
17 to read as follows:

18 If, during the course of a formal investigation, the attorney
19 general becomes aware of a potential violation of chapter 59.20 RCW
20 that is not the subject of a complaint filed under this chapter, the
21 attorney general may investigate the potential violation and issue a
22 notice of violation or notice of nonviolation as appropriate. The
23 processes required under RCW 59.30.040 must be followed, with the
24 attorney general acting in the role of the complainant.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 59.30 RCW
26 to read as follows:

27 The attorney general shall adopt rules for the uniform
28 administration of the processes and procedures created under this
29 chapter, including rules for conducting informal dispute resolution and
30 formal investigations, making written determinations, and the processes
31 for appeal. All rules must be adopted following the procedures under
32 chapter 34.05 RCW.

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