

SENATE BILL REPORT

SB 5400

As of February 2, 2011

Title: An act relating to manufactured/mobile home park rent adjustment.

Brief Description: Concerning manufactured/mobile home park rent adjustment.

Sponsors: Senator Prentice.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 2/02/11.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Alison Mendiola (786-7483)

Background: Manufactured/Mobile Home Landlord Tenant Act. The Manufactured/Mobile Home Landlord-Tenant Act (Act) governs the legal rights, remedies, and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot or pad where the tenant has no ownership interest in the real property or in the association which owns the real property. The Act sets forth grounds for termination of the tenancy, duties of the landlord, duties of the tenant, rules with respect to transfer of the rental agreement, and the effect of failure to carry out duties.

Manufactured/Mobile Home Dispute Resolution Program. The Attorney General administers a Manufactured/Mobile Home Dispute Resolution Program that provides educational materials to manufactured/mobile home tenants and landlords and attempts to resolve disputes regarding alleged violations of the Act. The program investigates complaints from tenants and landlords, and attempts to negotiate a resolution. If no agreement can be reached, the Attorney General may issue written notices of violations, specify corrective action, and issue fines up to a maximum of \$250 for each day that a violation remains uncorrected.

The Manufactured/Mobile Home Dispute Resolution Program is funded with \$9 of every \$10 of the annual registration assessment for each manufactured/mobile home and any fines collected as a result of the Dispute Resolution Program.

Rent Control. The state preempts any local jurisdiction from imposing a control on rent.

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.

Summary of Bill: Rent. A base rent is the space rent in effect on January 1, 2011. For parks not owned by its residents or a nonprofit organization, the amount of a rent increase that an owner may impose annually is capped at 5 percent. Additionally, a park owner may increase a tenant's rent more than once a year for a pro rata share of any increase in the park's taxes or utilities, but only if a reduction of rent is available should the taxes or utilities decrease. A park owner is not eligible to impose a space rent increase if the park has not registered as required.

After a park owner has given notice of an increase of the tenant's monthly charges, if a tenant's association or a majority of a park's tenants request a meeting to discuss capital expenditures within a specified time period, the owner must meet with the tenants.

Other rent increases may not occur when a petition is pending before the manufactured/mobile home park rental board (Board). However if a matter is being reviewed by a court, permissible annual adjustments are allowed.

Manufactured/Mobile Home Park Rental Board. The Board is established by the Department of Commerce (Commerce). The Board consists of five members; two tenants, two owners, and one representative from Commerce. Commerce appoints a manufactured/mobile home rent review director, and that director is an employee of Commerce.

The Board requires registration fees for each park, collects a \$100 petitions fee (payable to Commerce), and determines the validity of base rents, adjustment to the base rents, and the acceptability of petitions filed challenging base rents or its increase. A park owner submits to Commerce a rent schedule of all the spaces within the park as of January 1, 2011, and other related information.

Park owners must submit an annual report to the Board including financial information related to the operation of the park, including the history of rent increases, and increases for capital improvements.

Petitioning the Board. A park owner may petition the Board to determine the base rent, or to impose a rent increase greater than 5 percent. In this instance, the park owner submits proof of gross income, operating expenses, costs of capital improvements, and net operating income for the park for the last three years. It is assumed that operating expenses are between 35 and 40 percent and a reasonable return on the net operating income is set at 9.5 percent.

Any park owner or a majority of tenants may petition the Board to determine whether the base rent or rent adjustment is valid.

Petitioning the Board requires that the petitioning party pay a \$100 fee.

Upon receiving a petition, the Board must review the petition within 45 days, provided that the Board notifies the parties 15 days prior to the hearing. The Board makes written findings and the findings are considered a final administrative action.

Remedies. A person who demands, accepts, or retains payment in violation of this Act is liable in a civil action for three times the amount of the payment.

An owner who willfully and knowingly violates this Act or the orders of the Board is guilty of a misdemeanor.

All parties may seek relief from the courts.

The initial cost of funding this Act is funded by the payment of \$3 per space in all parks. This payment is to be made annually by the park owner to Commerce.

Rent Control. Space rents in manufactured/mobile home parks are not subject to the prohibition on rent control.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.