

SENATE BILL REPORT

SB 5319

As of January 28, 2021

Title: An act relating to the sale or lease of manufactured/mobile home communities and the property on which they sit.

Brief Description: Concerning the sale or lease of manufactured/mobile home communities and the property on which they sit.

Sponsors: Senators McCune and Short.

Brief History:

Committee Activity: Housing & Local Government: 1/28/21.

Brief Summary of Bill

- Requires landlords of 55-plus manufactured/mobile home communities (MHCs) to provide a written notice of opportunity to purchase the 55-plus MHC to each tenant, the Department of Commerce, and the Housing Finance Commission within three days of receipt of a bona fide offer or 14 days after the 55-plus MHC is listed for sale or lease.
- Requires qualified tenant organizations and eligible organizations be permitted 45 days after receipt of a notice of opportunity to purchase to provide the landlord with a notice of intent to consider purchase or lease of the 55-plus MHC.
- Requires a landlord to wait 120 days after receipt of notice of intent before accepting an offer to purchase or lease the park from a person or entity other than a qualified tenant organization or eligible organization.
- Provides landlords of any MHC a three-year property tax exemption if the landlord provides the MHC tenants with a closure notice between 12 months and three years or offers a right of first refusal to a qualified tenant organization or eligible organization for sale or lease of a 55-plus MHC.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Staff: Brandon Popovac (786-7465)

Background: The Manufactured/Mobile Home Landlord-Tenant Act (MHLTA) governs the legal rights, remedies, and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot within a mobile home park where the tenant has no ownership interest in the property or in the association that owns the property.

Sale of Manufactured/Mobile Home Community. Under the MHLTA, a landlord is required to provide a written notice of sale of an MHC to each tenant within the MHC, any qualified tenant organization, the office of mobile/manufactured home relocation assistance, the local government and housing authority within whose jurisdiction the MHC exists, and the Housing Finance Commission within 14 days after a multiple listing or public notice advertises the MHC is for sale. The notice of sale is required to include a statement of intent to sell the MHC and the contact information of the landlord or agent responsible for communicating with the qualified tenant organization regarding sale of the MHC.

Any landlord intending to sell an MHC is encouraged to negotiate with qualified tenant organizations and eligible organizations, such as local governments, local housing authorities, nonprofit community organizations, tribes, and nonprofit housing assistance organizations.

Landlords are not currently required to offer tenants or other eligible organizations a right of first refusal, or to provide a notice of opportunity to purchase an MHC listed for sale.

Property Tax. All real and personal property is subject to a tax each year based on the highest and best use, unless a specific exemption is provided by law. Examples of property tax exemptions established, either by statute or constitutionally, include exemptions for churches, nonprofit hospitals, affordable housing, and certain improvements to single-family residences.

Summary of Bill: A landlord of a 55-plus MHC must provide a written notice of opportunity to purchase or lease the MHC or the property on which it sits to each tenant, Department of Commerce, and the Housing Finance Commission by certified mail or personal delivery within:

- three days after the landlord receives a bona fide offer to purchase or lease the MHC and the landlord is considering the sale due to the offer; or
- fourteen days after the date any advertisement, listing, or public notice is made that the MHC or the property on which it sits is for sale or lease.

Bona fide offer is defined as a signed written statement that sets forth an offered price, a description of the property to be purchased, and any other offer terms and conditions. 55-plus MHC is defined as an MHC in which the residents and tenants are at least 55 years of

age and where the majority of homes are permanently affixed on the lot on which they sit.

The notice of opportunity to purchase is in addition to the notice of sale and must include, a statement that the landlord is considering the sale or lease of the 55-plus MHC or property on which it sits, a statement that discloses the respective notice of intent and waiting period timelines for both parties, and contact information for the landlord or their agent responsible for communicating with the qualified tenant organization or eligible organization regarding an opportunity to make an offer for sale of the property.

Qualified tenant organizations and eligible organizations must be permitted 45 days from the date of delivery of the notice of opportunity to purchase, to provide the landlord with notice of intent to consider purchase or lease.

If the notice of intent from the qualified tenant organization or eligible organization is provided to the landlord within 45 days, the landlord must wait 120 days before making a final unconditional acceptance of an offer to purchase or lease the MHC from a person or entity other than the qualified tenant organization or eligible organization. If the notice of intent is not provided to the landlord within 45 days, the landlord is not subject to the 120-day waiting period.

Notice of opportunity to purchase requirements do not apply if the sale or lease of the 55-plus MHC or the property on which it sits is:

- due to foreclosure, eminent domain, or a tax sale;
- incidental to MHC financing;
- between joint tenants in common;
- among partners that own the MHC; or
- to a member of the landlord's family or to a landlord's family trust.

A landlord is required, rather than encouraged, to negotiate in good faith with qualified tenant organizations and eligible organizations when selling or leasing a 55-plus MHC or the property on which it sits. Likewise, qualified tenant organizations and eligible organizations that submit a notice of intent to purchase or lease a 55-plus MHC or the property on which it sits must negotiate in good faith with the landlord.

A property tax exemption of no more than 36 months is authorized for an MHC landlord who:

- provides any MHC closure notice beyond the 12-month notice requirement but up to three years; or
- offers a right of first refusal to a qualified tenant organization or eligible organization in accordance with notice of opportunity to purchase requirements on the sale or lease of an MHC or the property on which it sits.

The landlord must certify on the exemption application that applicable notice requirements were satisfied, and must pay back any exempted property tax amounts, subject to interest or

penalties, if the MHC is closed or converted before the end of the closure notice period provided to the tenants or the 55-plus MHC is sold to a party that was not offered the right of first refusal.

Appropriation: None.

Fiscal Note: Requested on January 21, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The bill targets affordable housing preservation for aging populations. Most MHCs have a large population of seniors, especially over 70 years of age. Seniors would lose their property investments upon an MHC sale. It is difficult for homes to be moved once affixed, especially for seniors. Mobile homeownership is often a last opportunity for seniors before they retire or make end of life arrangements.

CON: The bona fide offer element needs to be clarified with additional guidance. The bill does not address if there are competing offers from various tenants from one MHC. Only one tenant organization should be eligible and qualified. The notice and waiting period time limits are too long at almost half of the year, which could disrupt the landlord's ability to sell and entertain other offers. Delays might cause community valuations to plummet. Additional MHC infrastructure support is needed before the sale is made. Nonprofits who set up loans are predatory lenders with high interest rates who leave seniors holding the bag on these types of sale arrangements. Sales to tenant organizations create a downward spiral of maintenance issues with rent amounts or dues decreased after transfer of ownership. The bill creates an unreasonable burden, and the tax exemption carrot does not benefit either the MHC landlord or tenant. The bill creates an opportunity for fraud and abuse, including lack of opportunity to use a 1031 exchange. No other real estate transactions require this type of right of first refusal. The premise of the bill that parks are being closed upon sale or otherwise is not true. There have been no major closures reported in the last ten years. The bill offers a solution where a problem does not exist. Some MHC homes are well maintained homes and often sell at a high value. Tenant organizations should make bona fide offers without the need for notice of intent and other requirements. The sale of a community is not necessarily a closure. The bill would make more sense if MHC closure was a result of the sale. Home equity can increase after the sale of an MHC, providing the ability to make more infrastructure and management changes. Most MHC homes can be moved and some preservation occurs when homes move between MHCs. An earnest money requirement would keep the purchaser honest and should be a necessary component of the bill. Some MHC owners get multiple offers every week.

OTHER: The bill provides long-term security to MHC residents, and should apply to all

MHCs as it is too limited to senior MHCs. There is a lot to like about the bill, including the three-year property tax exemption for any MHC closure notice extension. MHC landlords who sell to nonprofits are exempt from real estate excise tax. A negotiated deposit would likely be part of the initial offer from a qualified tenant organization. The bill should be combined with other legislation providing rent thresholds and some preservation components. Many homes built before 1974 cannot be moved. The certified mail requirement is a problem for some tenants. The bill should include a penalty provision and authorize the Attorney General's Office to bring a civil action.

Persons Testifying: PRO: Senator Jim McCune, Prime Sponsor.

CON: Stacey Valenzuela, citizen; Mike Simonitch, Shelter Management, LLC; Russell Millard, Park Preservations LLC; Michael McLaughlin, Rental Housing Association; Ross Rongner, Rental Housing Association; Jim Henderson, Rental Housing Association.

OTHER: Ishbel Dickens, Association of Manufactured Home Owners; Victoria O'Banion, citizen; Nathan Peppin, Department of Commerce.

Persons Signed In To Testify But Not Testifying: No one.