

SENATE BILL REPORT

SB 5135

As Reported By Senate Committee On:
Labor, Commerce & Financial Institutions, February 19, 2001

Title: An act relating to applying the consumer protection act to violations of the manufactured/mobile home landlord-tenant act.

Brief Description: Applying the consumer protection act to manufactured/mobile home landlord-tenant act violations.

Sponsors: Senators Kastama, Regala, Kohl-Welles, Thibaudeau, Prentice, Kline, Winsley and Spanel.

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 1/25/01, 2/19/01 [DP, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Gardner, Vice Chair; Fairley, Franklin, Patterson, Regala and Winsley.

Minority Report: Do not pass.

Signed by Senators Benton, Hochstatter, Honeyford and West.

Staff: Catherine Mele (786-7470)

Background: In 1985 the Washington Supreme Court determined that the protections and remedies available under the Consumer Protection Act do not apply to violations of the Residential Landlord-Tenant Act. Although that case did not involve the Mobile Home Landlord-Tenant Act, there is nothing in the opinion to indicate that a different result would be reached in a case involving that act.

Prior to the 1985 Supreme Court ruling, the Office of the Attorney General received and responded to complaints from both mobile home park tenants and other residential tenants regarding violations of the respective landlord-tenant acts by landlords.

Responses included letters to landlords, conciliation, and occasionally litigation. The basis for Attorney General involvement was the assumption that the Consumer Protection Act applied to landlord-tenant transactions.

Current remedies available to tenants under the Mobile Home Landlord-Tenant Act are litigation, withholding up to one month's rent in any calendar year and initiating repairs, mediation and arbitration. Mediation and arbitration both require the agreement of the

landlord to submit the dispute to those processes. In litigation based on the Mobile Home Landlord-Tenant Act, the prevailing party is entitled to reasonable attorneys' fees and costs.

Application of the Consumer Protection Act would add the involvement of the Attorney General, and, if the tenant sued the landlord, the possibility of up to three times the amount of actual money damages, up to \$10,000, and attorneys fees.

Summary of Bill: Violations of the Mobile Home Landlord-Tenant Act are declared to be violations of the Consumer Protection Act.

Appropriation: None.

Fiscal Note: Requested on January 19, 2001.

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

Testimony For: The people who live in mobile home parks need help. Enforcement of the act is neither affordable nor understandable. Consumers need the Consumer Protection Act because the current law does not protect us. Individuals that live in these parks cannot afford to hire an attorney. We cannot lose everything we work so hard for in order to go to court. The Attorney General's Office supports this bill as long as it is adequately funded.

Testimony Against: We oppose this legislation. It is not needed in Washington. First of all, there have been repeated court decisions that the Consumer Protection Act does not apply to landlord tenant laws. There are provisions in the current law that allow for attorney's fees and costs. There are many resources available for tenants at this time. There are associations and legal services that provide assistance. There has been no lack of representation for tenants and the act is fairly well balanced now. Landlords cannot afford to pay treble damages provided by the Consumer Protection Act.

Testified: PRO: Robert Case, MTA; Patricia McGahuey, Ray Munsch, Tiffanie Boisen, MHOA; Richard Mickels, ATM; Paula Selis, Washington State Attorney General's Office. CON: Donna Lee, Darlene Penneth, WAA; Paul Birklund, AASK; John Woodring, Ken Spencer, MHCW; Bob Mitchell, Washington Association of Realtors.