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**SUBSTITUTE HOUSE BILL 2799**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Judiciary (originally sponsored by Representatives McBride, Robinson, Zeiger, Ormsby, Gregerson, Orwall, Goodman, Tharinger, Tarleton, and Appleton)

READ FIRST TIME 02/05/16.

1       AN ACT Relating to the sale of manufactured/mobile home  
2 communities; amending RCW 59.20.030 and 82.45.010; adding new  
3 sections to chapter 59.20 RCW; creating a new section; and  
4 prescribing penalties.

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

6       NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7       (a) It is the policy of this state to encourage affordable  
8 housing ownership, including manufactured/mobile home community  
9 living.

10       (b) Manufactured/mobile home communities provide a significant  
11 source of homeownership opportunities for Washington residents.  
12 However, the increasing closure and conversion of manufactured/mobile  
13 home communities to other uses, combined with increasing  
14 manufactured/mobile home lot rents, low vacancy rates in existing  
15 manufactured/mobile home communities, and the extremely high cost of  
16 moving homes when manufactured/mobile home communities close,  
17 increasingly make manufactured/mobile home community living insecure  
18 for manufactured/mobile home tenants.

19       (c) Many tenants who reside in manufactured/mobile home  
20 communities are part of low-income households and senior citizens and  
21 are, therefore, those residents most in need of reasonable security

1 in the siting of their manufactured/mobile homes because such tenants  
2 experience adverse impacts on their health, safety, and welfare when  
3 forced to move due to closure, change of use, or discontinuance of  
4 manufactured/mobile home communities.

5 (2) It is the intent of the legislature to encourage and  
6 facilitate the preservation of existing manufactured/mobile home  
7 communities in the event of voluntary sales of manufactured/mobile  
8 home communities and, to the extent necessary and possible, to  
9 involve manufactured/mobile home community tenants or an eligible  
10 organization, such as a nonprofit organization, housing authority,  
11 community land trust, or local government, in the preservation of  
12 manufactured/mobile home communities.

13 **Sec. 2.** RCW 59.20.030 and 2008 c 116 s 2 are each amended to  
14 read as follows:

15 For purposes of this chapter:

16 (1) "Abandoned" as it relates to a mobile home, manufactured  
17 home, or park model owned by a tenant in a mobile home park, mobile  
18 home park cooperative, or mobile home park subdivision or tenancy in  
19 a mobile home lot means the tenant has defaulted in rent and by  
20 absence and by words or actions reasonably indicates the intention  
21 not to continue tenancy;

22 (2) "Eligible organization" includes local governments, local  
23 housing authorities, nonprofit community or neighborhood-based  
24 organizations, federally recognized Indian tribes in the state of  
25 Washington, and regional or statewide nonprofit housing assistance  
26 organizations;

27 (3) "Housing authority" or "authority" means any of the public  
28 body corporate and politic created in RCW 35.82.030;

29 (4) "Landlord" means the owner of a mobile home park and includes  
30 the agents of a landlord;

31 (5) "Local government" means a town government, city government,  
32 code city government, or county government in the state of  
33 Washington;

34 (6) "Manufactured home" means a single-family dwelling built  
35 according to the United States department of housing and urban  
36 development manufactured home construction and safety standards act,  
37 which is a national preemptive building code. A manufactured home  
38 also: (a) Includes plumbing, heating, air conditioning, and  
39 electrical systems; (b) is built on a permanent chassis; and (c) can

1 be transported in one or more sections with each section at least  
2 eight feet wide and forty feet long when transported, or when  
3 installed on the site is three hundred twenty square feet or greater;

4 (7) "Manufactured/mobile home" means either a manufactured home  
5 or a mobile home;

6 (8) "Mobile home" means a factory-built dwelling built prior to  
7 June 15, 1976, to standards other than the United States department  
8 of housing and urban development code, and acceptable under  
9 applicable state codes in effect at the time of construction or  
10 introduction of the home into the state. Mobile homes have not been  
11 built since the introduction of the United States department of  
12 housing and urban development manufactured home construction and  
13 safety act;

14 (9) "Mobile home lot" means a portion of a mobile home park or  
15 manufactured housing community designated as the location of one  
16 mobile home, manufactured home, or park model and its accessory  
17 buildings, and intended for the exclusive use as a primary residence  
18 by the occupants of that mobile home, manufactured home, or park  
19 model;

20 (10) "Mobile home park," "manufactured housing community," or  
21 "manufactured/mobile home community" means any real property which is  
22 rented or held out for rent to others for the placement of two or  
23 more mobile homes, manufactured homes, or park models for the primary  
24 purpose of production of income, except where such real property is  
25 rented or held out for rent for seasonal recreational purpose only  
26 and is not intended for year-round occupancy;

27 (11) "Mobile home park cooperative" or "manufactured housing  
28 cooperative" means real property consisting of common areas and two  
29 or more lots held out for placement of mobile homes, manufactured  
30 homes, or park models in which both the individual lots and the  
31 common areas are owned by an association of shareholders which leases  
32 or otherwise extends the right to occupy individual lots to its own  
33 members;

34 (12) "Mobile home park subdivision" or "manufactured housing  
35 subdivision" means real property, whether it is called a subdivision,  
36 condominium, or planned unit development, consisting of common areas  
37 and two or more lots held for placement of mobile homes, manufactured  
38 homes, or park models in which there is private ownership of the  
39 individual lots and common, undivided ownership of the common areas  
40 by owners of the individual lots;

1 (13) "Notice of sale" means a notice required under RCW 59.20.300  
2 to be delivered to all tenants of a manufactured/mobile home  
3 community and other specified parties within fourteen days after the  
4 date on which any advertisement, multiple listing, or public notice  
5 advertises that a manufactured/mobile home community is for sale;

6 (14) "Park model" means a recreational vehicle intended for  
7 permanent or semi-permanent installation and is used as a primary  
8 residence;

9 (15) "Qualified sale of manufactured/mobile home community" means  
10 the sale, as defined in RCW 82.45.010, of land and improvements  
11 comprising a manufactured/mobile home community that is transferred  
12 in a single purchase to a qualified tenant organization or to an  
13 eligible organization for the purpose of preserving the property as a  
14 manufactured/mobile home community;

15 (16) "Qualified tenant organization" means a formal organization  
16 of tenants within a manufactured/mobile home community, with the only  
17 requirement for membership consisting of being a tenant;

18 (17) "Recreational vehicle" means a travel trailer, motor home,  
19 truck camper, or camping trailer that is primarily designed and used  
20 as temporary living quarters, is either self-propelled or mounted on  
21 or drawn by another vehicle, is transient, is not occupied as a  
22 primary residence, and is not immobilized or permanently affixed to a  
23 mobile home lot;

24 (18) "Tenant" means any person, except a transient, who rents a  
25 mobile home lot;

26 (19) "Transient" means a person who rents a mobile home lot for a  
27 period of less than one month for purposes other than as a primary  
28 residence;

29 (20) "Occupant" means any person, including a live-in care  
30 provider, other than a tenant, who occupies a mobile home,  
31 manufactured home, or park model and mobile home lot;

32 (21) "Notice of opportunity to purchase" means a notice required  
33 under section 3 of this act to be delivered to all specified parties  
34 within two days after the date on which a landlord receives any offer  
35 to purchase his or her manufactured/mobile home community.

36 NEW SECTION. Sec. 3. A new section is added to chapter 59.20  
37 RCW to read as follows:

38 (1) A landlord must provide a written notice of opportunity to  
39 purchase a manufactured/mobile home community by certified mail or

1 personal delivery to all eligible organizations on the list  
2 maintained by the department of commerce pursuant to section 5 of  
3 this act.

4 (2) A notice of opportunity to purchase must include:

5 (a) A statement that the landlord intends to sell the  
6 manufactured/mobile home community;

7 (b) The contact information for the landlord or landlord's agent  
8 who is responsible for communicating with the qualified tenant  
9 organization or eligible organization regarding the sale of the  
10 property; and

11 (c) The terms of any offer or agreement for the purchase and sale  
12 of the manufactured/mobile home community, including the terms of any  
13 seller financing.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 59.20  
15 RCW to read as follows:

16 (1) Except as provided in subsection (2) of this section, a  
17 landlord may not close on the sale of his or her manufactured/mobile  
18 home community until ninety days after the date on which the notice  
19 of opportunity to purchase was delivered.

20 (2) During the period of ninety days after delivery of a notice  
21 of opportunity to purchase, a landlord may sell his or her  
22 manufactured/mobile home community to either a qualified tenant  
23 organization or an eligible organization.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 59.20  
25 RCW to read as follows:

26 (1) The department of commerce must maintain a list of all  
27 eligible organizations that submit to the department of commerce a  
28 written request to receive notices of opportunity to purchase  
29 manufactured/mobile home communities, as provided in section 3 of  
30 this act, containing the following information:

31 (a) The name and mailing address of the eligible organization;  
32 and

33 (b) A statement that the eligible organization wishes to purchase  
34 a manufactured/mobile home community.

35 (2) The department of commerce must provide a copy of the list  
36 required under this section to any person upon request.

1        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 59.20  
2    RCW to read as follows:

3        (1) A landlord who sells or transfers a manufactured/mobile home  
4    community and willfully fails to comply with section 3 or 4 of this  
5    act is liable to the state of Washington in the amount of five  
6    thousand dollars or five percent of the total sales price, whichever  
7    is greater. This penalty is the exclusive remedy for a violation of  
8    section 3 or 4 of this act.

9        (2) The attorney general may bring a civil action in superior  
10    court in the name of the state against a landlord under this section.

11       **Sec. 7.**    RCW 82.45.010 and 2014 c 58 s 24 are each amended to  
12    read as follows:

13       (1) As used in this chapter, the term "sale" has its ordinary  
14    meaning and includes any conveyance, grant, assignment, quitclaim, or  
15    transfer of the ownership of or title to real property, including  
16    standing timber, or any estate or interest therein for a valuable  
17    consideration, and any contract for such conveyance, grant,  
18    assignment, quitclaim, or transfer, and any lease with an option to  
19    purchase real property, including standing timber, or any estate or  
20    interest therein or other contract under which possession of the  
21    property is given to the purchaser, or any other person at the  
22    purchaser's direction, and title to the property is retained by the  
23    vendor as security for the payment of the purchase price. The term  
24    also includes the grant, assignment, quitclaim, sale, or transfer of  
25    improvements constructed upon leased land.

26       (2)(a) The term "sale" also includes the transfer or acquisition  
27    within any twelve-month period of a controlling interest in any  
28    entity with an interest in real property located in this state for a  
29    valuable consideration.

30       (b) For the sole purpose of determining whether, pursuant to the  
31    exercise of an option, a controlling interest was transferred or  
32    acquired within a twelve-month period, the date that the option  
33    agreement was executed is the date on which the transfer or  
34    acquisition of the controlling interest is deemed to occur. For all  
35    other purposes under this chapter, the date upon which the option is  
36    exercised is the date of the transfer or acquisition of the  
37    controlling interest.

38       (c) For purposes of this subsection, all acquisitions of persons  
39    acting in concert must be aggregated for purposes of determining

1 whether a transfer or acquisition of a controlling interest has taken  
2 place. The department must adopt standards by rule to determine when  
3 persons are acting in concert. In adopting a rule for this purpose,  
4 the department must consider the following:

5 (i) Persons must be treated as acting in concert when they have a  
6 relationship with each other such that one person influences or  
7 controls the actions of another through common ownership; and

8 (ii) When persons are not commonly owned or controlled, they must  
9 be treated as acting in concert only when the unity with which the  
10 purchasers have negotiated and will consummate the transfer of  
11 ownership interests supports a finding that they are acting as a  
12 single entity. If the acquisitions are completely independent, with  
13 each purchaser buying without regard to the identity of the other  
14 purchasers, then the acquisitions are considered separate  
15 acquisitions.

16 (3) The term "sale" does not include:

17 (a) A transfer by gift, devise, or inheritance.

18 (b) A transfer by transfer on death deed, to the extent that it  
19 is not in satisfaction of a contractual obligation of the decedent  
20 owed to the recipient of the property.

21 (c) A transfer of any leasehold interest other than of the type  
22 mentioned above.

23 (d) A cancellation or forfeiture of a vendee's interest in a  
24 contract for the sale of real property, whether or not such contract  
25 contains a forfeiture clause, or deed in lieu of foreclosure of a  
26 mortgage.

27 (e) The partition of property by tenants in common by agreement  
28 or as the result of a court decree.

29 (f) The assignment of property or interest in property from one  
30 spouse or one domestic partner to the other spouse or other domestic  
31 partner in accordance with the terms of a decree of dissolution of  
32 marriage or state registered domestic partnership or in fulfillment  
33 of a property settlement agreement.

34 (g) The assignment or other transfer of a vendor's interest in a  
35 contract for the sale of real property, even though accompanied by a  
36 conveyance of the vendor's interest in the real property involved.

37 (h) Transfers by appropriation or decree in condemnation  
38 proceedings brought by the United States, the state or any political  
39 subdivision thereof, or a municipal corporation.

1 (i) A mortgage or other transfer of an interest in real property  
2 merely to secure a debt, or the assignment thereof.

3 (j) Any transfer or conveyance made pursuant to a deed of trust  
4 or an order of sale by the court in any mortgage, deed of trust, or  
5 lien foreclosure proceeding or upon execution of a judgment, or deed  
6 in lieu of foreclosure to satisfy a mortgage or deed of trust.

7 (k) A conveyance to the federal housing administration or  
8 veterans administration by an authorized mortgagee made pursuant to a  
9 contract of insurance or guaranty with the federal housing  
10 administration or veterans administration.

11 (l) A transfer in compliance with the terms of any lease or  
12 contract upon which the tax as imposed by this chapter has been paid  
13 or where the lease or contract was entered into prior to the date  
14 this tax was first imposed.

15 (m) The sale of any grave or lot in an established cemetery.

16 (n) A sale by the United States, this state or any political  
17 subdivision thereof, or a municipal corporation of this state.

18 (o) A sale to a regional transit authority or public corporation  
19 under RCW 81.112.320 under a sale/leaseback agreement under RCW  
20 81.112.300.

21 (p) A transfer of real property, however effected, if it consists  
22 of a mere change in identity or form of ownership of an entity where  
23 there is no change in the beneficial ownership. These include  
24 transfers to a corporation or partnership which is wholly owned by  
25 the transferor and/or the transferor's spouse or domestic partner or  
26 children of the transferor or the transferor's spouse or domestic  
27 partner. However, if thereafter such transferee corporation or  
28 partnership voluntarily transfers such real property, or such  
29 transferor, spouse or domestic partner, or children of the transferor  
30 or the transferor's spouse or domestic partner voluntarily transfer  
31 stock in the transferee corporation or interest in the transferee  
32 partnership capital, as the case may be, to other than (i) the  
33 transferor and/or the transferor's spouse or domestic partner or  
34 children of the transferor or the transferor's spouse or domestic  
35 partner, (ii) a trust having the transferor and/or the transferor's  
36 spouse or domestic partner or children of the transferor or the  
37 transferor's spouse or domestic partner as the only beneficiaries at  
38 the time of the transfer to the trust, or (iii) a corporation or  
39 partnership wholly owned by the original transferor and/or the  
40 transferor's spouse or domestic partner or children of the transferor



1 or the transferor's spouse or domestic partner, within three years of  
2 the original transfer to which this exemption applies, and the tax on  
3 the subsequent transfer has not been paid within sixty days of  
4 becoming due, excise taxes become due and payable on the original  
5 transfer as otherwise provided by law.

6 (q)(i) A transfer that for federal income tax purposes does not  
7 involve the recognition of gain or loss for entity formation,  
8 liquidation or dissolution, and reorganization, including but not  
9 limited to nonrecognition of gain or loss because of application of  
10 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal  
11 revenue code of 1986, as amended.

12 (ii) However, the transfer described in (q)(i) of this subsection  
13 cannot be preceded or followed within a twelve-month period by  
14 another transfer or series of transfers, that, when combined with the  
15 otherwise exempt transfer or transfers described in (q)(i) of this  
16 subsection, results in the transfer of a controlling interest in the  
17 entity for valuable consideration, and in which one or more persons  
18 previously holding a controlling interest in the entity receive cash  
19 or property in exchange for any interest the person or persons acting  
20 in concert hold in the entity. This subsection (3)(q)(ii) does not  
21 apply to that part of the transfer involving property received that  
22 is the real property interest that the person or persons originally  
23 contributed to the entity or when one or more persons who did not  
24 contribute real property or belong to the entity at a time when real  
25 property was purchased receive cash or personal property in exchange  
26 for that person or persons' interest in the entity. The real estate  
27 excise tax under this subsection (3)(q)(ii) is imposed upon the  
28 person or persons who previously held a controlling interest in the  
29 entity.

30 (r) A qualified sale of a manufactured/mobile home community, as  
31 defined in RCW 59.20.030, that takes place on or after June 12,  
32 2008(~~(, but before December 31, 2018)~~)).

33 NEW SECTION. **Sec. 8.** If any provision of this act or its  
34 application to any person or circumstance is held invalid, the  
35 remainder of the act or the application of the provision to other  
36 persons or circumstances is not affected.

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