
**Trade & Economic Development
Committee**

HB 3082

Brief Description: Resolving manufactured/mobile home landlord and tenant disputes.

Sponsors: Representatives Wallace, Morrell, Veloria, Chase, Upthegrove and O'Brien.

Brief Summary of Bill

- Creating a program to resolve landlord tenant disputes arising in mobile home parks and manufactured housing communities.

Hearing Date: 2/3/04

Staff: Tracey Taylor (786-7196).

Background:

The Manufactured Home/Mobile Home Landlord-Tenant Act (L-T Act) regulates and determines the legal rights, remedies and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot and including specified amenities within the mobile home park, mobile home park cooperative, or mobile home park subdivision, where the tenant has no ownership interest in the property or in the association which owns the property, whose uses are referred to as a part of the rent structure paid by the tenant. There are several remedies available to handle violations of the L-T Act. A landlord may evict tenants for committing substantial or repeated violations of the L-T Act, including nonpayment of rent and failure to comply with local ordinances and state laws. A tenant may recover damages from a landlord for such acts as denying the tenant the right to sell his or her manufactured home within a park and charging the tenant a utility fee in excess of actual utility costs.

The Office of Mobile Home Affairs (OMHA) was created in the Department of Community, Trade and Economic Development to provide general assistance to mobile home resident organizations, park owners, and landlords and tenants. The OMHA provides ombudsman service to the mobile home park owners and tenants with problems and disputes. It also provides technical assistance to resident organizations or persons in the process of forming a resident organization and keeps all related documents. The OMHA all handles consumer complaints and related functions in order to comply with the regulations established by the federal Department of Housing and Urban Development for manufactured housing. Finally, OMHA administers the mobile home relocation assistance program.

Summary of Bill:

A process for handling an alleged violation of the L-T Act is established in the Department of Licensing (DOL).

Complaints

Prior to notifying the DOL of an alleged L-T Act violation, the complaining party must provide written notice by personal service, affixing a copy clearly on the residence or by mail. The complaint must be remedied within a reasonable time. A reasonable time is not more than: 24 hours where the defective condition is imminently hazardous to life; 48 hours where the landlord fails to provide water or heat; seven days in the case of repair of hazardous conditions in the common area; and 30 days in all other cases. If these conditions are met, but the violation is not remedied, the DOL may investigate and issue citations.

Citations and Hearings

A citation must be delivered by certified mail or in person, and it must specify the violation, the corrective action to be taken and the time within which the corrective action must be taken. The citation must also specify the penalties that will result if the corrective action is not taken within the specified time as well as the process for contesting a citation. A landlord or tenant may contest the citation through an administrative hearing within 15 days of receiving the citation. If not contested within the 15 days, the order is considered final and is not subject to review by any court or agency. In a case where the violation is immediately hazardous to life, the DOL shall follow the emergency adjudicative proceedings procedures. Corrective action must occur within 24 hours of receipt of the citation. For all other violations, corrective action must occur within 20 days of receipt of the DOL's citation.

If, after a hearing, it is determined that the accusation is supported by a preponderance of the evidence, an order to that effect shall be entered and filed with the DOL. A copy of the order will be mailed immediately to the affected party. This order may be appealed.

Fines and Orders

If the landlord or tenant fails to take corrective action within the required time period and there was not a timely request for an administrative hearing, the DOL may impose a fine of up to \$5,000 per violation for every day that the violation remains uncorrected; however, the department must consider aggravating or mitigating circumstances in assessing any fine. Written guidelines for issuing fines must be established by the DOL.

The office may issue an order requiring the mobile home park or manufactured housing community owner, its assignee, or agent to cease and desist from unlawful practices and take those affirmative actions that, in the judgment of the office, carry out the purposes of this chapter, including refunds of rent increases and improper fees.

Good Faith Attempt to Correct

If a landlord or tenant demonstrates a good faith effort to comply with the corrective action requirements of the citation, but, the corrective action has not been completed due to factors beyond the landlord's or tenant's control, he or she may apply to the DOL and the DOL may grant an extension. If an order for payment is not complied with, the order may be enforced in superior court.

Other Remedies

The current remedies available under the L-T Act are not affected.

General Powers and Provisions

The DOL is granted the power to issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding. The DOL can take or cause depositions to be taken as well as other discovery procedures as need in an investigation, hearing, or proceeding. The DOL has the power to compel the attendance of witnesses at hearings. The department can also designate individuals authorized to sign subpoenas and citations and employ the necessary investigative, administrative and clerical staff.

The director of the DOL, and any individuals acting on his or her behalf, are immune from suit in any action, civil or criminal, based upon any disciplinary actions or other official acts performed in the course of their duties under this chapter.

Landlords and tenants must cooperate with the department in the course of an investigation.

The OMHA will no longer provide ombudsman services.

Registration of Mobile Home Parks & Manufactured Housing Communities

All mobile home parks and manufactured housing communities must register with the DOL. By July 1, 2005, the DOL must compile the most accurate list possible of all mobile home parks and manufactured housing communities in the state, the number of lots subject to the L-T Act in each park or community and the names and addresses of these parks.

An annual fee to administer this chapter will be assessed and may not exceed \$10 per lot in the park or community subject to this chapter. No more than half of the fee may be passed on to the tenants by the park or community owner. The first fee will be collected by July 1, 2005.

Notification regarding the fee must go out to all known mobile home/manufactured housing community owners. If the owner fails to pay the fee, a penalty shall be assessed. Failure to pay the fee within 90 days of the registration expiration date causes a lien in favor of the state in the amount of the registration fee upon the owner's property. This lien is superior to all other liens and encumbrances except general taxes and local and special assessments. The DOL may adopt other fees by rule to cover the costs in administering this chapter.

Investigation Account

A manufactured/mobile home investigations account is created in the custody of the state treasurer. All receipts from fines and fees must be deposited in the account. Expenditures may only be used for costs associated with this chapter. An appropriation is not required for expenditures, but the account is subject to the allotment procedures.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect August 1, 2004; except for sections 3, 7, and 12, which take effect January 1, 2006.