
Housing Committee

HB 1640

Brief Description: Providing a dispute mechanism for manufactured/mobile home landlord and tenant disputes.

Sponsors: Representatives Morrell, Chase, Dunn, McCoy, O'Brien, Appleton and Lantz.

Brief Summary of Bill

- Creates a new program within the Department of Community, Trade and Economic Development (DCTED) to resolve landlord tenant disputes arising in manufactured/mobile home communities, with a right of appeal to an administrative law judge, and from there to superior court.
- Requires manufactured/mobile home communities to register with the DCTED.
- Imposes a registration fee on manufactured/mobile home communities.
- Eliminates the DCTED ombudsman service to mobile home park owners and tenants.

Hearing Date: 2/15/05

Staff: CeCe Clynch (786-7168).

Background:

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. The Act includes provisions with respect to bringing suit as well as arbitration and mediation proceedings.

The Office of Mobile Home Affairs (OMHA) was created in the DCTED to serve as the coordinating office within state government for matters relating to manufactured/mobile homes. The OMHA provides ombudsman service to manufactured/mobile home park owners and tenants with respect to disputes and problems. It also provides technical assistance to resident organizations or persons in the process of forming a resident organization; handles the consumer complaints and related functions necessary to comply with the regulations established by the

federal Department of Housing and Urban Development for manufactured/mobile homes; and administers the mobile home relocation assistance program.

Summary of Bill:

This bill establishes, within the DCTED, a program and process for handling alleged violations of the Act or the commission of an unfair practice.

Complaints

Prior to notifying the DCTED of an alleged violation, the complainant must provide written notice of the alleged violation to the respondent. The complaint must be remedied according to the time frames set out in the Act: 24 hours where the defective condition is imminently hazardous to life; 48 hours where the landlord fails to provide electricity, 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 the violation is not remedied in a timely manner, the complainant may file a complaint with the DCTED, outlining the circumstances and facts surrounding the alleged violation.

Investigations

Whether to investigate a complaint is left to the discretion of the DCTED. Investigative powers of the DCTED include the power to subpoena, administer oaths, take depositions, compel attendance, and employ investigative as well as administrative and clerical staff.

Citations and Hearings

If the DCTED finds that an unfair practice or violation has occurred, the DCTED may issue a citation to the respondent. The citation must specify the violation, the corrective action to be taken, and the time within which corrective action must be taken. The citation must also specify the penalties that will result if timely corrective action is not taken as well as the process for contesting a citation. A copy of the citation must also be sent to the complainant. If no violation is found, written notice of that decision must also be sent to both the complainant and the respondent.

A complainant or respondent dissatisfied with a citation or decision by the DCTED must file a timely request for an administrative hearing to be conducted by an administrative law judge. If not timely contested, the DCTED decision is considered final and is not subject to review by any court or agency.

If a hearing is requested, and the judge determines that the citation is supported by a preponderance of the evidence, an order to that effect shall be entered and copies mailed to the affected parties. This order constitutes a final agency order and is appealable to superior court pursuant to chapter 34.05 RCW.

Fines and Orders

Corrective action must occur within 24 hours of receipt of the DCTED citation for violations that substantially endanger or impair the health or safety of the complainant. If the landlord is failing to provide heat, water, or electricity, the corrective action must occur within 48 hours. For all other violations, corrective action must occur within 15 days of receipt of the DCTED citation.

If corrective action is not taken within the required time period and there is not a timely request for an administrative hearing, the DCTED may impose a fine of up to \$5,000 per violation for every day that the violation remains uncorrected to the DCTED. The DCTED may consider

aggravating or mitigating circumstances in assessing any fine. Written guidelines for issuing fines must be established by the DCTED. The amount of the fine may be appealed within 30 days; if not appealed within 30 days, the right to appeal the fine is lost.

The DCTED may also issue cease and desist orders and require refunds of improper rent increases and fees. A fine, refund, or other penalty against a landlord may not be recouped from the tenants.

Good Faith Attempt to Correct

If a respondent demonstrates a good faith effort to comply, but the corrective action has not been completed due to factors beyond the respondent's control, he or she may apply to the DCTED and the DCTED may grant an extension.

Other Remedies

The current remedies available under the Act are not affected. Exhaustion of administrative remedies is not required before bringing legal action.

Immunity

The director of the DCTED, 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. Willful and intentional misconduct is excluded from this grant of immunity.

Registration of Mobile Home Parks & Manufactured Housing Communities

All mobile home parks and manufactured housing communities must register with the DCTED. The DCTED 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 Act in each park or community, and the names and addresses of these parks.

An annual fee to administer this chapter is assessed which may not exceed \$10 per lot. 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 the DCTED upon initial registration.

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. Additionally, failure to pay the fee will preclude the owner of the park or community from utilizing the remedies provided in the Act and those provided above.

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: Requested on February 9, 2005.

Effective Date: The bill takes effect July 1, 2005, except for sections 3 and 10, relating to the new complaint and administrative hearing process for the DCTED, which take effect January 1, 2006.