

SENATE BILL REPORT

SB 5660

As of February 11, 2005

Title: An act relating to resolving manufactured/mobile home landlord and tenant disputes.

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

Sponsors: Senators Kastama, Prentice, Fairley, Rockefeller, Eide and Fraser.

Brief History:

Committee Activity: Financial Institutions, Housing & Consumer Protection: 2/9/05.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Staff: Jennifer Arnold (786-7471)

Background: The Manufactured/Mobile Home Landlord-Tenant Act (MHLTA) governs the relationship between the manufactured/mobile homeowners, who rent the lot where their home is located, and the owners of such parks and communities.

A mobile home is a factory-built dwelling, constructed prior to 1976, that met applicable state statutes at the time of construction. A manufactured home is a post-1976 dwelling, built according to the U.S. Department of Housing and Urban Development's construction and safety standards.

The Office of Mobile Home Affairs exists within the Department of Community, Trade and Economic Development (CTED) to provide ombudsman service and technical assistance to the owners of manufactured/mobile home parks and the owners of homes located within those communities and parks.

Manufactured/mobile home park owners and the homeowners have a unique relationship, in that it can be difficult and expensive to move or relocate a home after occupancy has started. Therefore, there are concerns that this relationship can lead to bargaining inequalities and that a new process is necessary in order to give homeowners adequate remedies and foster fair and honest competition.

Summary of Bill: A statutory process is created for the resolution of disputes between manufactured/mobile homeowners and manufactured/mobile home park owners. A complainant is defined as a landlord, park owner, tenant, or homeowner. A complainant has a right to file a complaint, alleging unfair practices or violations of the MHLTA, with CTED.

A complainant must give written notice to the party that allegedly committed an unfair practice or violation of the MHLTA, prior to notifying CTED. If the violation is not corrected within the time provided for under the MHLTA, then a complaint may be filed with CTED.

CTED has the power to investigate, at its discretion, complaints received for violations of the MHLTA. These powers include the ability to issue subpoenas, administer oaths, take dispositions, compel witness attendance, and employ any necessary staff. The parties involved in the dispute must cooperate with CTED's investigation and provide when requested, necessary documents, a written explanation of the dispute, authorized access to housing facilities, and responses to subpoenas. Failure to cooperate is a violation of the MHLTA.

CTED may issue citations for violations of MHLTA that include information as to the time in which corrective action must be taken, the penalties for failure to correct a violation, and the procedure for contesting a citation.

Citations and findings of no violation may be contested through an administrative hearing, where the violation will be evaluated by a preponderance of the evidence test. A party has 30 days from receiving a citation or notice of CTED's finding of no violation to request a hearing. If a timely request for a hearing is not made, or corrective action has not been taken within the required time period, CTED may impose a fine of up to \$5,000 per violation for every day that the violation remains uncorrected. The department may opt to extend the time period for corrective action, if the party can establish that a good faith effort was made to correct the violation. CTED will develop written rules for issuing fines. Assessed fines may be appealed within 30 days of receipt of the department's action. A party does not need to exhaust their administrative remedies before bringing legal action.

CTED may issue cease and desist orders to prevent any unfair or unlawful practices, as well as take any necessary actions to correct a statutory or rule violation.

A landlord or park owner cannot seek reimbursement of any fines imposed for violations under these provisions from the tenants or homeowners.

The employees of CTED are immune from any law suit based on the performance of their duties under the manufactured/mobile home landlord tenant act, unless their actions were intentional or willful.

All manufactured and mobile home parks are required to register with CTED. The department may adopt rules regarding registration. Registration must be renewed annually. The assessment paid to CTED for registration will fund the administrative costs of these provisions and is not to exceed \$10 per mobile or manufactured home. No more than one-half of this cost may be passed on to the tenants. A lien will attach to an owner's property that is more than 90 days late in renewing a registration. This lien has priority over all other liens, except general taxes and local and special assessments. CTED will develop rules for establishing a registration and assessment process.

A State Treasurer manufactured/mobile home investigations account is created. All fines and assessments collected under these provisions must be deposited into this account.

Appropriation: None.

Fiscal Note: Requested on February 7, 2005.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Testimony For: Current law is inadequate to address mobile homeowners concerns because it essentially requires tenants to hire attorneys to enforce it, which can take many years to resolve in the courts and can be considerably expensive. Many mobile home tenants are on fixed incomes and are not able to afford attorneys. An impartial third party is needed to address disputes in a cost efficient manner, outside of the courts. It would only be necessary to impose fines in the most egregious cases. The inability to pay for moving a home in the event of a dispute, makes mobile homeowners very vulnerable.

Testimony Against: This is unnecessary, as there are existing safeguards that effectively protect the interests of both sides: MLHTA, the Office of Manufactured Housing, private attorneys that represent low-income groups; the Consumer Protection Act, and the Mobile Home Owners of America.

Who Testified: PRO: Senator Kastama, prime sponsor; Ishbel Dickens, Columbia Legal Services; Wolfgang Priebe, Mobile Home Owners of America; Nick Federici, Washington Low-income Housing Alliance; Ken Newton, Mobile Home Owners of America.

CON: Ken Spencer, Manufactured Housing Communities of Washington; John Woodring, Manufactured Housing Communities of Washington; Jon Fox, Basin City Mobile Home Park; Walter Olsen, Olsen Law Firm, PLLC.

Signed in, Unable to Testify & Submitted Written Testimony: PRO: Ray Munson, Mobile Home Owners Association 153; Debra Russell, MTA; Charles Logan.