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SENATE BILL 6709

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State of Washington

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By Senators Kastama, Eide, Prentice, Rasmussen, Fraser, McAuliffe and Rockefeller

Read first time 01/19/2006. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1 AN ACT Relating to resolving manufactured/mobile home landlord and  
2 tenant disputes; amending RCW 59.22.070; adding a new section to  
3 chapter 34.12 RCW; adding a new chapter to Title 59 RCW; prescribing  
4 penalties; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that there are  
7 factors unique to the relationship between a manufactured/mobile  
8 homeowner and a manufactured/mobile home park owner. Once occupancy  
9 has commenced, the difficulty and expense in moving and relocating a  
10 manufactured/mobile home can affect the operation of market forces, and  
11 lead to an inequality of the bargaining position of the parties. Once  
12 occupancy has commenced, a homeowner may be subject to violations of  
13 the manufactured/mobile home landlord-tenant act or unfair practices  
14 without an adequate remedy at law. This chapter is created for the  
15 purpose of protecting the public, fostering fair and honest  
16 competition, and regulating the factors unique to the relationship  
17 between the manufactured/mobile homeowner and park owner.

18 (2) The legislature finds that taking legal action against a park  
19 owner for violations of the manufactured/mobile home landlord-tenant

1 act can be a costly and lengthy process, and that many people cannot  
2 afford to pursue a court process to vindicate statutory rights. Park  
3 owners similarly are benefited by having access to a process that  
4 resolves disputes quickly and efficiently.

5 (3) Therefore, it is the intent of the legislature to provide a  
6 less costly and more efficient way for manufactured/mobile homeowners  
7 and park owners to resolve disputes, and to provide a mechanism for  
8 state authorities to quickly locate owners of manufactured housing  
9 communities. The legislature further intends to authorize the  
10 department of community, trade, and economic development to:

11 (a) Register mobile home parks or manufactured housing communities,  
12 take complaints, conduct investigations, and administratively resolve  
13 disputes, when there are violations of the manufactured/mobile home  
14 landlord-tenant act;

15 (b) Maintain, update, and expand its current complaint program by  
16 retaining the necessary staffing level of hired or contracted persons  
17 used to operate and implement the program under chapter 429, Laws of  
18 2005; and

19 (c) Collect data related to conflicts and violations.

20 NEW SECTION. **Sec. 2.** The definitions in this section apply  
21 throughout this chapter unless the context requires otherwise.

22 (1) "Department" means the department of community, trade, and  
23 economic development.

24 (2) "Director" means the director of the department.

25 (3) "Mobile home park" or "manufactured housing community" means  
26 any real property that is rented or held out for rent to others for the  
27 placement of two or more mobile homes, manufactured homes, or park  
28 models for the primary purpose of production of income, except when the  
29 real property is rented or held out for rent for seasonal recreational  
30 purposes only and is not used for year-round occupancy.

31 (4) "Landlord" or "park owner" means the owner of a mobile home  
32 park or a manufactured housing community, and includes the agents of  
33 the landlord.

34 (5) "Tenant" or "homeowner" means any person, except a transient,  
35 who rents or occupies a mobile home lot.

36 (6) "Mobile home lot" means a portion of a mobile home park or  
37 manufactured housing community designated as the location of one mobile

1 home, manufactured home, or park model and its accessory buildings, and  
2 intended for the exclusive use as a primary residence by the occupants  
3 of that mobile home, manufactured home, or park model.

4 (7) "Recreational vehicle" means a travel trailer, motor home,  
5 truck camper, or camping trailer that is primarily used as a primary  
6 residence located in a mobile home park or manufactured housing  
7 community.

8 (8) "Owner" means one or more persons, jointly or severally, in  
9 whom is vested:

10 (a) All or part of the legal title to the real property; or

11 (b) All or part of the beneficial ownership, and a right to present  
12 use and enjoyment of the real property.

13 (9) "Unfair practice" means any act that would constitute an unfair  
14 or deceptive act or practice under chapter 19.86 RCW.

15 (10) "Complainant" means a landlord, park owner, tenant, or  
16 homeowner, who has a complaint alleging an unfair practice or violation  
17 of chapter 59.20 RCW.

18 (11) "Respondent" means a landlord, park owner, tenant, or  
19 homeowner, alleged to have committed an unfair practice or violation of  
20 chapter 59.20 RCW.

21 NEW SECTION. **Sec. 3.** (1) A complainant shall have the right to  
22 file a complaint with the department alleging an unfair practice or a  
23 violation of chapter 59.20 RCW.

24 (2) Upon receiving a complaint under this act, the department  
25 must:

26 (a) If a statutory time period is applicable, inform the  
27 complainant of the time frame to remedy the complaint under RCW  
28 59.20.080 for tenant violations or RCW 59.20.200 for landlord  
29 violations; and

30 (b) Encourage the complainant to notify the respondent of the  
31 complaint.

32 (3) The department shall ensure that notice of the complaint  
33 resolution program is given to each mobile/manufactured home landlord  
34 or park owner and each mobile home unit owner or tenant. The landlord  
35 shall post an easily visible notice in all common areas of  
36 mobile/manufactured home communities, including in each clubhouse,  
37 summarizing mobile home park tenant rights and responsibilities, in a

1 style and format to be determined by the department, and including  
2 information on how to file a complaint with the office of manufactured  
3 housing and a toll-free telephone number that mobile home park owners  
4 and tenants can use to seek additional information and communicate  
5 complaints.

6 (4) After receiving a complaint under this act, the department may  
7 utilize alternative dispute resolution by the following:

8 (a) Investigate the alleged violations at its discretion upon  
9 receipt of a complaint alleging unfair practices or violations of  
10 chapter 59.20 RCW;

11 (b) Utilize investigative ombudsman staff or contractors to  
12 investigate and evaluate complaints alleging unfair practices or  
13 violations of chapter 59.20 RCW;

14 (c) Discuss the issues surrounding or relating to the complaint  
15 with the complainant, respondent, or any witnesses, either individually  
16 or jointly;

17 (d) Explain options available to the complainant or respondent,  
18 including the involvement of other agencies; and

19 (e) Negotiate an agreement that is agreed upon by both the  
20 complainant and the respondent.

21 (5) If after the investigation and alternative dispute resolution,  
22 no agreement has been reached by the parties, the department may make  
23 written findings, conclusions, decisions, or rulings on whether an  
24 unfair practice or violation of chapter 59.20 RCW has occurred. In  
25 that event, the department shall deliver a citation to the respondent  
26 who committed the violation by certified mail or in person. The  
27 citation must specify the violation, the corrective action to be taken,  
28 the time within which the corrective action must be taken, the  
29 penalties that will result if corrective action is not taken within the  
30 specified time period, and the process for contesting the citation  
31 through a hearing. The complainant shall also be mailed a copy of the  
32 citation.

33 (6) If after an investigation the department does not find an  
34 unfair practice or violation of chapter 59.20 RCW, the department shall  
35 deliver a written notice of that decision, including any appeal rights,  
36 to both the complainant and the respondent.

37 (7)(a) Complainants and respondents shall cooperate with the  
38 department in the course of an investigation by:

- 1 (i) Furnishing any papers or documents requested;
- 2 (ii) Furnishing in writing an explanation covering the matter  
3 contained in the complaint when requested by the department;
- 4 (iii) Allowing authorized access to department representatives for  
5 inspection of mobile home parks/manufactured housing community  
6 facilities relevant to the alleged violation being investigated; or
- 7 (iv) Responding to subpoenas issued by the department.
- 8 (b) Failure to cooperate with the department in the course of an  
9 investigation is a violation of this chapter.

10 (8) Department decisions regarding citations for violations and  
11 penalties or the failure to find an unfair practice or violation of  
12 chapter 59.20 RCW may be contested through an administrative hearing  
13 under chapter 34.05 RCW. The administrative law judge appointed under  
14 chapter 34.12 RCW shall hear and receive pertinent evidence and  
15 testimony. The administrative law judge shall decide whether the  
16 evidence supports the violation by a preponderance of evidence. The  
17 administrative law judge shall enter an appropriate order within thirty  
18 days after the close of the hearing and immediately mail copies of the  
19 order to the affected parties. The order of the administrative law  
20 judge constitutes the final agency order of the department, and is  
21 appealable to the superior court under chapter 34.05 RCW.

22 (9) In order to obtain a hearing, the complainant or respondent  
23 must, within thirty days of receiving a citation or written notice from  
24 the department denying the complaint, request a hearing. If a hearing  
25 is not requested within this time period, the citation or written  
26 notice constitutes a final order of the department and is not subject  
27 to review by any court or agency.

28 (10) For violations that substantially endanger or impair the  
29 health or safety of a complainant resulting in a citation, corrective  
30 action by the respondent must take place within twenty-four hours of  
31 the receipt of the department's citation. For violations involving the  
32 failure of the landlord to provide heat, water, or electricity,  
33 corrective action must take place within forty-eight hours of the  
34 receipt of the department's citation. For all other violations,  
35 corrective action must take place within fifteen days of the receipt of  
36 the department's citation.

37 (11) If a respondent fails to take corrective action within the  
38 required time period and the department has not received a timely

1 request for an administrative hearing, the department may impose a  
2 fine, up to a maximum of one thousand dollars per violation, for every  
3 day that the violation remains uncorrected. The department shall  
4 establish written guidelines, adopted by rule, for issuing fines. The  
5 department may consider aggravating or mitigating circumstances in  
6 assessing any fine. The party to whom a fine has been assessed may  
7 appeal the amount of the fine by requesting a hearing within thirty  
8 days of receipt of the department's action. If a hearing is not  
9 requested within this time period, the fine assessment constitutes a  
10 final order of the department and is not subject to review by any court  
11 or agency.

12 (12) The department may issue an order requiring the respondent, or  
13 its assignee or agent, to cease and desist from an unfair or unlawful  
14 practice and take such affirmative actions that in the judgment of the  
15 department will carry out the purposes of this chapter. The  
16 affirmative actions may include, but are not limited to, the following:

17 (a) Refunds of rent increases, improper fees, charges, and  
18 assessments collected in violation of the terms of this chapter;

19 (b) Filing and utilization of documents which correct a statutory  
20 or rule violation; and

21 (c) Reasonable action necessary to correct a statutory or rule  
22 violation.

23 (13) Upon application to the department by the respondent showing  
24 that a good faith effort to comply with the corrective action  
25 requirements of the citation has been made and that the corrective  
26 action has not been completed because of factors beyond the  
27 respondent's control, the department may extend the time period in  
28 which corrective action must be taken before fines are imposed.

29 (14) When the department imposes a fine, refund, or other penalty  
30 against the respondent, the respondent is not entitled to any recovery  
31 or reimbursement of the fine, refund, or other penalty from the tenants  
32 or homeowners.

33 (15) This section is not exclusive and does not limit the right of  
34 landlords or tenants to take legal action against another party as  
35 provided in chapter 59.20 RCW or otherwise. Exhaustion of this  
36 administrative remedy is not required before bringing legal action.  
37 This section does not apply to unlawful detainer actions initiated

1 under RCW 59.20.080; however, a tenant is not precluded from seeking  
2 relief under this chapter if the complaint claims the notice of  
3 termination violates RCW 59.20.080.

4 NEW SECTION. **Sec. 4.** The department must continually maintain and  
5 update a data base, in which the following information is contained at  
6 a minimum:

7 (1) The number and names of all mobile home parks and manufactured  
8 communities, and their owners, in the state;

9 (2) The number of complaints received;

10 (3) The nature and extent of the complaints received;

11 (4) The violation of law or unfair practice complained of; and

12 (5) The complaint investigation outcomes for both alternative  
13 dispute resolution and administrative action complaints.

14 NEW SECTION. **Sec. 5.** The director or individuals acting on the  
15 director's behalf are immune from suit in any action, civil or  
16 criminal, based upon any disciplinary actions or other official acts  
17 performed in the course of their duties under this chapter, except  
18 their intentional or willful misconduct.

19 NEW SECTION. **Sec. 6.** (1) All mobile home parks and manufactured  
20 housing communities must be registered with the department.

21 (2) To apply for registration, the owner of a mobile home park or  
22 manufactured housing community must file with the department an  
23 application for registration on a form prescribed by the department.  
24 The application must include, but is not limited to:

25 (a) The name and address of the owner of the mobile home park or  
26 manufactured housing community;

27 (b) The name and address of the mobile home park or manufactured  
28 housing community;

29 (c) The name and address of the manager of the mobile home park or  
30 manufactured housing community; and

31 (d) The number of lots within the mobile home park or manufactured  
32 housing community that are subject to chapter 59.20 RCW.

33 (3) Certificates of registration are effective on the date issued  
34 by the department.

1        NEW SECTION.    **Sec. 7.**    The department must:

2        (1) Compile, update, and maintain the most accurate list possible  
3 of all the mobile home parks or manufactured housing communities in the  
4 state, the number of lots subject to chapter 59.20 RCW located in each  
5 mobile home park or manufactured housing community, and the names and  
6 addresses of the owners of these parks. The department is encouraged  
7 to work with groups including, but not limited to: The office of  
8 community development, mobile homeowners' associations, tenant advocacy  
9 groups, park owners' associations, and county assessors to generate the  
10 list;

11        (2) Send out notifications to all known mobile home park owners or  
12 manufactured housing community owners that the registration assessments  
13 under section 6 of this act which are due. These notifications must  
14 include information about late fees, liens, and passing costs on to  
15 tenants; and

16        (3) Collect the registration assessments due from all mobile home  
17 park owners or manufactured housing community owners, and allow ninety  
18 days to pass before sending notices of late fees to noncomplying owners  
19 as provided in this act.

20        NEW SECTION.    **Sec. 8.**    (1) The owner of each mobile home park or  
21 manufactured housing community shall pay to the department a  
22 registration assessment of five dollars for each mobile home or  
23 manufactured home that is subject to chapter 59.20 RCW within a park or  
24 community to fund the costs associated with administering this act.  
25 Manufactured housing community owners or mobile home park owners may  
26 pass on no more than two dollars and fifty cents of this assessment to  
27 tenants.

28        (2) If an owner fails to pay the assessment before the registration  
29 expiration date, a late fee shall be assessed, for each mobile home or  
30 manufactured home that is subject to chapter 59.20 RCW. The owner is  
31 not entitled to any reimbursement of this fee from the tenants.

32        (a) A late fee shall be assessed at fifty percent of the total  
33 amount due for registration, if the fee is received by the department  
34 more than thirty days, but less than sixty days after the registration  
35 fee due date.

36        (b) A late fee shall be assessed at one hundred percent of the

1 total amount due for registration, if the fee is received by the  
2 department more than sixty days late.

3 NEW SECTION. **Sec. 9.** All receipts from the imposition of fines,  
4 assessments, and late fees collected under this act must be deposited  
5 into the office of manufactured housing account under RCW 59.22.070.  
6 Expenditures from the account may be used only for the costs associated  
7 with administering this chapter. Only the director or the director's  
8 designee may authorize expenditures from the account. The account is  
9 subject to allotment procedures under chapter 43.88 RCW, but an  
10 appropriation is not required for expenditures.

11 NEW SECTION. **Sec. 10.** (1) In order to provide general assistance  
12 to mobile home resident organizations, park owners, and landlords and  
13 tenants, the department shall establish an office of mobile home  
14 affairs which will serve as the coordinating office within state  
15 government for matters relating to mobile homes or manufactured  
16 housing.

17 This office will provide a complaint resolution process to mobile  
18 home park owners and mobile home tenants with respect to problems and  
19 disputes between park owners and park residents and to provide  
20 technical assistance to resident organizations or persons in the  
21 process of forming a resident organization under chapter 59.22 RCW.  
22 The office will keep records of its activities in this area.

23 (2) The office shall perform all the consumer complaint and related  
24 functions of the state administrative agency that are required for  
25 purposes of complying with this chapter and the regulations established  
26 by the federal department of housing and urban development for  
27 manufactured housing, including the preparation and submission of the  
28 state administrative plan.

29 (3) The office shall administer the mobile home relocation  
30 assistance program established in chapter 59.21 RCW, including  
31 verifying the eligibility of tenants for relocation assistance.

32 NEW SECTION. **Sec. 11.** A new section is added to chapter 34.12 RCW  
33 to read as follows:

34 When requested by the department of licensing, the chief

1 administrative law judge shall assign an administrative law judge to  
2 conduct proceedings under Title 59 RCW.

3 **Sec. 12.** RCW 59.22.070 and 1995 c 399 s 156 are each amended to  
4 read as follows:

5 (1) There is created in the custody of the state treasurer a  
6 special account known as the ~~((mobile home affairs))~~ office of  
7 manufactured housing account.

8 Disbursements from this special account shall be as follows:

9 ~~((+1))~~ (a) For the two-year period beginning July 1, 1988, forty  
10 thousand dollars, or so much thereof as may be necessary for costs  
11 incurred in registering landlords and collecting fees, and thereafter  
12 five thousand dollars per year for that purpose.

13 ~~((+2))~~ (b) All remaining amounts shall be remitted to the  
14 department for the purpose of implementing RCW 59.22.050 ~~((and~~  
15 ~~59.22.060))~~.

16 (2) All funds collected by the department under sections 7 and 8 of  
17 this act shall be transferred to the state treasurer for deposit into  
18 the office of manufactured housing account.

19 (3) Expenditures from the account may be used only for the costs  
20 associated with administering this act. Only the director or the  
21 director's designee may authorize expenditures from the account. The  
22 account is subject to allotment procedures under chapter 43.88 RCW, but  
23 an appropriation is not required for expenditures.

24 NEW SECTION. **Sec. 13.** Sections 1 through 10 of this act  
25 constitute a new chapter in Title 59 RCW.

26 NEW SECTION. **Sec. 14.** This act is necessary for the immediate  
27 preservation of the public peace, health, or safety, or support of the  
28 state government and its existing public institutions, and takes effect  
29 immediately.

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