

HOUSE BILL REPORT

HB 1621

As Reported by House Committee On:

Housing
Finance

Title: An act relating to the preservation of manufactured/mobile home communities.

Brief Description: Preserving manufactured/mobile home communities.

Sponsors: Representatives B. Sullivan, Sells, Morrell, Lovick, Ormsby, Miloscia, Springer, McCoy, P. Sullivan, Hasegawa, O'Brien, Roberts, Conway, Wood, Haigh, Rolfes and Simpson.

Brief History:

Committee Activity:

Housing: 1/29/07, 2/8/07 [DPS];

Finance: 2/12/08 [DP2S].

Brief Summary of Second Substitute Bill

- Provides an exemption from the Real Estate Excise Tax if a landlord of a manufactured/mobile home community voluntarily sells the community eligible organization for the purpose of community preservation.
- Requires landlords to give notice that a community is for sale to tenants and other specified entities within 14 days of any advertisement or at least 90 days before a transfer of ownership occurs.
- Encourages landlords to negotiate in good faith with tenant organizations and requires that they negotiate in good faith with Housing Authorities and local governments.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Miloscia, Chair; Springer, Vice Chair; Kelley and Ormsby.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 3 members: Representatives Dunn, Ranking Minority Member; McCune and Schindler.

Staff: Robyn Dupuis (786-7166).

Background:

Given increasing market demands for land in Washington, particularly in high growth areas, the state has noted a recent increase in the rate of manufactured/mobile home community closures. According to data provided by the Department of Community, Trade and Economic Development (DCTED), 16 manufactured/mobile communities closed during calendar year 2006, the closure of which affected 715 households. Twenty communities are scheduled to close during calendar year 2007, which will affect 627 households. Approximately 1,000 existing parks are located in urban growth areas and are considered likely threatened due to rising land values within those areas.

There is a Mobile Home Relocation Reimbursement Program operated by the DCTED which provides relocation assistance of \$7,500 for a single wide home and \$12,000 for a double-wide home. Given the known impending closures, the DCTED estimates that 1,342 households will need to relocate from closing parks in the coming year. There are 213 households on the waiting list for relocation assistance with approved reimbursement receipts totaling \$1,807,574.

Right of First Refusal (Chapter 59.23)

A Washington law enacted in 1993 provided for a right of first refusal for a qualified tenant organization. Under that statute, a park owner was required to notify a qualified tenant organization of a pending sale of the park, and the qualified tenant organization would have 30 days after that notice was received to tender a fully executed purchase and sale agreement at least as favorable to the park owner as the original agreement.

This statute was declared invalid, however, in *Manufactured Housing Communities of Washington v. State*, 142 Wash.2d 347 (2000). The Washington Supreme Court held that the right of first refusal is a fundamental attribute of ownership and a valuable property right of mobile home park owners, and that the statutory forced transfer of this right constitutes a taking under the Washington Constitution.

Summary of Substitute Bill:

"Notice of Sale" Requirement

A landlord selling a community must file a notice of sale within 14 days of advertisement of the sale. The DCTED will provide a template notice of sale in which the landlords must include a fair market value assessment, disclosures, a statement regarding the income and expenses of the community operation, and a description of an acceptable offer for which the landlord would sell the community or a copy of a purchase offer which the landlord has already received and is willing to accept.

Voluntary Qualified Sale of a Manufactured/Mobile Home Community

Sales at fair market value to a qualified tenant organization or an organization representing tenants are called "qualified sales" and are exempt from the real estate excise tax (RCW 82.45). For the purpose of a qualified sale, fair market value is determined by calculating the mean of appraisals contracted by the landlord, tenant organization, and the DCTED.

At any point during ownership, landlords may file a "notice of intent to pursue a qualified sale" with the Office of Manufactured Housing (OMH) within the DCTED. They may also rescind that notice at any time before an actual "notice of sale" is filed.

Under a Qualified Sale:

- Landlords must offer the property to the tenant organization or organization representing tenants at fair market value for 90 days and allow that group 12 months to close the sale.
- Tenants must notify the landlord of their intent to purchase the property by delivering a "notice of intent to purchase" within 90 days after receipt of the notice of sale.

Required Good Faith Negotiations

If a tenant organization or an organization representing the tenants delivers to the landlord a "notice of intent to purchase" within the first 90 days after a notice of sale has been delivered, the landlord must negotiate with the organization in good faith.

(A "notice of intent to purchase" is a document signed by 60 percent of the tenants in the community and which binds each of those tenants to the others in the purchase of the community.)

Housing Authority/Local Government Right of First Refusal

A Housing Authority or a local government has the right to purchase a community if it:

- presents to the landlord an equivalent offer to the "acceptable offer" contained in notice of sale within 90 days after the delivery of the notice of sale; and
- closes on the purchase within 180 days after the delivery of the notice of sale.

The Housing Authority and local government right of first refusal does not apply to property transferred by a qualified sale of a manufactured/mobile home community, a government taking by eminent domain, a forced sale due to foreclosure, or a sale to a partner in the operation or heir of the landlord.

Violation of Chapter

A landlord who violates this chapter is liable to the tenants of the community for an amount equal to 10 percent of the gain realized from sale. Violation of the chapter is also a violation of the Consumer Protection Act.

Office of Manufactured Housing

The name of the "Office of Mobile Home Affairs" is changed to the "Office of Manufactured Housing." This office must:

- create templates for all notices and forms;
- receive and record all related documents; and

- produce an annual report on sales of communities including information on communities sold to tenants or representative organizations.

Severability Clause

If any provision of this act is held invalid, the remainder of the act is not affected.

Right of First Refusal (Chapter 59.23) is repealed.

Substitute Bill Compared to Original Bill:

Creates a definition for a new term, "notice of intent to purchase" which must be a written document signed by 60 percent of the tenants in a manufactured/mobile home community indicating their interest in purchasing the park and binding those tenants that sign the notice to one another in that purchase. Requires that tenants interested in purchasing a community that is for sale through the qualified sale process deliver to the landlord this notice of intent to purchase. The notice may also be used in other negotiations between the landlord and tenant.

Changes the definition of "qualified tenant organization" to add that it is organized for the purpose of purchasing the community and that membership may be contingent on the members' payment of dues.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) Many mobile/manufactured homeowners are low-income and elderly and cannot afford to move their homes when a mobile/manufactured home community closes. Furthermore, there is often no place to move a home given the number of park closures in recent years. This bill is a way for landlords to voluntarily choose to work with tenant organizations and other groups representing the interests of the tenants to preserve parks and the affordable housing opportunities they provide. The bill requires landlords to notify the tenants that the property is for sale; that alone would be a step forward as tenants are willing to work hard to buy their community if they are only given the chance to negotiate. Tenants just want the same opportunity to buy a property as is given other potential purchasers.

(Opposed) This bill is unconstitutional, it is a property owner's right to grant a right of first refusal. This bill also has constitutional takings as it authorizes a taking of private property for private use. Park owners care about their parks and about preserving affordable housing opportunities, however, this bill is going to scare potential investors away from opening new parks. Investors interested in contributing to the development of new mobile/manufactured home parks will see this bill as a restriction on their rights and future profit-making ability and

they will likely shy away from investing in new parks. Fair market value should be determined by what a willing buyer will pay, not by appraisers.

Persons Testifying: (In support) Representative Brian Sullivan, prime sponsor; Ishbel Dickens, Columbia Legal Services; Raymond Breeden Sr., Wonderland Mobile Home Park; Dick Balsler and Russell Carter, Mariner Village Mobile Home Park; Ken Newton, Manufactured Home Owners Association; Ihylin Parks, SOS Homes; Theresa Adams, Silver Shores Mobile Home Park Homeowners Association; Lorraine Shaffner, Lago de Plada Homeowners Association; and Nick Federici, Washington Low Income Housing Alliance.

(Opposed) John Woodring and Ken Spencer, Manufactured Housing Communities of Washington; Joe Hammond, owner and operator of manufactured housing communities; Debra Goethals and Russ Millar, mobile and manufactured home park owners; and Walt Olsen, Olsen Law Firm.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 6 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway, Ericks, McIntire and Santos.

Minority Report: Do not pass. Signed by 3 members: Representatives Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Roach.

Staff: Don Taylor (786-7388).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Housing:

All language related to a right of first refusal, requiring mobile home park landlords to sell to a housing authority or a local government entity, is removed. Landlords are encouraged to negotiate in good faith with tenant organizations and must negotiate in good faith with housing authorities and local governments during the notice of sale period. Penalties are removed for landlords who violate the chapter and do not comply with requirements of sale. The "notice of intent to pursue qualified sale" language is removed, and the notice of sale need not include an acceptable price or contain certain disclosures. Various requirements for the Office of Manufactured Housing (OMH) relating to education, template provision and record keeping are removed from the bill. The OMH may subcontract for technical assistance on behalf of tenant organizations. Language is added to clarify that the notice of sale must be given 90 days before a transfer of ownership or title occurs.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.