

# SENATE BILL REPORT

## EHB 2610

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As of February 26, 2020

**Title:** An act relating to the sale or lease of manufactured/mobile home communities and the property on which they sit.

**Brief Description:** Concerning the sale or lease of manufactured/mobile home communities and the property on which they sit.

**Sponsors:** Representatives Duerr, Ramel, Kloba, Appleton, Walen, Harris, Ryu, Gregerson, Doglio, Dolan, Valdez, Tharinger, Santos, Pollet and Macri.

**Brief History:** Passed House: 2/16/20, 51-45.

**Committee Activity:** Housing Stability & Affordability: 2/24/20.

### Brief Summary of Bill

- Requires manufactured/mobile home community (MHC) landlords to provide a written notice of opportunity to purchase an MHC to each tenant, the Department of Commerce (Commerce), and the Housing Finance Commission within 14 days after the MHC is listed for sale or lease.
- Requires qualified tenant organizations and eligible organizations be permitted 45 days after receipt of a notice of opportunity to purchase to provide the landlord with a notice of intent to consider purchase or lease of the MHC.
- Requires a landlord to wait 90 days after receipt of notice of intent before accepting an offer to purchase or lease the park from a person or entity other than a qualified tenant organization or eligible organization.
- Requires good faith negotiations between landlords and qualified tenant organizations and eligible organizations when a landlord sells or leases an MHC or the property on which it sits.
- Directs Commerce to maintain a registry of all eligible organizations submitting a written request to receive notices of opportunity to purchase.
- Penalizes a landlord who willfully fails to comply with the notice, waiting period, or good faith negotiation requirements in the amount of \$10,000.

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*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.*

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## SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY

**Staff:** Brandon Popovac (786-7465)

**Background:** The Manufactured/Mobile Home Landlord-Tenant Act (MHLTA) governs the legal rights, remedies, and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot within a mobile home park where the tenant has no ownership interest in the property or in the association that owns the property.

Sale of Manufactured/Mobile Home Community. Under the MHLTA, a landlord is required to provide a written notice of sale of a MHC to each tenant within the MHC, any qualified tenant organization, the office of mobile/manufactured home relocation assistance, the local government and housing authority within whose jurisdiction the MHC exists, and the Housing Finance Commission (Commission) within 14 days after a multiple listing or public notice advertises the MHC is for sale. The notice of sale is required to include a statement of intent to sell the MHC and the contact information of the landlord or agent responsible for communicating with the qualified tenant organization regarding sale of the MHC.

Any landlord intending to sell an MHC is encouraged to negotiate with qualified tenant organizations and eligible organizations, such as local governments, local housing authorities, nonprofit community organizations, tribes, and nonprofit housing assistance organizations.

Landlords are not currently required to offer tenants or other eligible organizations a right of first refusal, or to provide a notice of opportunity to purchase an MHC listed for sale.

**Summary of Bill:** An MHC landlord must provide a written notice of opportunity to purchase an MHC to each tenant, Commerce, and the Commission by certified mail or personal delivery within 14 days after the date any advertisement or public notice is made that the MHC or the property on which it sits is for sale or lease.

The notice of opportunity to purchase must include a statement that the landlord intends to sell or lease the MHC or property on which it sits, a signed affidavit that discloses the advertised or listed selling price, and contact information for the landlord or their agent responsible for communicating with the tenants, qualified tenant organization, or eligible organization regarding an opportunity to make an offer for sale of the property.

Qualified tenant organizations and eligible organizations, including community land trusts and resident nonprofit cooperatives, must be permitted 45 days from the date of delivery of the notice of opportunity to purchase to provide the landlord with notice of intent to consider purchase or lease. Resident nonprofit cooperative is defined as a nonprofit cooperative corporation formed by a group of MHC residents for acquiring the MHC in which they reside and converting the MHC to a mobile home park cooperative or manufactured housing cooperative.

If the notice of intent from the qualified tenant organization or eligible organization is provided to the landlord within 45 days, the landlord must wait 90 days before making a final unconditional acceptance of an offer to purchase or lease the MHC from a person or entity

other than the qualified tenant organization or eligible organization. If the notice of intent is not provided to the landlord within 45 days, the landlord is not subject to the 90-day waiting period.

Notice of opportunity to purchase requirements do not apply if the sale or lease of MHC or the property on which it sits is:

- due to foreclosure, eminent domain, or a tax sale;
- incidental to MHC financing;
- between joint tenants in common;
- among partners that own the MHC; or
- to a member of the landlord's family or to a landlord's family trust.

The notice of opportunity to purchase is in addition to the required 14-day notice of sale. The 14-day notice of sale requirement is modified to include when an MHC is for lease or when the property on which the MHC sits is for sale, and the notice period begins on the date on which any listing or public notice first advertises the sale or lease of the MHC or the property on which it sits.

A landlord is required, rather than encouraged, to negotiate in good faith with qualified tenant organizations and eligible organizations when selling or leasing an MHC or the property on which it sits. Likewise, qualified tenant organizations and eligible organizations that submit a notice of intent to purchase or lease an MHC or the property on which it sits must negotiate in good faith with the landlord.

Commerce must maintain a registry of all eligible organizations submitting a written request to receive notices of opportunity to purchase or lease an MHC, including the name and mailing address of the eligible organization and a statement the organization wishes to purchase or lease the MHC. Commerce must provide the eligible organizations with such notices once received by landlords, as well as provide copies of the registry upon request.

A landlord who sells or leases an MHC and willfully fails to comply with the notice, waiting period, or good faith negotiation requirements is liable to the state for a civil penalty of \$10,000, which represents the exclusive remedy for such a violation. The attorney general may bring a civil action in the name of the state against the landlord.

**Appropriation:** None.

**Fiscal Note:** Requested on February 20, 2020.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The current version of the bill is the result of considerable stakeholder work with recommendations and suggestions from the manufactured housing community owners to try to make it a better bill and more amenable to their concerns. Amendments to address landlord concerns were included to narrow notice timeframes, eliminate the bona fide offer requirement, and reduce the number of days for

negotiations. This bill preserves affordable housing stock that is easier to maintain than trying to build more new housing, and it provides the types of communities needed and populated by seniors, disabled veterans, and people that are struggling financially. Landlords already have a REET exemption if the landlord sells to a nonprofit. Knowing upfront the required timeframes will weed out non-serious buyers and provide opportunities for eligible organizations and tenant organizations the chance to preserve affordable housing and keep rents affordable.

Mobile home parks are a valuable form of affordable housing and much of today's homelessness is a result of the inability of people with low incomes to afford the increasing cost of housing. Among mobile home residents are some of the most vulnerable in our current population. Mobile home parks are increasingly under threat of vanishing due to the trend of selling the underlying property for a profit. Mobile home park residents are typically unable to generate the financial resources needed to purchase the underlying property themselves, so allowing a nonprofit organization or resident nonprofit cooperative the first opportunity to purchase would be very helpful in retaining these sites for affordable housing.

Resident nonprofit cooperatives that receive notice when a park is for sale help residents make competitive offers to purchase and preserve their communities as affordable housing long term. The resident nonprofit cooperative program is the fastest growing affordable housing preservation model in the country and supports immediate infrastructure improvements as well as rent stabilization where annual rent increases average no more than 2.8 percent compared to private communities that average upwards of 3 percent. No cooperative has ever defaulted on its loan. Preserving manufactured housing units costs about one-fifth of the price of developing a new affordable housing units and does so with minimal impacts to taxpayer dollars. Offering residents an opportunity to buy the land under their homes will provide thousands of low-income homeowners with housing stability.

CON: The bill is counter to discussions held with the legislatively created work group where stakeholders spent full days debating issues like this. There will be a work group report to be issued in June so we should wait on the recommendations from that report. This bill creates more problems and does not attempt to create an incentive-based approach to tax exemptions, which has bipartisan support. Penalties do not work and create legal issues.

Not all mobile home parks should be preserved since much of the current stock was built before the World's Fair in Seattle and have substandard utilities and abandoned housing. With ever rising property taxes, landlords cannot afford to keep this type of housing option. Sales transactions are not black and white and are often negotiated. This bill is fraught with legal loopholes. The selling price may increase or decrease over the waiting period and the bill is unclear if the landlord has to resend notices or if the waiting period starts over. This bill unfairly targets one type of property class.

**Persons Testifying:** PRO: Representative Davina Duerr, Prime Sponsor; Sue Hall, Friendly Village Senior Community; Cynthia Stewart, League of Women Voters of Washington; Ishbel Dickens, Association of Manufactured Home Owners; Miles Nowlin, NWCDC.

CON: Robert Schroeter, Executive Director, Manufactured Housing Communities of

Washington; Mike Simonitch, Shelter Property Management; Jon Millard, Park Preservation; Cristina Dugoni, Davis Investors.

**Persons Signed In To Testify But Not Testifying:** No one.