

HOUSE BILL REPORT

HB 1129

As Reported by House Committee On:
Housing

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 Gregerson, Duerr, Reed, Peterson, Bateman, Ramel, Leavitt, Doglio, Macri, Simmons, Reeves, Chopp, Lekanoff, Wylie, Santos, Ormsby, Kloba and Tharinger.

Brief History:

Committee Activity:

Housing: 1/16/23, 2/13/23 [DPS].

Brief Summary of Substitute Bill

- Requires a landlord to provide a written notice of opportunity to compete to purchase when selling or leasing a manufactured/mobile home community (Community).
- Establishes a process for a landlord to sell a Community to a tenant organization, during which time the landlord may pursue and negotiate purchase offers with other parties.
- Requires, with limited exceptions, that a landlord provide three years' notice of a Community's closure or conversion.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Barkis, Bateman, Chopp, Entenman, Low, Reed and Taylor.

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

Minority Report: Without recommendation. Signed by 3 members: Representatives Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Hutchins.

Staff: Serena Dolly (786-7150).

Background:

The Manufactured/Mobile Home Landlord-Tenant Act.

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 lot within a mobile home park or manufactured housing community (Community) where the tenant has no ownership interest in the property.

Notice of Sale.

Under the MHLTA, within 14 days of any advertisement, listing, or public notice offering a Community for sale, a landlord must provide written notice of sale by certified mail or personal delivery to:

- each tenant;
- the officers of any known qualified tenant organizations (QTOs);
- the local government and the housing authority within whose jurisdiction all or part of the Community is located;
- the Department of Commerce's Office of Mobile/Manufactured Home Relocation Assistance; and
- the Washington State Housing Finance Commission.

The notice of sale must include a statement that the landlord intends to sell the Community and provide the contact information of the landlord or landlord's agent who is responsible for communicating about the sale of the property. A landlord intending to sell a Community is encouraged to negotiate in good faith with QTOs and eligible organizations.

A QTO is a formal organization of tenants within a Community, where the only requirement for membership is being a tenant. An eligible organization includes local governments, local housing authorities, nonprofit Community- or neighborhood-based organizations, federally recognized Indian tribes in the state, and regional or statewide nonprofit housing assistance organizations.

Notice of Closure.

In the case of closure or conversion of a Community, the landlord must provide tenants with 12 months' notice. Additionally, the notice of closure must be given to the director of the Department of Commerce (Commerce) and posted at all entrances to the Community.

Exceptions to the 12-month closure notice requirement applies if:

- the Community has been acquired for or is under imminent threat of condemnation;
- the Community is sold to an organization of its tenants, a nonprofit organization, a

- local government, or a housing authority for the purpose of preserving the Community; or
- the landlord compensates the tenants for the loss of their homes at their assessed value, as determined by the county assessor, at any point during the notice period and prior to a change of use or sale of the property. At the time compensation is paid, the tenant must be given written notice of at least 90 days in which to vacate, and the tenant must continue to pay rent while remaining in the Community.

Summary of Substitute Bill:

Notice of Sale.

The notice of sale required to be delivered within 14 days of any advertisement, listing, or public notice offering a Community for sale is modified to include notice before any private listing or if the landlord seeks to lease, instead of sell, the Community. A notice of opportunity to compete to purchase may act as a notice of sale.

Notice of Opportunity to Compete to Purchase.

A landlord must provide a written notice of opportunity to compete to purchase a Community to each tenant, any QTO, Commerce, and the Housing Finance Commission before marketing a Community for sale, including the Community in a multiple listing, or considering a received purchase offer.

A notice of opportunity to purchase must include statements that:

- the landlord is considering selling the Community or property;
- the tenants, through a QTO representing a majority of tenants, have an opportunity to compete to purchase the Community;
- in order to compete to purchase the Community, the tenants have 30 days to form or identify a single QTO, notify the landlord in writing of their interest in purchasing the Community, and provide a point of contact; and
- information about purchasing a Community is available from Commerce.

Within 15 days of the tenants notifying the landlord of their interest in purchasing the Community, the QTO and the landlord may make written requests for information. The QTO may ask the landlord to provide information about the asking price, if any, and financial information related to the operating expenses of the Community. The landlord may ask the QTO for proof of financial ability to close on a sale, which may be provided through earnest money, proof of financing or backing from a third party, customary commercial means, or an agreement between the QTO and the landlord. Written requests must be fulfilled within seven days, and all provided information must be kept confidential.

Within 10 days of receiving any requested information, the tenants must:

- form a resident nonprofit cooperative legally capable of purchasing the Community or partner with a nonprofit cooperation or housing authority that is legally capable of

- purchasing the Community; and
- submit a purchase and sale agreement to the landlord.

The purchase and sale must specify the price, due diligence duties, schedules, timelines, conditions, and any extensions. The landlord has 10 days from receipt of a purchase and sale agreement to accept the offer, reject the offer, or counteroffer.

If the parties do not reach an agreement, or the tenants do not meet the deadlines or disclose confidential information, the landlord is not obligated to sell to the tenants and may sell to another party. The landlord may file an affidavit with the county stating that the landlord has complied with the notice of offer to compete to purchase provisions but has not entered into a purchase contract with the tenants.

During the negotiation and purchase process, the landlord and the tenants must act in good faith. The tenants must notify the landlord promptly if they do not intend to purchase the Community. A landlord may concurrently pursue and negotiate purchase offers with parties other than the tenants. If the landlord does not comply with requirements in a substantial way that prevents the tenants from purchasing the Community, the tenants may obtain injunctive relief to prevent a sale or transfer to another entity and recover actual damages not to exceed twice the monthly rent for each tenant. If a party misuses or discloses confidential information, that party may recover actual damages from the other party. A landlord who sells or leases a Community 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. The Attorney General may bring a civil action in the name of the state against the landlord.

Commerce must maintain a registry of all eligible organizations who have submitted a written request to receive notices of opportunity to purchase or lease Communities, including the name and mailing address of the organization. Commerce must provide the organizations with such notices received from landlords and provide copies of the registry upon request. In addition, Commerce must prepare and make available information for tenants about purchasing a Community.

A notice of opportunity to compete to purchase and the corresponding process for tenants to purchase a Community is not required for certain sales or transfers, including:

- any sale or transfer to an heir if the landlord dies without a will;
- any transfer by gift, devise, or operation of law;
- any transfer by a corporation to an affiliate;
- any transfer by a partnership to any of its partners;
- any sale or transfer of less than a controlling interest in the legal entity that owns the Community;
- any conveyance of an interest in a Community incidental to the financing of the Community;
- any conveyance resulting from the foreclosure of a mortgage, deed of trust, or other

- instrument encumbering a Community, or any deed given in lieu of a foreclosure;
- any sale or transfer between or among joint tenants or tenants in common owning a Community;
- any sale or transfer in which the Community satisfies the requirement to make a like-kind exchange under Title 26 U.S.C. Sec. 1031 of the federal Internal Revenue Code;
- any purchase of a Community by a governmental entity under the entity's powers of eminent domain;
- any transfer to a charitable trust; or
- any sale or transfer to a county if the purpose of the sale is to reduce conflicting residential uses near a military installation.

Notice of Closure.

The closure notice requirement is extended from 12 months to three years. The three-year closure requirement may be reduced:

- to 24 months if the landlord provides relocation assistance of at least \$17,000 for a multisection home and \$11,000 for a single-section home; or
- to 12 months if the landlord provides relocation assistance of at least \$17,000 for a multisection home and \$11,000 for a single-section home and compensates the tenants for the loss of their homes at the greater of market value as determined prior to a change of use or sale of the property or \$5,000.

In addition, an exception to the closure notice requirement is added for any sale of a Community to a county if the purpose of the sale is to reduce conflicting residential uses near a military installation.

A tenant receiving relocation assistance and/or compensation for the value of their home must be given 12 months to vacate and may relocate the home. If the home remains in the Community after the tenant vacates, the landlord is responsible for its demolition or disposal.

A rental agreement must include a statement, in large, bold face type, that the Community may be sold at any time after the required closure notice with the result that the Community may be closed. If a closure notice is in effect, a tenant who sells a mobile home within a Community must provide the buyer with a copy of a closure notice at least 15 days in advance of the intended sale and transfer.

Any city or county ordinance that conflicts with the opportunity to compete to purchase provisions are preempted and invalidated beginning July 1, 2024.

Substitute Bill Compared to Original Bill:

The original bill required a landlord to provide a written notice of opportunity to purchase when selling or leasing a Community. It also allowed eligible organizations a fixed period of time to provide a written notice of intent to consider purchasing or leasing a Community

and to make an offer, during which time the landlord was prohibited from making a final, unconditional acceptance of another offer. The substitute bill requires a landlord to provide a written notice of opportunity to compete to purchase and establishes a process for a landlord to sell a Community to a tenant organization, during which time the landlord may pursue and negotiate purchase offers with other parties.

The substitute bill establishes timeframes that a landlord and tenants must adhere to when negotiating a possible purchase of the Community by tenants. These timeframes include 30 days for tenants to express interest in purchasing a Community, another 15 days for the parties to make written requests for information related to the sale; seven days for information requests to be fulfilled; 10 days after receiving any requested information for the tenants to submit a formal purchase and sale agreement; and 10 days for a landlord to consider the tenants' offer. The substitute bill allows the landlord to accept, reject, or counter any offer made by tenants. The substitute bill also allows, in the event an agreement between the parties is not reached, for the landlord to file an affidavit with county that the landlord has complied but not entered into a purchase contract with the tenants.

The substitute bill also establishes a number of new exemptions from the notice of opportunity to compete requirements and procedures, including certain sales and transfers related to the death of a landlord, any sale or transfer under Title 26 U.S.C. 1031 of the federal Internal Revenue Code, any transfer by a corporation to an affiliate, any sale or transfer of less than a controlling interest in the legal entity that owns the Community, any transfer to a charitable trust, and any sale or transfer to a county if the purpose of the sale is to reduce conflicting residential uses near a military installation.

The substitute bill also requires tenants to promptly notify a landlord if they do not intend to purchase a Community, modifies penalties for landlord noncompliance, and provides that financial information must remain confidential.

The substitute bill requires Commerce to prepare information for tenants about purchasing a Community.

The substitute bill preempts and invalidates any city or county ordinance that conflicts with the opportunity to compete to purchase provisions beginning July 1, 2024.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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

Staff Summary of Public Testimony:

(In support) It is hard for anyone to walk away from their home, but when homeowners are just renting the land, they can be displaced without any compensation. It is very expensive to move a mobile or manufactured home, and many cannot even be moved. Landlords can raise the rent as much as they want, which creates economic evictions. Manufactured housing is the most economical pathway to homeownership for low-income households. Many manufactured home owners are senior citizens, people with disabilities, and low-income families. After a mobile home park closes, many will never be homeowners again. Manufactured housing plays a critical role in affordable housing, and its loss contributes to the housing crisis. Residents should be given ample opportunity to purchase their Communities. Resident-purchased Communities have been able to retain low rents while paying off the land because they operate without a profit motive. Preserving the remaining Communities retains affordable housing. This bill gives landlords options when they want to sell the property while preserving affordable housing or compensating people for the loss of their greatest asset. If a landlord does not want to wait three years to close a Community, then they can compensate tenants for their homes.

(Opposed) The bill conflates the sale of a Community with the closure or conversion of a park. There are many reasons why a property may be sold or closed, and a property may be sold without closing the Community. Tenants can organize and attempt to purchase a Community at any time. The bill does nothing to encourage the development of new housing and discourages people from developing additional Communities. Last year, 129 mobile homes were taken off the market, but 600 new homes were built in their place. There is rarely an opportunity to purchase a Community without an underlying crisis, which can be a personal crisis of the owner or a crisis with the property's infrastructure. In the case of an owner's death, the estate needs to be settled within a specific timeframe. This bill would eliminate the ability of landlords to take advantage of federal tax incentives, which will increase the selling price of Communities and lead to even higher rents. The bill also raises potential constitutional issues.

Persons Testifying: (In support) Representative Mia Gregerson, prime sponsor; Stacey Valenzuela; Andrew Calkins, King County Housing Authority and Association of Washington Housing Authorities; Ishbel Dickens and Anne Sadler, Association of Manufactured Home Owners; Victoria O'Banion; Rachel Elfenbein, Community Council; Tina Mckinstry, Takesa Village Homeowner Cooperative; Michele Thomas, Washington Low Income Housing Alliance; Jan Leonard; and Joanna Grist, American Association of Retired Persons.

(Opposed) Brad Tower and Ryan Erickson, Commonwealth Real Estate Services; Beau Harer, Manufactured Housing Communities of Washington and Detente Management; Robert Cochran, Contempo Mobile Home Park.

Persons Signed In To Testify But Not Testifying: Greg Cosmo, Brookhollow Mobile

Home Park; Don Leabo; Terry Langan; Linda Harer; John Steve Harer; Christa Connolly; Elisa Lyles; Neil Wilson; and Steve Heninger, Buena Vista Property Management.