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SENATE BILL 5911

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State of Washington                      52nd Legislature                      1991 Regular Session

By Senators Murray, A. Smith, Vognild, Stratton, Skratek, Thorsness, Anderson, Madsen and Gaspard.

Read first time March 4, 1991. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to mobile-manufactured housing; amending RCW  
2 59.20.190; adding a new section to chapter 34.12 RCW; adding a new  
3 chapter to Title 59 RCW; prescribing penalties; and making an  
4 appropriation.

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

6            NEW SECTION.    **Sec. 1.**            This chapter shall be known as the  
7 mobile-manufactured housing commission act.

8            NEW SECTION.    **Sec. 2.**            The legislature hereby finds and  
9 declares:

10            (1) Mobile-manufactured homes represent a significant affordable  
11 housing resource in this state, that has not been fully or effectively  
12 utilized. Underutilization is in large part due to the shrinking  
13 availability of suitable mobile-manufactured home sites either within  
14 or apart from mobile home parks.

1 (2) It would be in the best interests of all citizens of this  
2 state, and further the general public welfare if the valuable  
3 affordable housing resource of mobile-manufactured homes could be fully  
4 utilized.

5 (3) The typical feature of mobile home parks, that land ownership  
6 is separate from ownership of the homes, together with leases of mobile  
7 home spaces which are typically as short as one year, present certain  
8 hazards to mobile home park tenants that require public regulation as  
9 set forth in this chapter.

10 (4) The market forces connected with home ownership in this state  
11 are such that many families and individuals are required or find it  
12 desirable to purchase new or used mobile-manufactured homes and lease  
13 space within a mobile home park as the only means available to them for  
14 achieving home ownership, or in the case of many elderly citizens, as  
15 the only means for continuing independent living.

16 (5) Mobile home parks originated at a time when mobile homes were  
17 easily and inexpensively moved from one location to another. Mobile  
18 home parks were originally located primarily on marginal and  
19 transitional land, and mobile homes in this setting were regarded as  
20 transitional housing. Mobile homes are no longer inexpensively or  
21 easily moved, park sites and individual home sites are scarce and  
22 expensive, and mobile homes are increasingly regarded by mobile home  
23 owners, mobile home park owners, the industry, and government, as  
24 permanent housing.

25 NEW SECTION. **Sec. 3.** It is therefore the intent of the  
26 legislature to establish an efficient, uniform, and equitable system of  
27 regulation of mobile-manufactured home sales, and the development,  
28 operation, and stability of mobile home parks.

1       It is the intent of the legislature to establish a system for the  
2 efficient coordination of all units of state and local government that  
3 are responsible for the inspection, siting and installation, transport,  
4 and other regulation of mobile-manufactured homes, and the public  
5 health aspects of mobile home park development and operation.

6       It is also the intent of the legislature to establish an effective  
7 and economical dispute resolution mechanism that is equitable, and can  
8 be easily utilized by both mobile home park owners and tenants to  
9 achieve a prompt, fair settlement of their disputes without resort to  
10 judicial intervention in the usual case.

11       It is also the intent of the legislature to establish an efficient  
12 and an effective agency within state government to develop expertise,  
13 knowledge, and information with respect to mobile-manufactured housing  
14 that can serve as a resource for policymakers at the state and local  
15 level.

16       NEW SECTION.   **Sec. 4.**       Unless the context clearly requires  
17 otherwise, the definitions in this section apply throughout this  
18 chapter.

19       (1) "Commission" means the mobile-manufactured housing commission  
20 established under section 5 of this act.

21       (2) "Mobile-manufactured homes" or "mobile-manufactured housing"  
22 means a mobile or manufactured house as defined by RCW 46.04.302.

23       (3) "Mobile home park" means any real property which is rented or  
24 held out for rent to others for the placement of two or more mobile  
25 homes for the primary purpose of production of income, except where  
26 such real property is rented or held out for rent for seasonal  
27 recreational purpose only and is not intended for year-round occupancy.

1        NEW SECTION.    **Sec. 5.**

          There is hereby created the Washington

2 state mobile-manufactured housing commission, composed of eleven  
3 members, residents of this state, to be appointed by the governor with  
4 the advice and consent of the senate, one of whom shall be designated  
5 as chairperson by the governor. Membership on the commission shall be  
6 representative of constituencies affected by this chapter, as follows:

7        (1) One member shall be a local government official, either elected  
8 or appointed;

9        (2) One member shall be an official in a financial institution that  
10 has a history and current policy of making purchase money loans on  
11 mobile-manufactured homes;

12        (3) Three members shall be owners of mobile-manufactured homes who  
13 are residents and tenants in mobile home parks within the state;

14        (4) Three members shall be owners of mobile home parks in this  
15 state;

16        (5) One member shall be a licensed dealer of mobile-manufactured  
17 homes with a sales location within the state;

18        (6) One member shall be a manufacturer of mobile-manufactured  
19 homes, or an officer or staff person of a state-wide association of  
20 manufacturers of mobile-manufactured homes; and

21        (7) One member shall be a contractor or trade practitioner familiar  
22 with the installation and setup of mobile-manufactured homes, and shall  
23 be registered or licensed, as required by law.

24        Three of the original members of the commission shall be appointed  
25 for a term of one year, four for a term of two years, and four for a  
26 term of three years. Their successors shall be appointed for terms of  
27 three years, except that any individual appointed to fill a vacancy  
28 shall be appointed only for the unexpired term of the member whom that  
29 individual succeeds.

30        A member shall be eligible for reappointment.

1 A vacancy in the commission shall be filled within thirty days,  
2 with the remaining members to exercise all powers of the commission  
3 during any vacancy.

4 Any member of the commission may be removed by the governor for  
5 inefficiency, neglect of duty, misconduct, or malfeasance in office,  
6 after being given a written statement of the charges and an opportunity  
7 to be heard.

8 NEW SECTION. **Sec. 6.** Each member of the commission shall be  
9 compensated in accordance with RCW 43.03.250 and, while in session or  
10 on official business, shall receive reimbursement for travel expenses  
11 incurred during such time in accordance with RCW 43.03.050 and  
12 43.03.060.

13 NEW SECTION. **Sec. 7.** The powers and duties of the commission  
14 shall be as follows:

15 (1) To adopt rules pursuant to chapter 34.05 RCW, which are  
16 necessary to implement the purposes of this chapter.

17 (2) To appoint a director who has primary responsibility for  
18 implementing and executing the program and duties of the commission.  
19 The director shall serve at the pleasure of the commission, and may be  
20 removed by the commission for good cause shown, following notice and  
21 opportunity to be heard.

22 (3) To develop and adopt a mobile home code by July 1, 1992, which  
23 shall include but not be limited to the following:

24 (a) Dealer sales practices and the administration of and  
25 performance under manufacturer's warranties;

26 (b) Installer and repairer registration or licensing;

27 (c) Installer and repairer business practices;

28 (d) Mobile home setup and installation;

1 (e) Mobile home park safety and health rules, other than those  
2 which are the responsibility of the department of health;  
3 (f) Mobile home park licensing;  
4 (g) Mobile home park business practices;  
5 (h) Mobile home transport business practices;  
6 (i) Mobile home transport safety rules; and  
7 (j) A schedule of fees necessary to support the program and the  
8 activities of the commission as established by this chapter.

9 The mobile home code adopted as provided in this section shall  
10 become effective July 1, 1993.

11 Prior to the adoption of the mobile home code, the commission shall  
12 hold a minimum of five public hearings in various locations throughout  
13 the state following reasonable efforts to publicize the hearings.

14 (4) To enforce the mobile home code through the receipt of  
15 complaints, investigations, hearings, implementing orders, and rules.

16 (5) To conduct other activities, including research, education, and  
17 public information programs, consistent with this chapter or other  
18 laws, which may be necessary to establish a uniform and equitable  
19 policy relating to mobile-manufactured home utilization, and mobile  
20 home parks.

21 (6) The commission shall develop a plan for the consolidation of  
22 all activities of state government having to do with the manufacture,  
23 inspection, sales, distribution, transportation, installation, and  
24 other regulation of mobile-manufactured homes, together with proposed  
25 necessary implementing legislation, to be presented to the legislature  
26 by December 31, 1991.

27 NEW SECTION. **Sec. 8.** The director shall have the following  
28 duties:

1 (1) To administer the rules adopted by the commission, including  
2 the mobile home code;

3 (2) To conduct hearings relating to the activities of the  
4 commission, or rules adopted under this chapter;

5 (3) To conduct investigations to determine compliance with this  
6 chapter or the rules adopted under this chapter;

7 (4) To provide assistance to the commission as the commission may  
8 require; and

9 (5) To employ and direct, pursuant to the merit system rules, such  
10 assistance and employees as may be necessary to carry out the duties  
11 assigned by this chapter and as requested by the commission.

12 NEW SECTION. **Sec. 9.** A new section is added to chapter 34.12 RCW  
13 to read as follows:

14 When requested by the director of the state mobile-manufactured  
15 housing commission, the chief administrative law judge shall assign an  
16 administrative law judge to conduct hearings or other proceedings under  
17 the Washington mobile-manufactured housing commission act.

18 **Sec. 10.** RCW 59.20.190 and 1988 c 126 s 1 are each amended to read  
19 as follows:

20 (1) The state board of health shall adopt rules on or before  
21 January 1, 1982, setting health and sanitation standards for mobile  
22 home parks. Such rules shall be enforced by the city, county, city-  
23 county, or district health officer of the jurisdiction in which the  
24 mobile home park is located, upon notice of a violation to such health  
25 officer. Failure to remedy the violation after enforcement efforts are  
26 made may result in a fine being imposed on the park owner, or tenant as  
27 may be applicable, by the enforcing governmental body of up to one

1 hundred dollars per day, depending on the degree of risk of injury or  
2 illness to persons in or around the park.

3 (2) The state board of health shall conduct annual inspections of  
4 each mobile home park in the state to determine compliance with the  
5 standard established under subsection (1) of this section. If the  
6 mobile home park is approved, the department of health shall issue a  
7 certificate of compliance to the mobile-manufactured housing commission  
8 that the mobile home park is licensable.

9 NEW SECTION. Sec. 11. (1) The commission shall adopt rules  
10 relating to the responsibility of the mobile-manufactured home dealer,  
11 mobile-manufactured home installer, and the mobile home park owner for  
12 the installation and setup of a mobile-manufactured home.

13 (2) A person registered or licensed under chapter 18.27 or 19.28  
14 RCW shall not be required to be licensed or registered as a mobile home  
15 installer in order to perform work on mobile homes for which the person  
16 is licensed or registered, unless the work also includes the setup and  
17 installation of a mobile home.

18 NEW SECTION. Sec. 12. (1) An owner or operator of a mobile  
19 home park shall not engage or permit an agent or employee to engage in  
20 any of the following acts or practices which are defined in this  
21 section as unfair or deceptive practices and a violation, per se, of  
22 chapter 19.86 RCW:

23 (a) Charging an entrance fee, directly or indirectly;

24 (b) Requiring, coercing, or inducing a person to rent, lease, or  
25 purchase goods or services from another as a condition for entering  
26 into a park or lease or upon leaving a mobile home park, or for the  
27 rental of space in a mobile home park;



1 (c) Requiring a person to sell their mobile home through the park  
2 owner, operator, or agent as a condition for being able to sell their  
3 mobile home in place in the mobile home park;

4 (d) Offering to sell a mobile home of a tenant in place under a  
5 sales agreement whereby the park owner, operator, or agent is to act as  
6 the sales agent for the owner, attempt for a fixed period of time to  
7 sell the mobile home at the highest price attainable, and at the  
8 expiration of such period the mobile home owner is obligated to sell  
9 the mobile home to the mobile home park owner, operator, or agent for  
10 a fixed price;

11 (e) Conspiring, combining, agreeing, or arranging with another  
12 person to employ, aid, or abet the employment of any method, act, or  
13 practice which is in violation of this chapter or RCW 59.20.050 or  
14 59.20.070; and

15 (f) Attempting or completing any act or practice which is a  
16 violation of this chapter or RCW 59.20.050 or 59.20.070.

17 (2) A tenant of a mobile home park may bring an action in his or  
18 her own right for a violation of this section, or may file a complaint  
19 with the commission as provided in section 14 of this act.

20 (3) The prohibited acts or practices set forth in this section are  
21 not an exclusive or an exhaustive compilation of all unfair or  
22 deceptive acts or practices which may give rise to a cause of action  
23 under chapter 19.86 RCW.

24 NEW SECTION. **Sec. 13.** Any person who files a complaint with  
25 the commission or an action in district court or superior court  
26 alleging a violation of this chapter that is false, utterly frivolous,  
27 and without merit, and either known to be so at the time of filing or  
28 with the exercise of reasonable caution or investigation should have  
29 been known to be so, shall have committed a violation of this chapter

1 and shall be liable for all damages resulting from the filing of such  
2 complaint or action, as well as all costs associated with the defense  
3 thereof, including reasonable attorneys' fee.

4 NEW SECTION. **Sec. 14.** (1) Any person claiming to be aggrieved  
5 or injured by a violation of this chapter or the mobile home code may  
6 file a complaint with the commission, either personally or by his or  
7 her attorney, in writing and under oath. The complaint shall state the  
8 name and address of the person alleged to have committed the violation,  
9 the particulars thereof, and such other information as may be required  
10 by the commission.

11 (2) Whenever it has reason to believe a violation of this chapter  
12 or the mobile home code has occurred or is occurring, the commission  
13 may, on its own motion, issue a complaint.

14 (3) Any complaint filed with the commission must be filed within  
15 six months after the alleged violation.

16 NEW SECTION. **Sec. 15.** After the filing of any complaint with  
17 the commission, the director or director's designee shall promptly  
18 investigate and determine the facts alleged in the complaint. The  
19 investigation shall be limited to the facts alleged in the complaint.  
20 The results of the investigation shall be reduced to written findings  
21 of fact, and shall include a finding that there is or is not reasonable  
22 cause to believe that a violation of this chapter or the mobile home  
23 code has occurred or is occurring. A copy of the findings shall be  
24 furnished to the complainant and to the respondent, the person against  
25 whom the complaint is made.

26 If a finding is made that there is probable cause that a violation  
27 of this chapter or the mobile home code has occurred, the commission  
28 staff shall immediately endeavor to eliminate the violation if it is an

1 ongoing practice or condition, or achieve a settlement between the  
2 parties, by conference conciliation and persuasion.

3 If a settlement is reached as a result of such conference  
4 conciliation and persuasion, the agreement shall be reduced to writing  
5 and signed by the parties, and an order shall be entered by the  
6 commission setting forth the terms of the settlement agreement. An  
7 order shall not be entered by the commission at this stage of the  
8 proceedings except upon written agreement.

9 If an agreement is not reached, a finding to that effect shall be  
10 made and reduced to writing, with a copy furnished to the complainant  
11 and the respondent.

12 NEW SECTION. **Sec. 16.** (1) In case of failure of the  
13 complainant and respondent to reach a settlement agreement, and upon  
14 the entry of findings to that effect, the entire file, including the  
15 complaint and any and all findings made, shall be certified to the  
16 chairperson of the commission. The director shall then request the  
17 appointment of an administrative law judge under chapter 34.12 RCW to  
18 hear the complaint and shall cause to be issued and served in the name  
19 of the commission a written notice together with a copy of the  
20 complaint, with any amendments, requiring the respondent to answer the  
21 charges of the complaint at a hearing before the administrative law  
22 judge, at a time and place to be specified in the notice.

23 (2) The case in support of the complaint shall be presented at the  
24 hearing by the complainant, who may be represented by counsel. An  
25 employee of the commission who previously made the investigation shall  
26 not participate in the hearing except as a witness, nor shall the  
27 investigating employee participate in the deliberations of the  
28 administrative law judge in such case. The terms or other facts and

1 circumstances of settlement negotiations shall not be received in  
2 evidence.

3 (3) The respondent shall file a written answer to the complaint and  
4 appear at the hearing in person or otherwise, with or without counsel,  
5 and submit testimony and be fully heard. The respondent has the right  
6 to cross-examine the complainant.

7 (4) The administrative law judge conducting any hearing may permit  
8 reasonable amendment to any complaint or answer. Testimony taken at  
9 the hearing shall be under oath and recorded.

10 (5) If, upon all the evidence, the administrative law judge finds  
11 that the respondent has violated this chapter or the mobile home code,  
12 the administrative law judge shall state findings of fact and  
13 conclusions of law and shall file with the commission and cause to be  
14 served on the respondent an order requiring the respondent to take  
15 appropriate corrective action, to cease and desist from any continuing  
16 practice that constitutes a violation of this chapter or the mobile  
17 home code and such other relief as may be appropriate in accord with  
18 the purposes of this chapter, including action that could be ordered by  
19 a court, except that damages for humiliation and mental suffering shall  
20 not exceed one thousand dollars. The order may include a requirement  
21 for a subsequent report on the matter of compliance.

22 (6) The final order of the administrative law judge shall include  
23 a notice to the parties of the right to obtain judicial review of the  
24 order by appeal in accordance with the provisions of RCW 34.05.510  
25 through 34.05.598, and that such appeal must be served and filed within  
26 thirty days after the service of the order on the parties.

27 (7) If, upon all the evidence, the administrative law judge finds  
28 that the respondent has not violated this chapter or the mobile home  
29 code as alleged in the complaint, the administrative law judge shall

1 state findings of fact and conclusions of law and shall issue and file  
2 an order dismissing the complaint.

3 (8) An order dismissing a complaint may include an award of  
4 reasonable attorneys' fees in favor of the respondent if the  
5 administrative law judge concludes that the complaint was frivolous,  
6 unreasonable, or groundless.

7 (9) The commission shall establish rules of practice to govern,  
8 expedite, and effectuate this section.

9 NEW SECTION. **Sec. 17.** (1) If any final order of the commission  
10 is not complied with within twenty days of the date the order becomes  
11 final, the prevailing party may petition the court within the county  
12 where the violation of this chapter or the mobile home code occurred or  
13 where any person subject to the final order resides, and seek a  
14 restraining order or other appropriate relief. A copy of the petition  
15 shall be sent by certified mail to all parties or their  
16 representatives.

17 (2) From the time the petition is filed, the court shall have  
18 jurisdiction of the proceedings and the power to grant such temporary  
19 relief or restraining order as it deems just and suitable.

20 (3) If the petition shows that there is a final order issued by the  
21 commission or administrative law judge under this chapter, and that the  
22 order has not been complied with in whole or in part, the court shall  
23 issue an order directing the person who is alleged to have not complied  
24 with the administrative order to appear in court at a time designated  
25 in the order, not less than ten days from the date thereof, and show  
26 cause why the administrative order should not be enforced according to  
27 its terms.

1 (4) The administrative order shall be enforced by the court if the  
2 person does not appear, or if the person appears and the court finds  
3 that the:

4 (a) Order is regular on its face;

5 (b) Order has not been complied with; and

6 (c) Person's answer discloses no valid reason why the order should  
7 not be enforced or that the reason given in the person's answer could  
8 have been raised previously, or by review under RCW 34.05.510 through  
9 34.05.598, and the person has given no valid excuse for failing to use  
10 that remedy.

11 (5) The jurisdiction of the court shall be exclusive and its  
12 judgment and decree shall be final, except that the same shall be  
13 subject to appellate review by the supreme court or the court of  
14 appeals, on appeal, by either party, irrespective of the nature of the  
15 decree or judgment.

16 NEW SECTION. **Sec. 18.** Any respondent or complainant, or the  
17 commission, aggrieved by a final order of an administrative law judge  
18 may obtain judicial review of such order as provided under chapter  
19 34.05 RCW. From the time a petition for review is filed, the court has  
20 jurisdiction to grant to any party such temporary relief or restraining  
21 order as it deems just and suitable. If the court affirms the order,  
22 it shall enter a judgment and decree enforcing the order as affirmed.

23 NEW SECTION. **Sec. 19.** Petitions filed under sections 17 and 18  
24 of this act shall be heard expeditiously and determined upon the  
25 transcript filed, without requirement of printing. Hearings in court  
26 under this chapter shall take precedence over all other matters, except  
27 matters of the same character.

1        NEW SECTION.    **Sec. 20.**        Any person who willfully resists,  
2 prevents, impedes, or interferes with the commission or any of its  
3 members or representatives in the performance of their duty under this  
4 chapter, or who willfully violates an order of the commission, is  
5 guilty of a misdemeanor.

6        NEW SECTION.    **Sec. 21.**        (1) A person shall not operate a mobile  
7 home park without a license from the commission as provided in this  
8 chapter.

9        (2) Upon application, submission, and review of all required  
10 certification from other agencies and local governments, submission of  
11 the required fee, and compliance with other applicable rules adopted by  
12 the commission, the commission shall grant or renew an annual license  
13 to operate a mobile home park.

14        (3) Such application shall include the name of the person or  
15 persons who will act as on-site manager or managers of the park and a  
16 certification that such person or persons have completed the training  
17 program for mobile home park managers established by the commission.

18        (4) If a person submits an application for renewal no later than  
19 sixty days prior to the expiration of the license currently in force,  
20 together with the appropriate fee, the person may continue to operate  
21 a mobile home park unless notified that the application for renewal is  
22 not approved.

23        NEW SECTION.    **Sec. 22.**        The commission shall establish a program  
24 for training of mobile home park managers. The training shall consist  
25 of but not be limited to the following:

26        (1) The obligations of park owners and operators under this chapter  
27 and the mobile home code;

1 (2) Rules and standards adopted by the department of health which  
2 are applicable to mobile home parks;

3 (3) The provisions of the mobile home park landlord tenant act,  
4 chapter 59.20 RCW; and

5 (4) Principles and practices of negotiation and dispute resolution.

6 NEW SECTION. **Sec. 23.** (1) The county executive or presiding  
7 officer of the county legislative authority shall designate an agency  
8 or official of the county as the responsible agency for annual  
9 inspection and certification of mobile home parks within the county.

10 (2) The inspection and certification shall indicate that the mobile  
11 home park is in compliance with all applicable local ordinances  
12 relating to health and safety, zoning, traffic signage and routing, and  
13 local design and construction standards for mobile home parks.

14 (3) A local government ordinance shall not contain a standard for  
15 setup or installation of mobile homes that is incompatible with or more  
16 stringent than either of the following:

17 (a) The manufacturer's recommended setup and installation  
18 specifications;

19 (b) The mobile home setup and installation standards adopted by the  
20 federal department of housing and urban development pursuant to the  
21 national manufactured housing construction and safety standards act of  
22 1974, 42 U.S.C. Sec. 5401 through 5426; or

23 (c) State standards, adopted pursuant to federal law.

24 NEW SECTION. **Sec. 24.** This chapter shall be liberally  
25 construed in order to effect its remedial purposes.

26 NEW SECTION. **Sec. 25.** The mobile-manufactured housing account  
27 is created in the state treasury. All receipts from fees and charges



1 collected by the commission shall be deposited into the account.  
2 Moneys in the account may be spent only after appropriation.  
3 Expenditures from the account may be used only for the operations of  
4 the commission.

5 NEW SECTION. **Sec. 26.** The remedies provided in this chapter  
6 are not exclusive, and are not intended to replace other remedies that  
7 may exist at common law, or within the laws of this state or the United  
8 States.

9 NEW SECTION. **Sec. 27.** The sum of one million dollars, or as  
10 much thereof as may be necessary, is appropriated for the biennium  
11 ending June 30, 1993, from the general fund to the mobile-manufactured  
12 housing account for the purposes of this act.

13 NEW SECTION. **Sec. 28.** Sections 1 through 8 and 11 through 26  
14 of this act shall constitute a new chapter in Title 59 RCW.