
HOUSE BILL 1797

State of Washington

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By Representatives Wineberry and Jones

Read first time 02/10/93. Referred to Committee on Trade, Economic Development & Housing.

1 AN ACT Relating to the demolition, change of use, or sale of low-
2 income housing and mobile home parks; adding a new chapter to Title 59
3 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
6 low-income housing and mobile home park purchase act.

7 NEW SECTION. **Sec. 2.** Unless the context clearly requires
8 otherwise, the definitions in this section apply throughout this
9 chapter.

10 (1) "Affordable rent" means that the rent paid by a household does
11 not exceed thirty percent of eighty percent of the median income,
12 adjusted for family size, for the standard metropolitan statistical
13 area in which the rental housing development is located.

14 (2) "Change of use" means the conversion of any dwelling unit or
15 mobile home lot from a residential use to a nonresidential use that
16 results in the displacement of existing tenants or conversion from a
17 residential use to another residential use that results in the
18 displacement of existing tenants. "Change of use" also includes any

1 discontinuance of residential use regardless of whether such a
2 discontinuance of a residential use constitutes an abandonment. For
3 purposes of this chapter, "change of use" does not mean conversion of
4 a dwelling unit to a condominium.

5 (3) "Department" means the department of community development.

6 (4) "Development" means any low-income housing development or
7 mobile home park as defined in this chapter.

8 (5) "Director" means the director of the department of community
9 development.

10 (6) "Dwelling unit" means a structure or that part of a structure
11 that is used as a home, residence, or sleeping place by one person or
12 by two or more persons maintaining a common household, including but
13 not limited to single-family residences and units of multiplexes,
14 apartment buildings, and mobile homes. Where two or more persons
15 occupy a dwelling unit but have separate rental agreements for use of
16 part of the structure as a sleeping place, those sleeping places and
17 any shared common areas shall be considered separate dwelling units as
18 to each occupant.

19 (7) "Local jurisdiction" means a county, city, or town in which the
20 low-income housing development or mobile home park is located.

21 (8) "Local nonprofit organization" means not-for-profit community
22 or neighborhood-based organizations, including public development
23 authorities that serve or will serve the area within which the low-
24 income housing development or mobile home park is located.

25 (9) "Local public agency" means a public housing authority, or any
26 other agency of the city, county, or state that is authorized to own,
27 develop, or manage housing or community development projects for
28 persons and families of low income and very low income and that is
29 situated in the area in which the low-income housing or mobile home
30 park is located.

31 (10) "Low income" means a total household income that is at or
32 below eighty percent of the median income for comparably sized
33 households in the standard metropolitan statistical area in which the
34 development is located.

35 (11) "Low-income housing development" means any rental housing
36 development containing at least four dwelling units and that includes
37 at least twenty percent of the dwelling units offered at a rent level
38 that is an affordable rent to a low-income household or that included
39 at least twenty percent of the dwelling units offered at a rent level

1 that is an affordable rent to a low-income household within the last
2 two years before the date that an owner is required to make a bona fide
3 offer to sell the development pursuant to section 4(1) of this act.

4 (12) "Mobile home lot" means a portion of a mobile home park
5 designated as the location of one mobile home and its accessory
6 buildings, and intended for the exclusive use as a primary residence by
7 the occupants of that mobile home.

8 (13) "Mobile home park" means any real property that is rented or
9 held out for rent to others for the placement of two or more mobile
10 homes for the primary purpose of production of income, except where
11 such real property is rented or held out for rent for seasonal
12 recreational purpose only and is not intended for year-round occupancy.

13 (14) "Mobile home owner's association" means any organization of
14 mobile home owners whose purposes include the acquisition of mobile
15 home parks.

16 (15) "Mobile home park" means any mobile home as defined in chapter
17 59.20 RCW.

18 (16) "Owner" means an individual, nonprofit or for-profit
19 corporation, association, partnership, joint venture, or business
20 entity that holds title to a mobile home park or low-income housing
21 development.

22 (17) "Rental agreement" means all oral or written agreements that
23 establish or modify the terms, conditions, rules, regulations, or any
24 other provisions concerning the use and occupancy of a dwelling unit or
25 mobile home lot. For purposes of this chapter, "rental agreement" does
26 not include any agreement relating to the purchase, sale, or transfer
27 of ownership of a dwelling unit.

28 (18) "Tenant" means a tenant, subtenant, lessee, sublessee, or
29 other person occupying a dwelling unit or mobile home park lot under a
30 rental agreement.

31 (19) "Tenant association" means a group of tenants whose purposes
32 include the acquisition of low-income housing.

33 NEW SECTION. **Sec. 3.** (1) An owner of a mobile home park or a low-
34 income housing development shall not engage in any sale, demolition,
35 change of use, or other disposition of a mobile home park or low-income
36 housing development, unless the owner or its agent has provided each of
37 the entities listed in subsection (2) of this section an opportunity to

1 purchase the development at a price and upon terms that represent a
2 bona fide offer for sale, in compliance with section 4 of this act.

3 (2) The right of first refusal or the right to purchase created
4 under section 4 of this act is conferred to the following entities for
5 the purpose of tenant or mobile home owner ownership or control
6 whenever feasible: A tenant association of the low-income housing
7 development or mobile home owner association of the mobile home park,
8 a local nonprofit organization, or a local public agency. The
9 preferred goal is ultimate control by the tenants.

10 (3) The eligible entities identified in subsection (2) of this
11 section are entitled to receive a bona fide offer to sell the low-
12 income housing development or mobile home park and have an opportunity
13 to purchase the development under section 4 of this act.

14 NEW SECTION. **Sec. 4.** (1) Before an owner takes any actions
15 described in section 3(1) of this act, the owner shall first make a
16 bona fide offer to sell the development to each entity described in
17 section 3(2) of this act that has either been included on a list of all
18 entities maintained by the local jurisdiction where the mobile home
19 park or low-income housing development is located, and made available
20 to the owner upon request at the time of the bona fide offer to sell,
21 or that has informed the owner that it desires to receive such an
22 offer.

23 (2) If, at the time the owner is required to make an offer to sell
24 under this section, the owner is making an offer to sell the mobile
25 home park or low-income housing development to any other entity or has
26 received an offer to purchase the development from any other entity
27 that the owner is prepared to accept, then the terms of the owner's
28 offer to sell to eligible purchasers under this section shall be no
29 less favorable than those contained in the existing offer to sell or
30 purchase. Terms include, but are not limited to, the purchase price,
31 terms of payment, any contingencies, and any assumable or purchase
32 money financing.

33 (3) The offer to sell shall be in the form of a written copy of a
34 bona fide offer for sale under subsection (4) of this section, sent to
35 the entities by registered or certified mail, return receipt requested.
36 The owner shall also post a copy of the offer for sale in a conspicuous
37 place in the common area of the development.

1 (4) The initial bona fide offer for sale shall be in a form
2 approved by the local jurisdiction where the development occurred and
3 shall contain at least the following information and include the
4 following statements with which the owner must comply:

5 (a) The sales price, the terms of assumable or purchase money
6 financing, if any, the terms of the subsidy contract, if any, and
7 proposed improvements to the development to be made by the owner in
8 connection with the sale, if any;

9 (b) A statement that each of the entities listed in section 3(2) of
10 this act has the right to purchase the low-income housing development
11 or mobile home park under this section;

12 (c) A statement that the owner will make available to each of the
13 entities listed in section 3(2) of this act, within fifteen days of
14 receiving the request, promissory notes, mortgages, or deeds of trust,
15 regulatory agreements, if any, itemized lists of monthly operating
16 expenses, capital improvements, as determined by the owner, made within
17 each of the two preceding calendar years, the amount of project
18 reserves, and copies of the two most recent financial and physical
19 inspection reports on the development, if any, filed with federal,
20 state, or local agencies;

21 (d) A statement that the owner will make available to each of the
22 entities listed in section 3(2) of this act, within fifteen days of a
23 request, the most recent rent roll listing the size and income levels
24 of each tenant or mobile home household, the rent paid by each tenant,
25 the subsidy, if any, paid by a governmental agency as of the date of
26 the bona fide offer for sale, and a statement of the vacancy rate at
27 the development for each of the two preceding calendar years;

28 (e) A statement that the owner will authorize the release to each
29 of the entities listed in section 3(2) of this act, within fifteen days
30 of a request, of any information relating to the physical and financial
31 conditions of the development held by any federal, state, or local
32 agency; and

33 (f) A statement that the owner will permit reasonable access to the
34 development by each of the entities listed in section 3(2) of this act
35 upon reasonable advance notice, for the purpose of inspection, taking
36 measurements, conducting surveys, or for any other reasonable purpose.

37 (5) If an eligible entity elects to purchase a low-income housing
38 development or mobile home park, it shall deliver either its acceptance
39 or a written bona fide offer to purchase the development within thirty

1 days from the date of delivery or the date of posting of the owner's
2 bona fide offer for sale. A copy of the acceptance or bona fide offer
3 to purchase shall be delivered promptly to the local jurisdiction
4 where the development is located. As part of this acceptance or offer,
5 the eligible entity shall identify whether it is a tenant association,
6 a mobile home owner association, a local nonprofit organization, or a
7 local public agency. If the eligible entity accepts the owner's bona
8 fide offer for sale, then the parties shall execute a real estate
9 purchase and sale agreement under subsection (7) of this section
10 subject to any review or selection undertaken under section 7 of this
11 act.

12 (6) An owner shall accept or reject a bona fide offer to purchase
13 in writing within fifteen days after its receipt. A copy of the
14 acceptance or rejection shall be delivered promptly to the local
15 jurisdiction. The owner's duty to accept or reject a bona fide offer
16 applies to all offers received by the owner from eligible entities,
17 contingent on any review or selection undertaken under section 7 of
18 this act. When an owner does not agree to the sales price or terms
19 offered by the eligible entity in the bona fide offer to purchase,
20 either the owner or the eligible entity may request that the value of
21 the development be determined by an appraisal conducted by a qualified
22 appraiser agreed upon by the owner and eligible entity, with each party
23 to pay one-half of the cost of the appraisal. If the owner and
24 eligible entity cannot agree on an appraiser, then the value of the
25 development shall be determined by two independent appraisers qualified
26 to perform multifamily or mobile home park appraisals, one of whom
27 shall be selected and paid by the owner, and the other selected and
28 paid by the eligible entity. If the two appraisers fail to agree upon
29 the fair market value, the owner and eligible entity shall agree to
30 either take an average of the two appraisals, or jointly select and pay
31 a third appraiser, whose appraisal shall be binding on the parties.
32 The appraisal process shall be completed within ninety days after
33 receipt of the owner's bona fide offer to sell, however, the appraisal
34 process completion date shall be extended an additional thirty days
35 when a third appraisal is conducted. All appraisers shall possess
36 qualifications equivalent to those required by the members of the
37 appraiser institute. Appraisals obtained by the owner and eligible
38 entities under this subsection may be used by the owner and eligible

1 entities in connection with other purchase offers unless there has been
2 a significant change in market conditions.

3 (7) If a bona fide offer for sale has been accepted by an eligible
4 purchaser, if a bona fide offer to purchase has been made to an owner
5 in response to a bona fide offer for sale and the offer is accepted, or
6 if a bona fide offer to purchase is rejected and a purchase price is
7 determined through the appraisal procedure described in subsection (6)
8 of this section, a real estate purchase and sale agreement shall be
9 executed by the owner and the purchaser within thirty days after
10 delivery of the written acceptance or determination of the purchase
11 price through the appraisal process.

12 (8) The real estate purchase and sale agreement shall be in a form
13 approved by the department and shall include at least the following:

14 (a) An agreement by the owner to provide the purchaser with all
15 existing loan documents, including regulatory agreements, if any,
16 containing any use restrictions, promissory notes, and the mortgage or
17 deed of trust within fifteen days from the date of the signing of the
18 real estate purchase and sale agreement by all the necessary parties;

19 (b) An agreement by the owner to permit reasonable access to the
20 development by the purchaser for the purpose of inspection, taking
21 measurements, conducting surveys, or for any other reasonable purpose;

22 (c) An agreement by the owner and the purchaser that the
23 transaction will close either one hundred twenty days from the date of
24 the real estate purchase and sale agreement, or such shorter or longer
25 period of time as may be agreed upon by the parties;

26 (d) An agreement by the purchaser to make a reasonable earnest
27 money deposit or deposits, that is completely refundable, including
28 accrued interest, unless the purchaser succeeds in removing all
29 inspection and financing contingencies, and agrees to either the sales
30 price offered in the owner's bona fide offer for sale, or a negotiated
31 offer for sale, or the sales prices determined as the result of the
32 appraisal process under subsection (6) of this section, in which case
33 the deposit and accrued interest shall be applied towards the purchase
34 of the development.

35 NEW SECTION. **Sec. 5.** Except as provided in section 6 of this act,
36 an owner of a low-income housing development or mobile home park shall
37 be released from the obligation to offer the right of first refusal or
38 right to purchase to an eligible entity listed in section 3(2) of this

1 act upon the expiration of the applicable time period specified in
2 section 4 of this act, and submission of a written certification to the
3 local jurisdiction where the development is located, signed by the
4 owner under penalty of perjury, that either of the following occurred:

5 (1) The owner complied with all notice and information requirements
6 pursuant to a bona fide offer for sale of a development under section
7 4 of this act and no written acceptance or bona fide offer to purchase
8 was received from an eligible entity or no real estate purchase and
9 sale agreement was executed by an eligible entity within the time
10 periods under section 4 of this act; or

11 (2) An eligible entity that executed a real estate purchase and
12 sale agreement during the applicable time period elected to terminate
13 the agreement, or was unable to meet the terms of the agreement, the
14 owner exercised due diligence in carrying out the conditions of the
15 real estate purchase and sale agreement, and there was no other
16 eligible entity willing to make a bona fide offer to purchase or
17 fulfill the terms of the real estate purchase and sale agreement within
18 the time remaining before expiration of the applicable time periods.

19 NEW SECTION. **Sec. 6.** During the one-year period after the date of
20 an owner's release from the obligation to offer the right of first
21 refusal or right to purchase to an eligible entity under section 5 of
22 this act, an owner may make an offer to or accept an offer from an
23 entity that does not qualify as an eligible entity under section 3(2)
24 of this act at the same or different terms and conditions that were
25 offered to an eligible entity in the initial bona fide offer for sale
26 made under section 4(4) of this act. However, the offer or acceptance
27 shall be subject to the owner providing each eligible entity the first
28 opportunity to purchase the development at the same terms and
29 conditions, that may be modified by mutual consent, as the pending
30 offer to sell or purchase. The owner shall send written notification
31 of the terms and conditions of the pending offer to sell or purchase to
32 eligible entities by registered or certified mail, return receipt
33 requested. The eligible entities have sixty days from the date the
34 notice is received to respond to the owner by submitting a bona fide
35 offer to purchase at the same terms and conditions, unless modified by
36 mutual consent, which offer shall be accepted by the owner.

1 NEW SECTION.

2 **Sec. 7.**

3 (1) Local jurisdictions where each
4 development is located shall have the responsibility for determining
5 the financial and organizational qualifications of purchasers and may
6 establish minimum standards that must be met by the purchasers. The
7 general criteria shall include consideration of the purchaser's
8 knowledge and experience in acquisition and management of similar
9 projects, staff capacity to handle acquisition and management, and
10 demonstrated interest in effectuating the purpose of this chapter.

11 (2) The local jurisdiction where the development is located shall
12 have responsibility to compile a list of eligible entities identified
13 in section 3(2) of this act within ninety days of the effective date of
14 this section to be made available to all owners subject to this
15 chapter.

16 (3) The local jurisdiction where the development is located shall
17 determine promptly the financial and organizational qualifications of
18 any purchaser who has entered into a real estate purchase and sale
19 agreement with an owner for development under this chapter. The local
20 jurisdiction may determine whether minimum qualification standards have
21 been met by an eligible purchaser before an owner will be required to
22 proceed with the sale of the development under this chapter.

23 (4) If an owner has entered into more than one real estate purchase
24 and sale agreement with an eligible purchaser or has received more than
25 one offer to purchase from eligible purchasers under this chapter, the
26 local jurisdiction where the development is located shall, subject to
27 the priorities identified in section 3(2) of this act, determine which
28 purchaser is most qualified to proceed with the purchase of the
29 development and shall advise the owner and eligible purchaser
30 accordingly.

31 (5) Each local jurisdiction where a development is located and that
32 carries authority to undertake land use review or permit approval for
33 that development shall not issue any permit or undertake any other
34 action that would authorize demolition, change of use, conversion, or
35 other alteration in the status of that development that would cause the
36 displacement of residents within those developments, unless the owner
37 first has complied with applicable provisions of this chapter.

38 (6) The department shall adopt rules under chapter 34.05 RCW that
39 may be necessary or appropriate to effectuate the purposes of this
40 chapter.

1 NEW SECTION. **Sec. 8.** This chapter may be enforced either in law
2 or in equity by any entity entitled to exercise the right of first
3 refusal or right of purchase, by any tenant or mobile home park
4 resident in a development, by the department, by the local jurisdiction
5 where that development is located, or by any other person adversely
6 affected by an owner's or purchaser's failure to comply with the
7 provisions of this chapter.

8 NEW SECTION. **Sec. 9.** In addition to any other sanction or
9 remedial procedure that may be available, any other failure to comply
10 with the requirements of this chapter shall be subject to a civil
11 penalty of up to twenty-five thousand dollars for each dwelling unit in
12 a development that is subject to this chapter. The penalty shall be
13 recovered in a civil action brought on behalf of the state by the
14 attorney general, or by the local jurisdiction where the development is
15 located. Any civil penalties collected under this section shall be
16 deposited in the housing trust fund established under chapter 43.185
17 RCW.

18 NEW SECTION. **Sec. 10.** This chapter does not limit the authority
19 of local jurisdictions to enact laws granting a right of first refusal
20 or right to purchase a development within their jurisdiction. If the
21 director determines that a local right of first refusal or right to
22 purchase law provides rights, remedies, and procedures that are
23 substantially equivalent to those provided in this chapter, the
24 director shall authorize the local jurisdiction to make an election to
25 require owners to either comply with the local right of first refusal
26 or right to purchase law or comply with the requirements of this
27 chapter.

28 NEW SECTION. **Sec. 11.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 12.** Sections 1 through 10 of this act shall
33 constitute a new chapter in Title 59 RCW.

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