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**SUBSTITUTE HOUSE BILL 3082**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** House Committee on Trade & Economic Development (originally sponsored by Representatives Wallace, Morrell, Veloria, Chase, Upthegrove and O'Brien)

READ FIRST TIME 02/10/04.

1 AN ACT Relating to resolving manufactured/mobile home landlord and  
2 tenant disputes; amending RCW 59.22.050; adding a new section to  
3 chapter 34.12 RCW; adding a new chapter to Title 59 RCW; prescribing  
4 penalties; and providing effective dates.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that there are  
7 factors unique to the relationship between a manufactured/mobile  
8 homeowner and a manufactured/mobile home park owner. Once occupancy  
9 has commenced, the difficulty and expense in moving and relocating a  
10 manufactured/mobile home can affect the operation of market forces, and  
11 lead to an inequality of the bargaining position of the parties. Once  
12 occupancy has commenced, a homeowner may be subject to violations of  
13 the manufactured/mobile home landlord-tenant act or unfair practices  
14 without an adequate remedy at law. This chapter is created for the  
15 purpose of protecting the public, fostering fair and honest  
16 competition, and regulating the factors unique to the relationship  
17 between the manufactured/mobile homeowner and park owner.

18 (2) The legislature finds that taking legal action against a park

1 owner for violations of the manufactured/mobile home landlord-tenant  
2 act can be a costly and lengthy process, and that many people cannot  
3 afford to pursue this process.

4 (3) Therefore, it is the intent of the legislature to provide a  
5 less costly and more efficient way for manufactured/mobile homeowners  
6 and park owners to resolve disputes, and to provide a mechanism for  
7 state authorities to quickly locate owners of manufactured housing  
8 communities. The legislature further intends to authorize the  
9 department of licensing to register mobile home parks or manufactured  
10 housing communities, conduct investigations, issue citations, issue  
11 cease and desist orders, and impose fines for violations of the  
12 manufactured/mobile home landlord-tenant act.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply  
14 throughout this chapter unless the context requires otherwise.

15 (1) "Department" means the department of licensing.

16 (2) "Director" means the director of the department of licensing.

17 (3) "Mobile home park" or "manufactured housing community" means  
18 any real property that is rented or held out for rent to others for the  
19 placement of two or more mobile homes, manufactured homes, or park  
20 models for the primary purpose of production of income, except when the  
21 real property is rented or held out for rent for seasonal recreational  
22 purposes only and is not intended for year-round occupancy.

23 (4) "Landlord" or "park owner" means the owner of a mobile home  
24 park or a manufactured housing community and includes the agents of the  
25 landlord.

26 (5) "Tenant" or "homeowner" means any person, except a transient,  
27 who rents or occupies a mobile home lot.

28 (6) "Owner" means one or more persons, jointly or severally, in  
29 whom is vested:

30 (a) All or part of the legal title to the real property; or

31 (b) All or part of the beneficial ownership, and a right to present  
32 use and enjoyment of the real property.

33 (7) "Unfair practice" means any act that would constitute an unfair  
34 or deceptive act or practice under chapter 19.86 RCW.

35 (8) "Complainant" means a landlord, park owner, tenant, or  
36 homeowner, who has a complaint alleging an unfair practice or violation  
37 of chapter 59.20 RCW.

1 (9) "Respondent" means a landlord, park owner, tenant, or  
2 homeowner, alleged to have committed an unfair practice or violation of  
3 chapter 59.20 RCW.

4 NEW SECTION. **Sec. 3.** (1) A complainant shall have the right to  
5 file a complaint with the department alleging an unfair practice or a  
6 violation of chapter 59.20 RCW.

7 (2) The complainant must provide written notice to the respondent  
8 prior to notifying the department of an alleged violation of chapter  
9 59.20 RCW or unfair practice. If the complaint is not remedied within  
10 the time frame provided by RCW 59.20.200, the complainant may then file  
11 a complaint with the department. If no such time frame is applicable  
12 to the complaint, then the respondent has thirty days to remedy the  
13 violation.

14 (3) Upon receipt of a complaint alleging unfair practices or  
15 violations of chapter 59.20 RCW, the department shall investigate the  
16 alleged violations.

17 (4) The department may require or permit any person to file a  
18 complaint or statement in writing, under oath or otherwise as the  
19 department determines, as to the facts and circumstances concerning a  
20 matter to be investigated.

21 (5) The department has the power to:

22 (a) Issue subpoenas and administer oaths in connection with any  
23 investigation, hearing, or proceeding held under this chapter;

24 (b) Take or cause depositions to be taken and use other discovery  
25 procedures as needed in an investigation, hearing, or proceeding held  
26 under this chapter;

27 (c) Compel attendance of witnesses at hearings;

28 (d) Designate individuals authorized to sign subpoenas and  
29 citations; and

30 (e) Employ investigative, administrative, and clerical staff as  
31 necessary for enforcement of this chapter.

32 (6)(a) Landlords and tenants shall cooperate with the department in  
33 the course of an investigation by:

34 (i) Furnishing any papers or documents requested;

35 (ii) Furnishing in writing an explanation covering the matter  
36 contained in a complaint when requested by the department;

1 (iii) Allowing authorized access to department representatives for  
2 inspection of mobile home parks/manufactured housing community  
3 facilities relevant to the alleged violation being investigated; or

4 (iv) Responding to subpoenas issued by the department.

5 (b) Failure to cooperate with the department in the course of an  
6 investigation is a violation of this chapter.

7 (7) If after an investigation the department finds that an unfair  
8 practice or violation of chapter 59.20 RCW has occurred, the department  
9 may deliver a citation to the respondent who committed the violation by  
10 certified mail or in person. The citation must specify the violation,  
11 the corrective action to be taken, the time within which the corrective  
12 action must be taken, the penalties that will result if corrective  
13 action is not taken within the specified time period, and the process  
14 for contesting the citation through a hearing. The complainant shall  
15 also be mailed a copy of the citation.

16 (8) If after an investigation the department does not find an  
17 unfair practice or violation of chapter 59.20 RCW, the department shall  
18 deliver a written notice of that decision to both the complainant and  
19 the respondent.

20 (9) Department decisions regarding citations for violations and  
21 penalties or the failure to find an unfair practice or violation of  
22 chapter 59.20 RCW may be contested through an administrative hearing  
23 under chapter 34.05 RCW. The administrative law judge appointed under  
24 chapter 34.12 RCW shall hear and receive pertinent evidence and  
25 testimony. If the administrative law judge decides that the evidence  
26 supports the violation by a preponderance of evidence, an order shall  
27 be entered to that effect and immediately mailed to the affected  
28 parties.

29 (10) In order to obtain a hearing, the complainant or respondent  
30 must, within thirty days of receiving a citation or written notice from  
31 the department, request a hearing. If a hearing is not requested  
32 within this time period, the citation or written notice constitutes a  
33 final order of the department and is not subject to review by any court  
34 or agency.

35 (11) For violations that substantially endanger or impair the  
36 health or safety of a complainant, the department shall follow  
37 procedures for emergency adjudicative proceedings as provided in RCW  
38 34.05.479.

1 (12) For violations that substantially endanger or impair the  
2 health or safety of a complainant, corrective action must take place  
3 within twenty-four hours of the receipt of the department's citation.  
4 For violations involving the failure of the landlord to provide heat,  
5 water, or electricity, corrective action must take place within forty-  
6 eight hours of the receipt of the department's citation. For all other  
7 violations, corrective action must take place within fifteen days of  
8 the receipt of the department's citation.

9 (13) If a respondent fails to take corrective action within the  
10 required time period and the department has not received a timely  
11 request for an administrative hearing, the department may impose a  
12 fine, not to exceed five thousand dollars per violation, for every day  
13 that the violation remains uncorrected. The department shall establish  
14 written guidelines for issuing fines. The department may consider  
15 aggravating or mitigating circumstances in assessing any fine. The  
16 party to whom a fine has been assessed may appeal the amount of the  
17 fine by requesting a hearing within thirty days of receipt of the  
18 department's action. If a hearing is not requested within this time  
19 period, the fine assessment constitutes a final order of the department  
20 and is not subject to review by any court or agency.

21 (14) The department may issue an order requiring the respondent, or  
22 its assignee or agent, to cease and desist from an unfair or unlawful  
23 practice and take such affirmative actions that in the judgment of the  
24 department will carry out the purposes of this chapter. The  
25 affirmative action may include the following:

26 (a) Refunds of rent increases, improper fees, charges, and  
27 assessments collected in violation of the terms of this chapter;

28 (b) Filing and utilization of documents which correct a statutory  
29 or rule violation;

30 (c) Reasonable action necessary to correct a statutory or rule  
31 violation.

32 (15) Upon application to the department by the respondent showing  
33 that a good faith effort to comply with the corrective action  
34 requirements of the citation has been made and that the corrective  
35 action has not been completed because of factors beyond the  
36 respondent's control, the department may extend the time period in  
37 which corrective action must be taken before fines are imposed.

1 (16) The landlord, park owner, or owner is not entitled to any  
2 reimbursement of refunds, fines, penalties, or other fees from the  
3 tenants or homeowners.

4 (17) This section is not exclusive and does not limit the right of  
5 landlords or tenants to take legal action against another party as  
6 provided in chapter 59.20 RCW or otherwise. This section does not  
7 apply to unlawful detainer actions initiated under RCW 59.20.080;  
8 however, a tenant is not precluded from seeking relief under this  
9 chapter if the complaint claims the notice in RCW 59.20.080 is illegal.

10 NEW SECTION. **Sec. 4.** The director or individuals acting on the  
11 director's behalf are immune from suit in any action, civil or  
12 criminal, based upon any disciplinary actions or other official acts  
13 performed in the course of their duties under this chapter, except  
14 their intentional or willful misconduct.

15 NEW SECTION. **Sec. 5.** (1) All mobile home parks and manufactured  
16 housing communities must be registered with the department.

17 (2) To apply for registration, the owner of a mobile home park or  
18 manufactured housing community must file with the department an  
19 application for registration on a form prescribed by the department.  
20 The department may adopt rules to prescribe the contents of the  
21 application. The application must include, but is not limited to:

22 (a) The name and address of the mobile home park or manufactured  
23 housing community owner;

24 (b) The name and address of the mobile home park or manufactured  
25 housing community manager; and

26 (c) The number of lots within the mobile home park or manufactured  
27 housing community that are subject to chapter 59.20 RCW.

28 (3) Certificates of registration are effective on the date issued  
29 by the department. The department shall assign an expiration date and  
30 the registration must be renewed annually.

31 NEW SECTION. **Sec. 6.** The department must:

32 (1) Compile the most accurate list possible of all the mobile home  
33 parks or manufactured housing communities in the state, the number of  
34 lots subject to chapter 59.20 RCW located in each mobile home park or  
35 manufactured housing community, and the names and addresses of the

1 owners of these parks. The department is encouraged to work with  
2 groups including, but not limited to: The office of community  
3 development, mobile homeowners' associations, tenant advocacy groups,  
4 park owners' associations, and county assessors to generate the list;

5 (2) Send out notifications to all known mobile home park owners or  
6 manufactured housing community owners that the first annual fees  
7 pursuant to section 7 of this act are due. These notifications must  
8 include information about late fees, liens, and passing costs on to  
9 tenants; and

10 (3) Collect the first annual fees due from all mobile home park  
11 owners or manufactured housing community owners, and allow ninety days  
12 to pass during which late fees and lien notices are sent to  
13 noncomplying owners as provided in this chapter.

14 NEW SECTION. **Sec. 7.** (1) Each owner of a mobile home park or  
15 manufactured housing community shall pay to the department an annual  
16 registration fee to fund the costs associated with administering this  
17 chapter. The fee must be set by rule and determined annually by the  
18 department, and may not exceed ten dollars for each mobile home or  
19 manufactured home that is subject to chapter 59.20 RCW within a park or  
20 community. Manufactured housing community owners or mobile home park  
21 owners may pass on no more than one-half the cost of this fee to  
22 tenants. The annual fee is to be collected on the date of the  
23 registration.

24 (2) If an owner fails to pay the annual fee before the registration  
25 expiration date, a penalty fee as determined by the director by rule  
26 shall be assessed. The owner is not entitled to any reimbursement of  
27 this penalty from his or her tenants.

28 (3) If an owner fails to pay the required fees within ninety days  
29 of the registration expiration date, the amount due under this section  
30 becomes a lien in favor of the state upon the owner's property. The  
31 lien is superior to all other liens and encumbrances except general  
32 taxes and local and special assessments, and bears interest computed  
33 monthly and compounded annually at a rate of eight percent.

34 (4) The department may adopt fees by rule to cover the costs of  
35 administering this chapter in addition to the annual registration fees  
36 in this section.

1        NEW SECTION.    **Sec. 8.**    The manufactured/mobile home investigations  
2 account is created in the custody of the state treasurer. All receipts  
3 from the imposition of fines for violations of chapter 59.20 RCW and  
4 the fees collected under sections 3 and 6 of this act must be deposited  
5 into the account. Expenditures from the account may be used only for  
6 the costs associated with administering this chapter. Only the  
7 director or the director's designee may authorize expenditures from the  
8 account. The account is subject to allotment procedures under chapter  
9 43.88 RCW, but an appropriation is not required for expenditures.

10        **Sec. 9.**    RCW 59.22.050 and 1991 c 327 s 3 are each amended to read  
11 as follows:

12        (1) In order to provide general assistance to mobile home resident  
13 organizations, park owners, and landlords and tenants, the department  
14 shall establish an office of mobile home affairs which will serve as  
15 the coordinating office within state government for matters relating to  
16 mobile homes or manufactured housing.

17        This office will (~~provide an ombudsman service to mobile home park~~  
18 ~~owners and mobile home tenants with respect to problems and disputes~~  
19 ~~between park owners and park residents and to~~) provide technical  
20 assistance to resident organizations or persons in the process of  
21 forming a resident organization pursuant to chapter 59.22 RCW. The  
22 office will keep records of its activities in this area.

23        (2) The office shall perform all the consumer complaint and related  
24 functions of the state administrative agency that are required for  
25 purposes of complying with the regulations established by the federal  
26 department of housing and urban development for manufactured housing,  
27 including the preparation and submission of the state administrative  
28 plan.

29        (3) The office shall administer the mobile home relocation  
30 assistance program established in chapter 59.21 RCW, including  
31 verifying the eligibility of tenants for relocation assistance.

32        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 34.12 RCW  
33 to read as follows:

34        When requested by the department of licensing, the chief  
35 administrative law judge shall assign an administrative law judge to  
36 conduct proceedings under Title 59 RCW.



1        NEW SECTION.   **Sec. 11.**   Sections 1, 2, and 4 through 6 of this act  
2   take effect August 1, 2004.   The remainder of this act takes effect  
3   January 1, 2005.

4        NEW SECTION.   **Sec. 12.**   Sections 1 through 8 of this act constitute  
5   a new chapter in Title 59 RCW.

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