

SENATE BILL REPORT

SB 6709

As of February 01, 2006

Title: An act relating to resolving manufactured/mobile home landlord and tenant disputes.

Brief Description: Resolving manufactured/mobile home landlord and tenant disputes.

Sponsors: Senators Kastama, Eide, Prentice, Rasmussen, Fraser, McAuliffe and Rockefeller.

Brief History:

Committee Activity: Financial Institutions, Housing & Consumer Protection: 1/31/06.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Staff: Jennifer Arnold (786-7471)

Background: The Manufactured/Mobile Home Landlord-Tenant Act (MHLTA) governs the relationship between the manufactured/mobile homeowners, who rent the lot where their home is located, and the owners of such parks and communities.

The Office of Mobile Home Affairs exists within the Department of Community, Trade, and Economic Development (CTED) to provide ombudsman service and technical assistance to owners of manufactured housing communities and mobile home parks and the owners of homes located within those communities and parks.

Manufactured/mobile home park owners and the homeowners have a unique relationship, in that it can be difficult and expensive to move or relocate a home after occupancy has started. Therefore, there are concerns that this relationship can lead to bargaining inequalities and that a complaint resolution process is necessary in order to give homeowners adequate remedies and foster fair and honest competition.

As a result of previous legislation, in December of 2005, CTED submitted recommendations to the Legislature on: changes to the existing law for dispute resolution; changes that should be made to the department's ombudsman and investigative program; resources necessary to retain or improve the department's program; and the necessity for administrative enforcement of the MHLTA.

Summary of Substitute Bill: The Office of Mobile Home Affairs within CTED is renamed the Office of Manufactured Housing (OMH).

Process for Filing Complaints. A statutory process is created for the resolution of disputes between manufactured/mobile homeowners and manufactured/mobile home park owners. Under this process, a complainant is defined as a landlord, park owner, tenant, or homeowner. A complainant has a right to file a complaint, alleging violations of the MHLTA or an unfair practice under the Consumer Protection Act (CPA) with the OMH. The Office is required, after receiving a complaint, to: (1) inform the complainant of the statutory time

frame under the MHLTA to remedy the complaint and (2) encourage the complainant to notify the respondent of the complaint.

Investigations. After receiving a complaint, CTED may investigate and evaluate alleged violations of the MHLTA or CPA. CTED may also explain the options available to the parties involved and negotiate agreements. The involved parties must cooperate with CTED by furnishing any documents or written statements requested. Further, CTED is allowed access to relevant mobile/manufactured home facilities for the purpose of conducting investigations. After completing its investigation, CTED may issue findings, conclusions, decisions, or rulings on whether there has been a violation of the MHLTA or CPA.

Administrative Enforcement. After the investigation, if CTED finds that an unfair practice under the CPA or a violation of the MHLTA has occurred, the department must issue a citation. The citation must specify the violation, the required corrective action, penalties for non-compliance, and the time period in which to contest.

Time Frame for Corrective Action. If the violation/unfair practice: (1) substantially endangers or impairs the health or safety of a complainant, corrective action is required within 24 hours or (2) involves failure to provide heat, water, or electricity, corrective action is required within 48 hours. Any other violation must be corrected within 15 days of receiving the citation.

Sanctions for Failure to Take Corrective Action. CTED may impose a fine of up to \$1,000 per day per violation, for every day the violation or unfair practice remains uncorrected.

Contesting Violations. Citations and penalties are appealable to an administrative law judge. A hearing may be requested within 30 days of receiving the citation.

Notice. CTED must provide notice to each mobile/manufactured home park and community owner of the ombudsman complaint resolution program. Further, park owners are required to post notice in common areas of tenants' rights and responsibilities, along with a toll-free number for CTED for the use of owners and tenants seeking additional information and communicating complaints.

Registration and Program Funding. All mobile home parks and manufactured housing communities are required to be registered with CTED. There is a registration fee of \$5 per lot, of which no more than \$2.50 can be passed on to the tenants. Registration fees that are not paid before the registration's expiration will be subject to late fees, which cannot be passed on to the tenants.

Database Maintenance and Updates. CTED must compile, update, and maintain the most accurate list possible of mobile/manufactured parks and communities in the state, including the names and addresses of the owners, as well as the total number of lots in each park or community.

Application of the Program to Recreational Vehicles. Recreational vehicle is defined, for the purposes of OMH's Ombudsman Program, to include travel trailers, motor homes, truck campers, or camping trailers that are: (1) used primarily as a primary residence and (2) located in a mobile home park or manufactured housing community.

Substitute Bill Compared to Original Bill: The bill as referred to committee was not considered.

Appropriation: None.

Fiscal Note: Requested on January 26, 2006.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: If tenants are going to be required to contribute out of their own pockets to this program, there should be some level of enforcement; this bill gives us the enforcement mechanisms needed to really make a difference. A law without enforcement is not worth anything. There exists an unlevel playing field, as mobile homes are not really mobile. Under current law, landlords have the option to evict tenants with 30 days notice, but tenants have no means to secure landlord compliance, other than ask them to "please" comply. Nevada has enforcement of their MLTA and they only issued six fines last year; nobody gets fined if no one breaks the law. As it is now, there is no incentive for landlords to comply with the law; this fact is epitomized by CTED's report which showed that 80 percent of the landlords refused to even respond to CTED, leaving the state and the tenants with no other recourse than the courts. Most mobile home tenants cannot afford to resolve disputes through the court system; therefore, this bill is necessary.

Testimony Against: Imposing a \$1,000 per day fine, plus late fees, is excessive, particularly for small operators. CTED's work on ESHB 1640 last fall illustrated that the department does not have the capability of distinguishing between a valid and an invalid complaint; this is an issue that needs to be addressed before legislation such as this is pursued. The enforcement provisions are unnecessary because there are more efficient means of dispute resolution already existing and this would only add to the expense of all parties involved. Further, if too many administrative burdens are placed on park owners, there comes a point when it is simply easier to close the park, resulting in less affordable housing.

Testimony Other: CTED does not recommend the use of administrative enforcement; the ability to make findings as to whether a violation of the MHLTA has occurred would give CTED the necessary leverage to negotiate dispute resolution, without the additional enforcement provisions in this bill.

Who Testified: PRO: Senator Kastama, prime sponsor; Ishbel Dickens, Columbia Legal Services; Nell Carlson, Mobile Home Owners of America; Ken Newton, Mobile Home Owners of America; Fred Jones, Mobile Home Owners of America; James Dean, Mobile Home Owners of America; Ray Munson, Mobile Home Owners of America; Sarah Jane Rivers, Mobile Home Owners of America.

CON: John Woodring, Manufactured Housing Communities of Washington; Ken Spencer, Manufactured Housing Communities of Washington.

OTHER: Teri Ramsauer, Department of Community, Trade and Economic Development; Amy Lenneker, Department of Community, Trade and Economic Development.