

# HOUSE BILL REPORT

## E2SHB 1621

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**As Passed House:**

February 15, 2008

**Title:** An act relating to the preservation of manufactured/mobile home communities.

**Brief Description:** Preserving manufactured/mobile home communities.

**Sponsors:** By House Committee on Finance (originally sponsored by Representatives B. Sullivan, Sells, Morrell, Lovick, Ormsby, Miloscia, Springer, McCoy, Sullivan, Hasegawa, O'Brien, Roberts, Conway, Wood, Haigh, Rolfes and Simpson).

**Brief History:**

**Committee Activity:**

Housing: 1/29/07, 2/8/07 [DPS];

Finance: 2/12/08 [DP2S].

**Floor Activity:**

Passed House: 2/15/08, 94-0.

**Brief Summary of Engrossed Second Substitute Bill**

- Provides an exemption from the Real Estate Excise Tax if a landlord of a manufactured/mobile home community voluntarily sells the community to a tenant organization or an eligible organization for the purpose of community preservation.
- Requires landlords to give notice that a community is for sale to tenants and other specified entities within 14 days of any advertisement or at least 90 days before a transfer of ownership occurs.
- Encourages landlords to negotiate in good faith with tenant organizations and eligible organizations.

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**HOUSE COMMITTEE ON HOUSING**

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

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Miloscia, Chair; Springer, Vice Chair; Kelley and Ormsby.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Dunn, Ranking Minority Member; McCune and Schindler.

**Staff:** Robyn Dupuis (786-7166).

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## HOUSE COMMITTEE ON FINANCE

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 6 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway, Ericks, McIntire and Santos.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Roach.

**Staff:** Don Taylor (786-7388).

### **Background:**

The state has noted a recent increase in the rate of manufactured/mobile home community closures, primarily attributable to increasing market demands for land in Washington, particularly in high growth areas. According to data provided by the Department of Community, Trade and Economic Development (DCTED), 18 manufactured/mobile communities closed during calendar year 2007, the closure of which affected 534 households.

Approximately 1,000 existing parks are located in urban growth areas and are considered likely threatened due to rising land values within those areas.

The DCTED reports knowledge of 846 spaces that will close within the next year and estimates that 254 of these households will request relocation reimbursement assistance.

### **Right of First Refusal (Chapter 59.23)**

A Washington law enacted in 1993 provided for a right of first refusal for a qualified tenant organization. Under that statute, a park owner was required to notify a qualified tenant organization of a pending sale of the park, and the qualified tenant organization would have 30 days after that notice was received to tender a fully executed purchase and sale agreement at least as favorable to the park owner as the original agreement.

This statute was declared invalid, however, in *Manufactured Housing Communities of Washington v. State*, 142 Wash.2d 347 (2000). The Washington Supreme Court held that the right of first refusal is a fundamental attribute of ownership and a valuable property right of mobile home park owners, and that the statutory forced transfer of this right constitutes a taking under the Washington Constitution.

### **Summary of Engrossed Second Substitute Bill:**

### **"Notice of Sale" Requirement**

A landlord selling a community must file a notice of sale within 14 days of advertisement of the sale and at least 90 days before the transfer of ownership or title to community tenants, tenant organizations, the Office of Manufactured Housing, the appropriate local government and Housing Authority, and the Washington State Housing Finance Commission. The notice must include contact information for the landlord.

### **Voluntary Qualified Sale of a Manufactured/Mobile Home Community**

Sales of a manufactured/mobile home community to a qualified tenant organization or an eligible organization are called "qualified sales" and are exempt from the state and local real estate excise tax.

### **Good Faith Negotiations**

Landlords are encouraged to negotiate in good faith with qualified tenant organizations and eligible organizations.

### **Office of Manufactured Housing**

The name of the "Office of Mobile Home Affairs" is changed to the "Office of Manufactured Housing." This office must provide technical assistance to tenant organizations.

### **Severability Clause**

If any provision of this act is held invalid, the remainder of the act is not affected.

### **Right of First Refusal (Chapter 59.23) is repealed.**

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

### **Staff Summary of Public Testimony: (Housing)**

(In support) Many mobile/manufactured homeowners are low-income and elderly and cannot afford to move their homes when a mobile/manufactured home community closes. Furthermore, there is often no place to move a home given the number of park closures in recent years. This bill is a way for landlords to voluntarily choose to work with tenant organizations and other groups representing the interests of the tenants to preserve parks and the affordable housing opportunities they provide. The bill requires landlords to notify the tenants that the property is for sale; that alone would be a step forward as tenants are willing to work hard to buy their community if they are only given the chance to negotiate. Tenants just want the same opportunity to buy a property as is given other potential purchasers.

(Opposed) This bill is unconstitutional, it is a property owner's right to grant a right of first refusal. This bill also has constitutional takings as it authorizes a taking of private property for private use. Park owners care about their parks and about preserving affordable housing opportunities, however, this bill is going to scare potential investors away from opening new

parks. Investors interested in contributing to the development of new mobile/manufactured home parks will see this bill as a restriction on their rights and future profit-making ability and they will likely shy away from investing in new parks. Fair market value should be determined by what a willing buyer will pay, not by appraisers.

**Staff Summary of Public Testimony:** (Finance)

None.

**Persons Testifying:** (Housing) (In support) Representative Brian Sullivan, prime sponsor; Ishbel Dickens, Columbia Legal Services; Raymond Breeden Sr., Wonderland Mobile Home Park; Dick Balser and Russell Carter, Mariner Village Mobile Home Park; Ken Newton, Manufactured Home Owners Association; Ihylin Parks, SOS Homes; Theresa Adams, Silver Shores Mobile Home Park Homeowners Association; Lorraine Shaffner, Lago de Plada Homeowners Association; and Nick Federici, Washington Low Income Housing Alliance.

(Opposed) John Woodring and Ken Spencer, Manufactured Housing Communities of Washington; Joe Hammond, owner and operator of manufactured housing communities; Debra Goethals and Russ Millar, mobile and manufactured home park owners; and Walt Olsen, Olsen Law Firm.

**Persons Testifying:** (Finance) None.

**Persons Signed In To Testify But Not Testifying:** (Housing) None.

**Persons Signed In To Testify But Not Testifying:** (Finance) None.