

SENATE BILL REPORT

ESHB 1582

As of March 28, 2019

Title: An act relating to manufactured/mobile home tenant protections.

Brief Description: Addressing manufactured/mobile home tenant protections.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Gregerson, Kloba, Peterson, Valdez, Pollet, Wylie, Appleton, Bergquist, Doglio, Reeves, Tharinger, Kirby, Jinkins and Macri).

Brief History: Passed House: 3/12/19, 53-42.

Committee Activity: Housing Stability & Affordability: 3/25/19.

Brief Summary of Bill

- Increases the term of a rental agreement under the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA) from one year to two years.
- Increases the notice to pay or vacate for failure to pay rent under the MHLTA from five days to 15 days.
- Increases the notice to comply or vacate for a substantial violation of park rules from 15 days to 30 days.
- Increases the notice for closure or conversion of mobile home parks from 12 months to three years, with exceptions.
- Provides a uniform notice for closure or conversion of mobile home parks, and requires that it be made publicly available by the Department of Commerce in the top ten languages spoken in the state.
- Provides that landlords may not prohibit solicitation by, meetings with, or the distribution of information by housing and low-income assistance organizations.
- Allows courts to limit dissemination of an unlawful detainer action under the MHLTA.

SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY

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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.

Background: MHLTA governs the legal rights, remedies, and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot within a mobile home park where the tenant has no ownership interest in the property or in the association that owns the property.

Term, Renewal, and Termination. Under the MHLTA, the landlord must offer a written rental agreement term of one year and is prohibited from offering better terms, such as a lower monthly rent, for a month-to-month tenancy. A tenant may, however, waive the right to a one-year tenancy by signing a written waiver. Any rental agreement of any duration automatically renews for the term of the original rental agreement unless a different length is agreed upon.

A tenant not intending to renew must notify the landlord in writing one month prior to the expiration of the rental agreement. A landlord may not terminate or fail to renew a tenancy except for certain reasons, and then, only when the landlord complies with the specified notice requirements. Permissible reasons and notice requirements include:

- nonpayment of rent and additional charges specified in the agreement, which is a five-day notice to pay or vacate;
- substantial or repeated violations of enforceable rules of the park, as established by the landlord at the inception of the tenancy, or as subsequently assumed with the consent of the tenant, which is a 15-day notice to comply or vacate, as in the case of a violation of a material change in park rules with respect to pets, tenants with minor children living with them, or recreational facilities, the tenant must be given six months' written notice in which to comply or vacate;
- change of land use or conversion, which requires 12-months notice;
- criminal activity;
- service of three, 15-day notices to comply or vacate within a 12-month period; and
- failure to pay rent by the due date three or more times in a 12-month period.

Park Rules. Rules are enforceable against a tenant only if:

- their purpose is to promote the convenience, health, safety, or welfare of the residents, protect and preserve the premises from abusive use, or make a fair distribution of services and facilities available for the tenants generally;
- they are reasonably related to the purpose for which they are adopted;
- they apply to all tenants in a fair manner;
- they are not for the purpose of evading an obligation of the landlord; and
- they are not retaliatory or discriminatory in nature.

Rental Agreement Terms and Transfer. A rental agreement must include, among other things:

- a promise by the landlord that, except for acts or events beyond their control, the mobile home park will not be converted to a land use that will prevent the lease from continuing for a period of three years after the beginning of the term of the agreement; or
- a statement, in large, bold-face type, that the park may be sold at any time after the required 12 months notice with the result that the park may be closed.

The rental agreement must also include a list of the utilities, services, and facilities available to the tenant during the tenancy and the nature of fees, if any, to be charged.

A landlord must notify the selling tenant in writing of any refusal to permit the transfer of the rental agreement at least seven days before the intended transfer.

Solicitation and Meetings. Although in the rental agreement a landlord may restrict door-to-door solicitation within the mobile home park, the landlord may not prohibit the distribution of information or meetings by tenants to discuss mobile home living or affairs, or prohibit certain public officials from meeting with or distributing information to tenants.

Remedies for Defects. A tenant may submit to the landlord or their agent at least two bids from either licensed or registered persons or persons capable of performing any repairs necessary to correct a defect that the landlord failed to address pursuant to their statutory duties.

Limited Dissemination. The Residential Landlord-Tenant Act allows courts to order an unlawful detainer action to be of limited dissemination under certain circumstances and prohibits a tenant screening service provider from disclosing or using the existence of the unlawful detainer action if such an order has been entered. The MHLTA does not contain similar provisions.

Summary of Bill: Terms, Renewal, and Termination. A landlord may not offer a mobile home lot for rent without offering a written rental agreement for a term of at least two years, which is up from one year. Annually, at any anniversary date of the tenancy, the tenant may require that the landlord provide a written rental agreement for a term of two years.

The pay rent or vacate notice for failure to pay rent is extended to 15 days, increased up from five days. A tenant provided notice with respect to a substantial rule violation must be afforded 30 days, increased from 15 days, to comply or vacate. Provisions governing situations in which a tenant has failed to comply with rules or failed to pay rent in a timely fashion on three or more occasions in a 12-month period are revised accordingly.

Except for a tenant evicted for commission of crimes that threaten the health, safety, or welfare of other tenants, or a tenant evicted for engaging in criminal activity, a tenant evicted from a mobile home park is allowed 120 days to sell the mobile home in place, provided that the tenant remains current in the payment of rent incurred after eviction and pays any past due rent, reasonable attorneys' fees, and court costs at the time the rental agreement is assigned.

Park Rules. Any new or amended rules not contained within the rental agreement are enforceable against a tenant only if they go into effect at the end of the term of the rental agreement and either the tenant has agreed to them in writing or was provided at least 90 days' written notice.

Rental Agreement Terms and Transfer. In addition to specifying the terms for rent payment in the written rental agreement, a statement providing accurate historical information regarding the rent charged for the past five years must be included. With the listing of utilities, services, and facilities available to the tenant and the associated fees to be charged, the landlord must also provide a statement that, if any utilities, services, or facilities are changed to be charged independent of the rent, discontinued, or eliminated during the term of

the rental agreement, the landlord agrees to decrease the amount of rent charged proportionately.

A rental agreement may not contain a provision that allows the landlord to alter the due date for rent or increase the rent during the term of the rental agreement if the term is less than two years, increased from one year, or more frequently than biennially if the term is for two years, up from one year, or more. A rental agreement for a term exceeding two years, up from one year, may provide for biennial increases in rent in specified amounts or by a formula specified in such agreement.

A rental agreement must also include:

- a promise by the landlord that, except for acts or events beyond their control, the mobile home park will not be converted to a land use that will prevent the lease from continuing for a period of five years, up from three years, after the beginning of the term of the agreement; or
- a statement, in large, bold-face type, that the park may be sold at any time after the required notice, which is increased from 12 months to three years, with the result that the park may be closed.

Exceptions are provided with respect to the three years notice requirement if:

- the mobile home park has been acquired for, or is under imminent threat of condemnation;
- the mobile home park is sold to an organization of park tenants, a nonprofit organization, a local government, or a housing authority for the purpose of preserving the park; or
- the landlord compensates the tenants for the loss of their homes at their assessed value at any point during the notice period and prior to a change of use or sale of the property, and at such time of compensation, the tenant must be provided written notice of at least 90 days to vacate and must continue to pay rent for as long as they remain in the park.

The form for the three years notice is specified. The Department of Commerce (Commerce) must produce and maintain on its website translated versions of the notice in the top ten languages spoken in the state, as well as other languages at its discretion. The notice must be made available upon request in printed form. Commerce must also provide on its website information where tenants can access legal or advocacy resources, including information on any immigrant and cultural organizations where tenants can receive assistance in their primary language.

At least seven days in advance of a tenant's intended sale of a mobile home and transfer of a rental agreement, the landlord must notify the selling tenant, in writing, of a refusal to permit transfer of the rental agreement; or, if the landlord approves of the transfer, provide the buyer with copies of the written rental agreement, the rules, and all other documents related to the tenancy. A landlord may not accept payment for rent or deposit from the buyer until the landlord has provided the buyer with these documents.

Solicitation and Meetings. A landlord may not prohibit solicitation by, meetings with, or distribution of information by housing and low-income assistance organizations, which are

defined as organizations that provide tenants living in a mobile home park with information about their rights and other pertinent information.

Remedies for Defects. When a landlord fails to carry out any of their duties and the tenant submits bids to perform repairs, upon receipt of the bids, the landlord must provide the tenant with a copy of the notice regarding the Manufactured/Mobile Home Dispute Resolution Program that is housed in the Office of the Attorney General.

Limited Dissemination. A court may order an unlawful detainer action to be of limited dissemination if it finds the plaintiff's case was sufficiently without basis in fact or law, the tenancy was reinstated by the court, or other good cause exists. The order must be in writing, and must not disclose the existence of the unlawful detainer action in a tenant screening report pertaining to the person for whom dissemination has been limited or use the action as a score or recommendation determinant to be included in a tenant screening report.

Appropriation: None.

Fiscal Note: Requested on March 15, 2019.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There have been no major revisions to the MHLTA in over 20 years. The MHLTA affects nearly every district, with hundreds of communities and thousands of people affected when just one park closes. Even our school districts rely on kids in communities to come back to school every year. One park closure resulted in a loss of nearly 90 children within one elementary school district. The two-year lease requirement is something already being done in Oregon State while Arizona has a five-year lease requirement. The longer rent terms help communities prepare for changes that will inevitably happen. The rent cap has been removed from the original bill. We are in the middle of homelessness crisis and building a community is really important, especially one that is very diverse with both young and old living in an area that everyone feels comfortable. When you close an entire community people are put in a downward spiral. While more resources are put into mental health or more counselors at the school or working with nonprofits to ensure that everybody has their essential needs met, manufactured housing communities are left behind. The bill is a great step forward in really trying to be intentional about keeping people in the community where they choose to be.

Tenants do not own the ground under their homes in a mobile home park. Some rents have jumped up high enough to make it difficult for senior citizens when they are on Social Security. Mobile home parks house retired people with some still working. There are 45,000 aerospace machinist retirees in or around the Seattle-King County area that live in mobile home parks. Seattle is overdeveloped already and waterfront development is not the correct way to spend money. It could be put to better use to house people. Tenants after park closures should not have to go into tiny houses because there are many tenants that are sick and ill and nursing homes are full. Tenants that remain in a park take care of each other, with trips to the store or to the doctor.

Moving the park closure notice from twelve months to three years would allow time for tenants to work out a plan and find place to move. The three year notice protection is critical since it will increase home values and the ability of homeowners to sell their homes.

Key provisions of the bill is the three-year notice of closure; ten additional days to pay rent; an accurate accounting of the five-year prior history of rent assessments and rent increases; and a better partnership between park owners and mobile home and manufactured homeowners.

Manufactured homes have the same amenities as any conventional stick built home—four walls, roofs, indoor plumbing, indoor lighting. What tenants do not have are huge mortgage payments but a space lot or rent that puts tenants at the mercy of the landowner. Tenants still pay property taxes on homeowners insurance. The bill will provide homeowners some of the same considerations given owners of conventional stick built homes. Many times when a developer will buy out a community or group of homes they are given the time to negotiate the length of time they need to vacate. The three years notice requirement proposed in the bill will eliminate some very stressful situations for many low-income seniors. Seniors subject to financial or physical limitations would be nearly impossible to vacate their homes or move within the appropriate time. The added stability of a two-year lease would make it easier and enable many residents to make future financial plans since many residents that live in communities rely on their security for the bulk of their monthly income. The bill would allow residents of any manufactured community to have speakers attend meetings with information beneficial to the homeowners.

This is a bill containing amendments that are not radical departures and provide fairness for Washington's 75,000 Manufactured Home Owners and their families. Many of the recommendations in the bill already exist in other places. For instance, the Grant County Housing Authority voluntarily gives tenants 11 additional days in which to pay rent. Having more time to pay your rent will actually save landlords money as well since they will have less to pay in terms of attorneys' fees and court costs. Requiring a rental history to be provided to incoming homeowners is not usually controversial anywhere. The three-year closure notice is the biggest benefit to the homeowners, and when you purchase a home for \$40,000 or more or have renovated it for thousands of dollars, three years of guaranteed security of tenure is not too much to ask.

CON: The tenants of our park have never asked for a longer lease. Some tenants do not want two-year leases. The little features of this bill are unacceptable. There needs to be a bigger vision. We as a society believe we should help those who are vulnerable and should step up and do something to solve the shortage of affordable housing and reduce homelessness, but the entire burden is being put on the mobile home park owner or the landowner who has provided a great source of affordable housing.

The bill does not address the diverse populations of residents who call manufactured housing their homes and all of their various needs. As written, the bill is too broad to meet the needs of the tens of thousands of residents who live in manufactured housing communities. For example, the new language mandating limited dissemination of unlawful detainer records will have an adverse impact on our existing residents who often choose to live in our communities with stricter guidelines. By everyone abiding by the rules, their own home

values will increase. The tenants' right to quiet and peaceful enjoyment of the premises may be at risk. The stakeholder process should continue over the summer months to draft legislation that everyone can get behind. If we are going to entertain the idea of longer term leases, there needs to be an adjustment for rent allowed. The bill as written only calls for a biennial rent increase which makes it difficult for housing providers to forecast what types of expenses will come further down the road. It will have an unintended consequence of raising rents higher every two years to offset those unknown expenses.

The bill is a one size fits all solution for diverse communities. Because there are all kinds of mobile home parks, trying to craft regulations that fit all of them can be a bit challenging. There are specific concerns on the three year closure period but doing so would just extend a very long process. Perhaps a better use of the resources would be to put money into a relocation program. Rule approval being tied to lease terms is a problem. Often the rules requested are actually from the tenants and the inability to be responsive and keep the community nice could be a bit of a problem. The two-year lease requirement could tie up somebody who gets into financial problems.

The bill places too big of a burden on the backs of the very owners that have tried to provide affordable housing for over 40 years. Current communities are under threat from growth in Seattle. Exposure to a vertical style of living under the Growth Management Act is the future. It is very costly for landlords to remove abandoned homes, and not including the time it took to get title to the homes and then refill those spots. Property taxes for landowners are increasingly on the rise. Mobile homes cannot be considered under the federal legislation authorizing creation of opportunity zones because with a three-year park closure notice, since there is no way to take advantage of that phenomenal tax stimulus.

The bill will end up costing residents more money along with the park owners. With a two year lease, there is no way to know future utility costs or taxes, especially if there is a plan on doing some repairs. The rules violation notice of 30 days presents a dangerous situation since the landlord has to wait another 15 days before they can deal with the rules violation.

The bill operates under a false assumption that all tenants in manufactured housing communities are poor which is no way representative. Some tenants have high incomes and earn several times over what the space is rented for. One community is on a very upscale golf and tennis facility. Tenants often buy into communities not because of how affordable they are but because of their superior location, a low maintenance lifestyle, and a sense of security. We need to be careful about grouping all communities together and painting with the same brush and this one size fits all mentality. It seems more logical to identify who is really in need and make reasonable accommodations for that segment, perhaps those tenants making thirty percent or less of median income since they are the most vulnerable.

The mobile home park industry is the last frontier of private affordable housing in our state. If it is affordable for park owners to maintain their parks, very few mobile home parks close each year. Tenant groups are concerned about evictions but landowner experience has shown that drug addiction plays a major role. Tenants struggling with addiction will be late on the rent payments, theft will go up, and neighbors will be threatened. By increasing notice from five days, drug dealers and those that are threatening the health, safety, and well-

being of their neighbors will stay longer. With the two-year lease requirement, housing supply will decrease as demand increases and the housing crisis will get worse.

This legislation makes landlords jobs harder. In order to address the drug dealer problem, landlords can make their restrictions harder or make it harder for people to get into the communities. If these laws continue to change there will be no incentive to build any new communities.

Although current law provides twelve months notice to close a park, the reality is that some closures take between three to four years, and the bill changes from twelve months to three years will result in six to seven year closures. These days many cities have a requirement that before a park can close or even send the closure notice, they first must obtain approval from the city to a relocation reporting plan that specifies the procedure by which relocation will occur and the help by which landlords will give tenants. This process may involve appeals by tenants which then can go to a hearing examiner. To the extent that the hearing examiner denies an appeal, the tenants have a right to file a land use petition in superior court. The relocation reporting plan also requires a review and brings another avenue of appeal. Civil actions are also another opportunity to delay closures.

OTHER: Mobile home parks are the only place that senior citizens on fixed incomes can afford to live. They are often subject to economic eviction through rent raises and the abrupt loss of housing where they thought they would live out the rest of their lives. Through park closures, some seniors are sleeping in cars and couch surfing. Some senior citizens need the five-day notice period extended due to falling behind on rent because of medical emergencies. Five days is simply not enough time for them to catch up with rent. A senior citizen who paid rent after the five-day period had the eviction already filed, so even though the landlord is not going to go to court to get a judgment against her, that senior now has an eviction on her record that will be very damaging to her as she is now trying to find a new place to live. A future landlord will not know that the eviction was filed due to a medical emergency and that she caught up on her rent, so orders to limit dissemination are essential. Eviction records do not indicate if the eviction was for criminal activity. The sort of reports that tenant screening companies use as purchased by landlords are fairly generic and do not give an in-depth explanation.

Persons Testifying: PRO: Representative Mia Gregerson, Prime Sponsor; Gary Lunde, Association of Manufactured Home Owners; Joanna Crocker, Inglewood East Homeowners Association; Renee Heggem, Halcyon Manufactured Senior Housing; Don Carlson, Association of Manufactured Homes; Duane Love, citizen; Charlene Martin, citizen; Ishbel Dickens, citizen; Linda McCoy, Halcyon MHC HOA.

CON: Robert Cochran, Contempo MHP; Mike Hoover, Detente; Christy Mays, Detente; Cristina Dugoni, Manufactured Housing Park Owner; Dennis Daly, Pine Crest; Theresa Janzen, Affordable Communities Coalition; Jeremy Millard, Park Preservations; Russell Millard, Park Preservations; Jonathan Millard, Cascade Villa Property Management; Neil Wilson, Canyon Heights MH Park; Deric Young, Affordable Communities Coalition; Walt Olsen, The Firs MHP.

OTHER: Carrie Graf, Northwest Justice Project; Cecil Daniels, Department of Commerce.

Persons Signed In To Testify But Not Testifying: No one.