

# SENATE BILL REPORT

## SB 5761

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As of February 18, 2019

**Title:** An act relating to creating a mobile home lot rent increase mediation process.

**Brief Description:** Creating a mobile home lot rent increase mediation process.

**Sponsors:** Senators Rolfes, Hunt and Wilson, C..

**Brief History:**

**Committee Activity:** Housing Stability & Affordability: 2/13/19.

**Brief Summary of Bill**

- Requires a landlord under the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA) to notify the tenant and attorney general's office (AGO) of any lot rent increase that occurs during or upon expiration of the rental agreement.
- Requires the landlord to submit an affidavit to the AGO if the lot rent increase contains a surcharge for capital improvements to the infrastructure of the mobile home park exceeding \$2500.
- Creates a mediation process administered by the AGO for MHLTA tenants to use if a lot rent increase is more than 1 percentage point above the consumer price index.

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**SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY**

**Staff:** Brandon Popovac (786-7465)

**Background:** Manufactured/Mobile Home Landlord-Tenant Act. The MHLTA governs the legal rights, remedies, and obligations arising from any rental agreement between a landlord and a tenant regarding a lot within a mobile home park or manufactured housing community where the tenant has no ownership interest in the property or in the association which owns the property. A landlord is defined as the owner of a mobile home park, including their agents.

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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.*

Under the MHLTA, a landlord seeking to increase the rent at any time or upon expiration of the term of a rental agreement of any duration must notify the tenant and the office of the attorney general in writing three months prior to the effective date of any increase in rent.

MHLTA landlords and tenants may agree in writing to submit any dispute under the MHLTA or under the terms, conditions, or performance of the rental agreement to mediation by an independent third party or to settle the dispute through industry mediation procedures. The parties may agree to submit any dispute to mediation before exercising their right to arbitration.

**Summary of Bill:** Lot Rent Increases. A landlord may seek to increase the rent at any time, in addition to when the rental agreement ends, but must notify the AGO, along with the tenant, in writing three months before the effective date of any rent increase. The notice must include:

- the amount of the proposed lot rent increase, including any amount of the increase surcharged for any capital improvements of the mobile home park;
- the estimated cost of the capital improvements;
- the proposed duration of the surcharge prorated in 12-month increments sufficient to recover the estimated cost of the capital improvements;
- the effective date of the rent increase;
- a copy of the mobile home park tenant's rights under the MHLTA; and
- the percentage of increase from the current base lot rent.

A landlord must submit to the AGO an affidavit stating the estimated costs of the improvements, the expected date of completion of the improvements, and the time frame required for the surcharge to provide for cost recovery of the improvement, if the mobile home park owner requests a lot rent increase including a surcharge for any capital improvements to major infrastructure systems of the mobile home park exceeding \$2500. The lot rent surcharge for capital improvements must be implemented to minimize the financial burden on the mobile home park tenants and must terminate when the park owner has recovered the cost of the capital improvements.

The proposed lot rent increase is ineffective and unenforceable if the mobile home park owner fails to notify either the mobile home park tenants or the AGO of a lot rent increase.

Mediation Process. MHLTA tenants notified of a lot rent increase may use a mediation process if:

- the percentage of the proposed lot rent increase is more than 1 percentage point above the United States consumer price index for all urban consumers, housing component; and
- a majority of the affected tenants submit a written petition to the AGO and the mobile home park owner, within fifteen business days after receipt by the AGO of the three-month notice of a lot rent increase, including the name of the person who will act as the representative of the tenants, and a statement the tenants dispute the proposed lot rent increase.

Upon petition, the AGO must send a list of qualified professional mediators to the mobile home park owner and to the tenants' representative. Within five business days of receiving

the list of mediators, the mobile home park owner and the tenants' representative must agree on a mediator from the list and notify the AGO of the name, address, and telephone number of the mediator selected, accompanied by the mediator's agreement to conduct the mediation. If the AGO is not notified of a mediator, it must appoint a mediator from the list. The AGO must pay the reasonable fees for professional mediation services based on a fee schedule established by rule.

The appointed mediator may not have any interest in the mobile home park at issue and must disclose to the mobile home park owner, the tenants, and the AGO any experience as a mobile home park owner, resident, or tenant, or any other real or perceived conflict of interest. The mediator must conduct one or more mediation sessions within the period ending ten days before the effective date of the proposed lot rent increase. The mediation must include the mobile home park owner and the tenants, and must attempt to resolve the dispute. No later than five days before the initial mediation session, the mobile home park owner must provide to the mediator and tenants' representative all documents and information the mobile home park owner considers relevant to support the proposed lot rent increase. The mobile home park owner has the burden of proof to show the proposed lot rent increase is reasonable. The mediator may also request any additional documents or information for the purposes of the mediation process. Any resolution of the dispute must include an agreement regarding the amount of lot rent increase and the effective date of such increase. If the dispute is resolved, the mobile home park owner is not required to provide any additional notice for the lot rent increase to take effect. The mediator must issue to the parties and the AGO a report signed by the mediator and the parties regarding the outcome.

**Appropriation:** None.

**Fiscal Note:** Available.

**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: The bill is necessary if there is an estimated 70 times that rents in manufactured housing parks in our state are going to be increased more than the cost of living. Rent increases in such parks will impact retired middle-class people living on fixed incomes who might not be able to afford to live there despite a huge amount of assets in the house and the unlikelihood that the house can be relocated. Mobile home parks are targeted towards fixed income individuals and working class individuals and is one of the more affordable housing options in our state, but with rent increases it is very difficult to near impossible for people to move from a mobile home park. The bill resembles legislation recently passed in Vermont, which represents a compromise by landlords to go through a mediation process with their tenants. The bill represents a departure from previous bills that have attempted to help people relocate after they can no longer afford the rent or when relocations are necessary because of parks closures by focusing on keeping people in their homes. Issues arise if tenants are forced to sell their mobile home because the landlord has to approve the next buyer they will be renting the land to, and some landlords refuse to approve every one. This issue forces tenants to have to sell the mobile home to the landlord under market rate. The city of Seattle has an exemption for capital improvements where

tenants can go to the city's hearing examiner to protest such increases for improvements. Studies show that rent regulation does help and does not have a negative impact on development.

CON: This is a terrible rent control bill. Rent control allowed in major cities has not fixed any of those cities' housing problems. The bill wrongfully targets landlords to try to fix state problems by treating landlords like the bank to bail out the state. Rent control would force landlords to do away with those things that help create a community and disincentivizes folks from investing in this product type, which needs to be a part of the affordable housing solution. It is a better idea to send direct money to tenants to help them be able to afford rent. The state has a limited supply of housing, with a report showing that over the last 50 years, there are 14 years where the nation has not built at least 1.2 million units with 11 of those 14 years as the last 11 years. A lack of housing supply with low vacancy rates has contributed to the housing crisis. No one has built a new manufactured housing community in this state in 20 years. Communities are closing because the homes are old and there is no remedy to update them. Other cities are putting moratoriums on new manufactured housing communities.

The state is in the midst of a housing shortage in Washington and nothing in the bill would create a new unit of housing. The bill also serves to perpetuate the stereotype that manufactured housing and mobile home living is only for low-income residents or members of vulnerable populations. Some communities are non-subsidized with no income caps or selection criteria. Some manufactured housing residents measure their wealth in the millions but they have chosen a more modest home in Washington State. The bill would not allow the community owner to continue to invest in the community and to take risks in offering new services and new amenities. It stifles innovation and reduces housing stock to nothing more than a basic commodity blanket. Landlords will be prevented from being able to fulfill their investment needs and unfortunately rents have to be raised to be able to keep up with maintenance types of expenses. There is an issue with the \$2,500 capital improvement surcharge cap. This amount of money might cover enough to simply repave the speed bumps, cut down one tree, or repair a septic pump or broken water line, and most manufactured housing communities do not have the benefit of taxpayer funded roads or water lines.

The bill will make the quality of communities deteriorate due to the excessive amounts of red tape involved in proposing a rent increase and creates a conflict of interest with the current dispute resolution program under the AGO.

**Persons Testifying:** PRO: Senator Christine Rolfes, Prime Sponsor; Xochitl Maykovich, Washington CAN.

CON: Santana Schoene, Martha Lake Mobile Manor; Christy Mays, Viking Park; Craig Hillis, Manufactured Housing Communities of Washington; Beau Harer, Detente Management; Chester Baldwin, citizen.

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