

SENATE BILL REPORT

SB 6230

As of January 20, 2020

Title: An act relating to the sale or lease of manufactured/mobile home communities and the property on which they sit.

Brief Description: Concerning the sale or lease of manufactured/mobile home communities and the property on which they sit.

Sponsors: Senators Kuderer, Hunt, Stanford and Wilson, C.

Brief History:

Committee Activity: Housing Stability & Affordability: 1/17/20.

Brief Summary of Bill

- Requires manufactured/mobile home community (MHC) landlords to provide a written notice of opportunity to purchase an MHC to each tenant, the Department of Commerce (Commerce), and the Housing Finance Commission under certain circumstances.
- Requires homeowners' associations and eligible organizations be permitted 45 days after receipt of a notice to provide the landlord with a notice of intent to consider purchase or lease of the MHC.
- Requires a landlord to wait 120 days after receipt of notice of intent before accepting an offer to purchase or lease the park from a person or entity other than a homeowners' association or eligible organization.
- Requires, rather than encourages, a landlord to negotiate in good faith with homeowners' associations and eligible organizations when selling or leasing an MHC or the property on which it sits.
- Directs Commerce to maintain a list of all homeowners' associations and eligible organizations submitting a written request to receive notices of opportunity to purchase.
- Provides penalties for a landlord who willfully fails to comply with the notice, waiting period, or good faith requirements.

SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY

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.

Staff: Brandon Popovac (786-7465)

Background: The Manufactured/Mobile Home Landlord-Tenant Act (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.

Sale of Manufactured/Mobile Home Community. Under the MHLTA, a landlord is required to provide a written notice of sale of a MHC to each tenant within the MHC, any qualified tenant organization, the office of mobile/manufactured home relocation assistance, the local government and housing authority within whose jurisdiction the MHC exists, and the Housing Finance Commission (Commission) within 14 days after a multiple listing or public notice advertises the MHC is for sale. The notice of sale is required to include a statement of intent to sell the MHC and the contact information of the landlord or agent responsible for communicating with the qualified tenant organization regarding sale of the MHC.

Any landlord intending to sell an MHC is encouraged to negotiate with qualified tenant organizations and eligible organizations, such as local governments, local housing authorities, nonprofit community organizations, tribes, and nonprofit housing assistance organizations.

Landlords are not currently required to offer tenants or other eligible organizations a right of first refusal or to provide a notice of opportunity to purchase an MHC listed for sale.

Summary of Bill: An MHC landlord must provide a written notice of opportunity to purchase an MHC to each tenant, Commerce, and the Commission within three days after the landlord has received a bona fide purchase or lease offer on the MHC or the property on which the MHC sits, or 14 days after the date any advertisement or public notice is made that the MHC or the property on which it sits is for sale or lease.

The notice of opportunity to purchase must include a statement that the landlord is or is not considering the sale or lease of the MHC or property on which it sits and contact information for the landlord or their agent responsible for communicating with the tenants, homeowners' association, or eligible organization regarding an opportunity to make an offer for sale of the property.

Homeowners' associations and eligible organizations, including community land trusts and resident nonprofit cooperatives, must be permitted 45 days from the date of delivery of the notice of opportunity to purchase to provide the landlord with notice of intent to consider purchase or lease.

If the notice of intent from the homeowners' association or eligible organization is provided to the landlord within 45 days, the landlord must wait 120 days before making a final unconditional acceptance of an offer to purchase or lease the MHC from a person or entity other than the homeowners' association or eligible organization. If the notice of intent is not provided to the landlord within 45 days, the landlord is not subject to the 120-day waiting period.

Notice of opportunity to purchase requirements do not apply if the sale or lease of MHC or the property on which it sits is:

- due to foreclosure, eminent domain, or a tax sale;
- incidental to MHC financing;
- between joint tenants in common;
- among partners that own the MHC; or
- to a member of the landlord's family or to a landlord's family trust.

The notice of opportunity to purchase is in addition to the required 14-day notice of sale. The 14-day notice of sale requirement is modified to include when an MHC is for lease or when the property on which the MHC sits is for sale, and the notice period begins on the date on which any listing or public notice first advertises the sale or lease of the MHC or the property on which it sits.

A landlord is required, rather than encouraged, to negotiate in good faith with homeowners' associations and eligible organizations when selling or leasing an MHC or the property on which it sits.

Commerce must maintain a list of all homeowners' associations and eligible organizations submitting a written request to receive notices of opportunity to purchase or lease an MHC, including the name and mailing address of the homeowners' association or eligible organization and a statement the association or organization wishes to purchase or lease the MHC. Commerce must provide copies of this list upon request.

A landlord who sells or leases an MHC and willfully fails to comply with the notice, waiting period, or good faith requirements is liable to the state for a civil penalty of \$10,000 or 10 percent of the total sale price, whichever is greater, which represents the exclusive remedy for such a violation. The attorney general may bring a civil action in the name of the state against the landlord.

Appropriation: None.

Fiscal Note: Requested on January 13, 2020.

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: Every community in Washington is feeling the effects of skyrocketing housing prices. Since hardworking individuals are on the front lines of displacement, it is essential to expand and protect affordable housing options so that families stay housed and communities stay together. Mobile and manufactured homes are a component that we must not ignore when trying to address the crisis of housing affordability and homelessness in this state. Over 27,000 Washington families have been displaced by MHC closures and the Department of Commerce predicts more closures in the next year. Evictions from such properties due to the sale or lease of the land is particularly devastating since without a place to relocate it often means the loss of both housing and a

significant monetary investment. This bill provides more time to navigate a potential sudden move for tenants.

When MHCs close, homeowners lose their largest asset—their homes. We should be preserving affordable housing, not getting rid of it. This bill does not require landlords to sell to homeowners but provides homeowners and other eligible organizations an opportunity to make an offer. There is a reasonable expectation that tenants can raise money from amongst themselves or from nonprofits to stay in their communities.

The speculative market for MHCs is becoming dominated by greed-based, predatory equity firms buying up MHCs at market value where profits are extracted through rent hikes, flipping properties, or demolishing. MHC tenants deserve to get a notice for opportunity to make an offer and to engage in good faith negotiations giving them a fair chance to preserve their communities. This bill will not hurt the manufactured housing business in Washington. The bill will limit exorbitant rent hikes and preserve and improve MHCs that provide affordable housing to thousands of homeowners in Washington.

CON: In a free market society, MHC owners receive unsolicited offers on properties from time to time and the number of requirements that have to be satisfied within specific timelines is insurmountable. These timelines push out a primary buyer who might want to preserve the MHC. Some buyers would never consider buying an MHC if they are going to be exposing themselves to these timelines. The bill retroactively forces a first right of refusal onto MHC owners.

The opportunity for residents to purchase their MHC already exists, with nothing prohibiting tenant residents from organizing and putting together the means to make an offer. Resources would be better dedicated towards helping resident tenants organize before the owner of an MHC does decide to sell. The definition of homeowners' association needs to be clarified so as not to confuse the meaning with homeowners' associations that must register with the secretary of state. There is no clear definition of a bona fide offer. Some offers are received on handwritten notes on a folded piece of yellow tablet paper stuffed into a mailbox.

There is often no intent on the part of the MHC owners to sell or to redevelop. The vast majority of MHC owners sell to continue on operating as an MHC to put money back into the infrastructure to make sure that the MHC can last for another 10 to 20 years. The bill unfairly discriminates among classes of property and is in clear violation of the uniformity clause in our state Constitution. There is no need to rush with additional changes when this Legislature specifically directed Commerce to form a work group to provide a report with recommendations in June. There are no safeguards in the bill to protect landlords from falling into the cycle of multiple buyers coming in and out with various bona fide offers that must be provided to MHC tenants.

Persons Testifying: PRO: Senator Patty Kuderer, Prime Sponsor; Ishbel Dickens, Association of Manufactured Home Owners; Duane Love, Canyon Mobile Park HOA; Joanna Crocker, Association of Manufactured Home Owners; Miles Nowlin, Resident Owned Communities NW; Laverne Meadows, Canyon Park HOA; Helena Benedict, Tenants Union of Washington; Isaac Organista, Washington Community Action Network; Debbie White, citizen.

CON: Christy Mays, Detente Management; Todd Fischer, citizen; Mike Simonitch, Clearview East MHC; Beau Harer, Manufactured Housing Communities of Washington; Bob Schroeter, Manufactured Housing Communities of Washington; Michael McGlaughlin, Affordable Communities Coalition; Neil Willson, Affordable Communities Coalition.

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