

HOUSE BILL REPORT

E2SSB 5198

As Passed House:

March 23, 2023

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: Senate Committee on Ways & Means (originally sponsored by Senators Frame, Kuderer, Hasegawa, Hunt, Keiser, Lovelett, Nobles, Valdez and Wilson, C.).

Brief History:

Committee Activity:

Housing: 3/13/23, 3/16/23 [DP].

Floor Activity:

Passed House: 3/23/23, 95-3.

Brief Summary of Engrossed Second Substitute Bill

- Requires a landlord to provide two years' notice for closure or conversion of a manufactured/mobile home community (MHC).
- Requires a landlord to provide a written notice of opportunity to compete to purchase when selling or leasing an MHC.
- Establishes requirements and procedures that landlords and qualified tenant or other eligible organizations must follow for the purchase and sale of an MHC.

HOUSE COMMITTEE ON HOUSING

Majority Report: Do pass. Signed by 12 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Klicker, Ranking Minority Member; Connors,

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

Assistant Ranking Minority Member; Barkis, Bateman, Chopp, Entenman, Low, Reed and Taylor.

Staff: Serena Dolly (786-7150).

Background:

The Manufactured/Mobile Home Landlord-Tenant Act.

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 lot within a mobile home park or manufactured housing community (MHC) where the tenant has no ownership interest in the property.

Notice of Closure.

In the case of closure or conversion of an MHC, the landlord must provide tenants with 12 months' notice. Additionally, the notice of closure must be given to the director of the Department of Commerce (Commerce) and posted at all entrances to the MHC. This 12-month closure notice requirement does not apply if:

- the MHC has been acquired for, or is under imminent threat of, condemnation;
- the MHC is sold to an organization of its tenants, a nonprofit organization, a local government, or a housing authority for the purpose of preserving the MHC; or
- the landlord compensates the tenants for the loss of their homes at their assessed value, as determined by the county assessor, at any point during the notice period and prior to a change of use or sale of the property.

If compensation is paid, the landlord must provide the tenant with at least 90 days' written notice to vacate, and the tenant must continue to pay rent while remaining in the MHC.

Notice of Sale.

Under the MHLTA, a landlord must provide written notice of sale by certified mail or personal delivery to each tenant of the MHC, the officers of any known qualified tenant organizations (QTOs), the local government and the housing authority within whose jurisdiction all or part of the MHC is located, Commerce's Office of Mobile/Manufactured Home Relocation Assistance, and the Washington State Housing Finance Commission.

Each notice of sale must include a statement that the landlord intends to sell the MHC and the contact information of the landlord or landlord's agent who is responsible for communicating with a QTO or eligible organizations about the sale of the property. A landlord intending to sell an MHC is encouraged to negotiate in good faith with QTOs and eligible organizations.

A QTO is a formal organization of tenants within an MHC, where the only requirement for membership is being a tenant. An eligible organization includes local governments, local housing authorities, nonprofit community or neighborhood-based organizations, federally

recognized Indian tribes, and regional or statewide nonprofit housing assistance organizations.

Summary of Bill:

Notice of Closure.

The closure notice requirement is extended from 12 months to two years. The two-year closure notice requirement does not apply if: the MHC has been acquired for or is under imminent threat of condemnation; the MHC is sold or transferred to a county in order to reduce conflicting residential uses near a military installation; or the MHC is sold to an eligible organization.

The two-year closure requirement may be reduced:

- to 18 months if the landlord provides relocation assistance of at least \$15,000 for a multisection home or \$10,000 for a single-section home; or
- to 12 months if the landlord provides relocation assistance of at least \$15,000 for a multisection home or \$10,000 for a single-section home and compensates the tenants for the loss of their homes at the greater of 50 percent of assessed value in the tax year prior to the notice of closure being issued or \$5,000.

A tenant receiving relocation assistance and/or compensation for the value of their home may relocate the home out of the MHC. A tenant who receives payments or financial assistance from a landlord remains eligible to receive other state assistance, including the maximum amount of assistance available to them through the Mobile Home Relocation Assistance Program. If the home remains in the MHC after the tenant vacates, the landlord is responsible for its demolition or disposal.

Notice of Sale.

The required notice of sale is modified to include intent to sell or lease the MHC or the property on which it sits. A notice of opportunity to compete to purchase may act as a notice of sale.

Opportunity to Compete to Purchase.

Notice.

A landlord must provide a written notice of opportunity to compete to purchase an MHC to each tenant, any QTO, Commerce, and the Housing Finance Commission before marketing an MHC for sale, including the MHC in a multiple listing, or when the landlord receives an offer to purchase that the landlord intends to consider.

A notice of opportunity to purchase must include statements that:

- the landlord is considering selling the MHC or property;
- the tenants, through a QTO representing a majority of tenants or an eligible organization, have an opportunity to compete to purchase the MHC;

- in order to compete to purchase the MHC, the tenants have 70 days to form or identify a single QTO, notify the landlord in writing of their interest in purchasing the MHC, and provide a point of contact; and
- information about purchasing an MHC is available from Commerce.

Commerce must maintain a registry of all eligible organizations that submit written requests to receive notices of opportunity to purchase or lease an MHC. Commerce must provide the organizations with such notices received from landlords and provide copies of the registry upon request. In addition, Commerce must prepare and make available information for tenants about purchasing an MHC.

Competing to Purchase.

If the tenants choose to compete to purchase the MHC, the tenants must notify the landlord in writing within 70 days of:

- the tenants' interest in competing to purchase the MHC;
- their formation or identification of a single QTO made up of a majority of the tenants in the MHC, based on home sites, formed for the purpose of purchasing the MHC; and
- the name and contact information of the representative or representatives of the QTO with whom the landlord may communicate about the purchase.

Within 15 days of the tenants notifying the landlord of their interest in purchasing the MHC, the QTO and the landlord may make written requests for information. The QTO may ask the landlord to provide information about the asking price, if any, and financial information related to the operating expenses of the MHC. The landlord may ask the QTO for proof of intent to fund a sale. Written requests must be fulfilled within 21 days, and all provided information must be kept confidential.

Within 21 days of receiving any requested information, the tenants must:

- form a resident nonprofit cooperative legally capable of purchasing the MHC or partner with a nonprofit cooperation or housing authority that is legally capable of purchasing the MHC; and
- submit a purchase and sale agreement to the landlord with either a copy of the articles of incorporation of the corporate entity or other evidence of the legal capacity of the formed or associated corporate entity, nonprofit corporation, or housing authority to purchase real property and the MHC.

The landlord has 10 days from receipt of a purchase and sale agreement to accept the offer, reject the offer, or counteroffer. If the parties reach agreement on the purchase, the purchase and sale agreement must specify the price, due diligence duties, schedules, timelines, conditions, and any extensions. If the offer is rejected, the landlord must provide a written explanation of why the offer is being rejected and what terms and conditions, if any, might be included in a subsequent offer for the landlord to potentially accept it. The price, terms, and conditions of an acceptable offer stated in the response must be universal

and applicable to all potential buyers and must not be specific to and prohibitive of a QTO or eligible organization making a successful offer to purchase the MHC.

Good Faith Requirement.

The parties have an overall duty to act in good faith. This overall duty of good faith requires the landlord to allow the tenants to develop an offer, give their offer reasonable consideration, and inform the tenants if a higher offer is submitted. The landlord may not deny residents the same access to the MHC and to information that the landlord would give to a commercial buyer.

Exclusivity.

During the negotiation process, the landlord may seek, negotiate with, or enter into a contract with potential purchasers other than the tenants or an entity formed by or associated with the tenants or another eligible organization.

Substantial Compliance.

If the landlord does not comply with the requirements in a substantial way that prevents the tenants or an eligible organization from competing to purchase the MHC, the tenants or eligible organization may obtain injunctive relief to prevent a sale or transfer to another party and recover actual damages not to exceed twice the monthly rent from the landlord for each tenant.

Certification of Compliance.

A landlord may record an affidavit with the county certifying that the landlord has complied with the requirements of the act but has not entered into a contract for the sale or transfer of the MHC to an entity formed by or associated with the tenants.

Penalties.

A landlord who sells or leases an MHC and willfully fails to comply with the notice of opportunity to purchase, notice of intent to consider purchasing or leasing offer, or acceptance waiting period is liable to the state for a civil penalty of \$10,000. The Attorney General may bring a civil action in the name of the state against a landlord.

Preemption.

A city or county may not enact, maintain, or enforce ordinances or other provisions that regulate the ability of tenants to compete to purchase an MHC unless the ordinance or provision was in effect prior to May 1, 2023.

Exemptions.

A notice of opportunity to compete to purchase and the corresponding process for tenants to purchase an MHC is not required for certain sales or transfers, including:

- any sale or transfer to an heir if the landlord dies without a will;
- any transfer by gift, devise, or operation of law;
- any transfer by a corporation to an affiliate;

- any transfer by a partnership to any of its partners;
- any sale or transfer of less than a controlling interest in the legal entity that owns the MHC;
- any conveyance of an interest in an MHC incidental to the financing of the MHC;
- any sale or transfer between or among joint tenants or tenants in common owning an MHC;
- any like-kind exchange under Title 26 U.S.C. Sec. 1031 of the federal Internal Revenue Code in progress at the time the landlord lists the MHC for sale; or
- any purchase of an MHC by a governmental entity under the entity's powers of eminent domain.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Manufactured housing is an important affordable housing option. Owners are in a unique position because they own their home but often not the land. Many are low-income, disabled, and/or seniors who just want to live out their lives in their own homes. Manufactured housing communities across the state are being sold to investment companies. These are nonpublic sales that often result in rent and fee increases, which many manufactured housing tenants cannot afford. The homes cannot be moved, and the rent increases are forcing people out of their homes. Tenants invest substantial amounts of money into their homes, only to have a landlord sell or close their community. Cities are taking action to protect MHCs and support tenants living in ones that are closing. The state also needs to protect these affordable housing communities. This bill encourages MHC landlords to sell to their tenants, and in the worst case scenario, manufactured homeowners are given more time to move. Landlords may close an MHC sooner if they compensate the tenants. The bill does not interfere with current law allowing real estate excise tax exemptions for certain sales of MHCs.

(Opposed) This bill will create a disincentive for the development of MHCs. The MHC landlords have been left out of negotiations on this bill. There are ways to really help tenants, such as providing informational materials about how to purchase an MHC. This one size fits all approach does not fit family-owned MHCs. Independently owned MHCs, with owners who only own one community should be exempted from the bill.

(Other) This bill represents a good faith effort to reach a compromise. The MHC landlords are not excited about this bill, but it will create certainty for both landlords and tenants. The sale of an MHC should not be conflated with the closure of a community. The notice to

vacate should include contact information for Commerce.

Persons Testifying: (In support) Senator Noel Frame, prime sponsor; Ishbel Dickens and Anne Sadler, Association of Manufactured Home Owners; Stacey Valenzuela; George Hurst; Caroline Hardy, Leisure Manor Tenants Association; and Corina Pfeil, City of Kenmore.

(Opposed) Robert Cochran and Devin Gombosky, Contempo Mobile Home Park.

(Other) Mike Hoover, Detente Management; Brad Tower, Commonwealth Real Estate Services; and Ann Campbell, Department of Commerce.

Persons Signed In To Testify But Not Testifying: None.