

SENATE BILL REPORT

SB 5198

As of February 22, 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: Senators Frame, Kuderer, Hasegawa, Hunt, Keiser, Lovelett, Nobles, Valdez and Wilson, C..

Brief History:

Committee Activity: Housing: 1/18/23, 2/15/23 [DPS-WM, DNP].

Ways & Means: 2/22/23.

Brief Summary of Proposed Second Substitute Bill

- Requires landlords to provide three years notice for closure or conversion of a manufactured/mobile home community (MHC), with limited exceptions.
- Requires landlords to provide a written notice of opportunity to purchase when selling or leasing an MHC.
- Provides that if a landlord receives notice of intent to consider purchasing or leasing an MHC from a qualified tenant organization or other eligible organization, the landlord may not make a final unconditional acceptance of an offer to purchase or lease the MHC from a person or entity other than a qualified tenant organization or eligible organization for 12 months.

SENATE COMMITTEE ON HOUSING

Majority Report: That Substitute Senate Bill No. 5198 be substituted therefor, and the

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substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kuderer, Chair; Frame, Vice Chair; Cleveland, Saldaña, Shewmake and Trudeau.

Minority Report: Do not pass.

Signed by Senators Fortunato, Ranking Member; Braun, Gildon, Rivers and Wilson, J..

Staff: Riley Bengé (786-7316)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Trevor Press (786-7446)

Background: 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 manufactured/mobile home community (MHC) where the tenant has no ownership interest in the property.

Notice of Closure. Under the MHLTA, any rental agreement must include either a covenant by the landlord that the MHC will not be converted or sold for three years or a statement that the MHC may be sold, transferred, or closed at any time after the required closure notice is provided to the tenants.

A landlord may not terminate or fail to renew a tenancy except if they change the land use of the MHC including, but not limited to, closure of the MHC or conversion to a use other than for mobile homes, manufactured homes, or park models or conversion of the MHC to a mobile home park cooperative or mobile home park subdivision. In these cases, a landlord must provide each affected tenant with 12 months notice in advance of such change. This 12 month notice requirement does not apply if the:

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

If compensation is paid, the landlord must provide written notice of at least 90 days in which the tenant must vacate.

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 organization, the office of mobile/manufactured home relocation assistance, the local government and housing authority within whose jurisdiction all or part of the MHC exists, 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 the qualified organization or eligible organizations with regard to the sale of the property.

A landlord intending to sell a MHC is encouraged to negotiate in good faith with qualified tenant organizations and eligible organizations.

A qualified tenant organization is a formal organization of tenants within an MHC, wherein 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 in the state of Washington, and regional or statewide nonprofit housing assistance organizations.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Second Substitute): Notice of Closure. MHC landlords must provide tenants with three years notice before closure or conversion of the MHC. The option for landlords to include a covenant not to convert land use of the MHC for a three-year period in the initial lease with the tenant is eliminated.

Any tenant who sells their home within an MHC must provide the buyer with a copy of any closure notice in effect at least 15 days before the intended sale.

The three-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 three-year closure notice requirement is reduced:

- to 24 months if the landlord provides relocation assistance of at least \$17,000 for a multi-section home or of at least \$11,000 for a single section home at any point during the closure notice period and prior to a change of use or sale of the property; or
- to 12 months if the landlord provides relocation assistance of at least \$17,000 for a multi-section home and \$11,000 for a single section home and actually compensates the tenants for the loss of their homes at the market value of the home prior to the

change of use or sale of the property, or \$5,000, whichever is greater.

In both cases, if a 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 (underlying property). The definition of "notice of sale" is also modified to include both public and private notice that an MHC or the underlying property is for sale or lease.

Notice of Opportunity to Purchase. In addition to the required notice of sale, a landlord must provide a written notice of opportunity to purchase an MHC to each tenant, the Department of Commerce, and the Housing Finance Commission within 14 days after the date on which any advertisement, listing, or public notice is first made that the MHC or the underlying property is for sale or lease.

A notice of opportunity to purchase must include:

- a statement that the landlord intends to sell or lease the MHC or the underlying property;
- a statement that:
 1. qualified tenant organizations and eligible organizations have 45 days from the date on which the notice of opportunity to purchase was personally delivered or postmarked to provide the landlord with notice of intent to consider purchasing or leasing the MHC, during which time the landlord may not make a final acceptance of an offer to purchase or lease the MHC; and
 2. if such notice of intent is provided to the landlord within 45 days, the landlord may not make final acceptance of an offer to purchase or lease the MHC from anyone other than a qualified tenant organization or eligible organization for an additional 12 months;
- a signed affidavit that discloses the advertised or listed selling price; and
- the contact information for the landlord or landlord's agent who is responsible for communicating with regard to an opportunity to make an offer for the sale of the property.

A notice of opportunity to purchase is not required for the sale or lease of an MHC or the underlying property if:

- the transaction is due to a foreclosure;
- incidental to financing the community;
- pursuant to eminent domain; pursuant to a tax sale;
- between joint tenants or tenants in common;
- among the partners or shareholders who own the MHC;
- the MHC is sold or transferred to a county in order to reduce conflicting residential uses near a military installation; or
- to a member of the owner's family or to a trust for the sole benefit of members of the

owner's family.

If a qualified tenant organization or other eligible organization provides notice within 45 days to a landlord expressing an intent to consider purchasing or leasing the MHC, the landlord may not make a final unconditional acceptance of an offer to purchase or lease the MHC from anyone other than a qualified tenant organization or eligible organization for an additional 12 months.

A landlord intending to sell or lease an MHC or the underlying property and any qualified tenant organization or eligible organization that submits a notice of intent to purchase or lease an MHC or the underlying property are both required to negotiate in good faith.

The Department of Commerce is required to maintain a registry of all eligible organizations that submit written requests to receive notices of opportunity to purchase or lease an MHC. The Department of Commerce must provide registered eligible organizations with notices of opportunity to purchase once it receives such notice.

A landlord who sells or leases an MHC and willfully fails to comply with the notice of opportunity to purchase, or the 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.

EFFECT OF CHANGES MADE BY HOUSING COMMITTEE (First Substitute):

- Exempts any sale or transfer of a manufactured/mobile home community to a county from the opportunity to purchase and three-year notice of closure requirements if the purpose of the sale or transfer is to reduce conflicting residential uses near military installations.

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 on Original Bill (Housing): *The committee recommended a different version of the bill than what was heard.* PRO: Manufactured housing is accessible, affordable housing and it is important to preserve this type of affordable housing. Manufactured housing is the most accessible path to homeownership for low income households. Rent increases are destabilizing homeowners and causing displacement in addition to park closures. This bill incentivizes and provides meaningful opportunity for permanent preservation by nonprofits who would keep rent within reach of

homeowners. It is in the interest of the states for nonprofits to purchase MHCs.

MHCs are a valuable but dwindling resource for affordable housing. Many MHC residents are older adults, aging in place, or on fixed incomes. Not owning the land underneath the property creates insecurity by not knowing if rents will be raised. The biggest challenge to living in an MHC is the reality of the stress if served a notice 12-month notice that they need to move. Most tenants are elderly or fixed-income. MHCs are almost completely full, if a park were to close there would be nowhere to go for most residents.

The Legislature needs to support the communities. Incentivizing eligible organizations and nonprofits to purchase an MHC is positive for tenants. Policies should allow nonprofit housing authorities to purchase and preserve communities. This bill creates a real opportunity to purchase for eligible organizations to step in, negotiate, and potentially purchase the park. Resident own purchase is useful and has been successful.

CON: The bill interferes with legal procedures around real estate transactions and it confuses selling a park with closing the park. A community sale isn't always a closure. The prolonged closure period is challenging and the 24 month or 12 month options are too costly. Sale of the land after closure would not offset rental assistance/compensation costs. The bill will cause more instability in MHCs that protections. The bill could cause many parks to go for sale or close down and could keep people from building more MHCs.

This bill is a disproportionate burden on one type of property and will discourage and disincentivize investment in more MHCs. The additional timeline restrictions will increase price of transactions because it would negate the ability for other bidders to use a 1031 exchange. Obligation of a qualified tenant organization does not exist. Sale of mobile home park should not differ from another type of real estate sale.

There are not enough housing units available in Washington. MHC owners are housing providers. Instead of creating more housing, this bill punishes existing owners. There is not an epidemic of parks closing. In 2022, only 129 sites out of 72,000 were taken down. A big issue with restricting the closure of MHCs is safety. The bill doesn't bring new inventory to the market. The Oregon bill is useful with regard to opportunity to purchase.

OTHER: The bill penalizes MHC owners rather than incentivizing the creation of more MHCs.

Persons Testifying (Housing): PRO: Senator Noel Frame, Prime Sponsor; Stacey Valenzuela; Ishbel Dickens, Assoc of Manufactured Home Owners; Rachel Elfenbein, Community Council; Anne Sadler, Association of Manufactured Home Owners - AMHO; JOANNA GRIST, AARP; Andrew Calkins, King County Housing Authority & Association of Washington Housing Authorities; Victoria OBanion; Jan Leonard.

CON: Brad Tower, Commonwealth Real Estate Services; Ryan Erickson, Commonwealth

Real Estate Services; RUSS MILLARD; Robert Cochran, Contempo Mobile Home Park; Christa Connolly, West Prairie Village MHP; Christina Mays, Detente Management, Inc.; Mike Simonitch; Patricia Hoendermis, Yakima Valley Landlords Association.

OTHER: Arthur West.

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

Staff Summary of Public Testimony On Proposed Second Substitute (Ways & Means): PRO: This is a good compromise. There are a couple of errors that can easily be corrected from the floor.

CON: This bill violates the state constitutional rights. This well-meaning bill is a lawsuit waiting to happen. The Legislature should choose a path of incentives for landlords instead of what the current bill is.

OTHER: We are in strong support of a compromise. This is a very hard worked bill including with members of the house. We still need to fix this bill going forward but the proposed substitute is a good step going forward. We think that the second substitute represents a fair balance between the owners and the tenants for getting notification who may have disruption in their lives.

Persons Testifying (Ways & Means): PRO: Ishbel Dickens, Assoc of Manufactured Home Owners.

CON: Robert Cochran, Contempo Mobile Home Park.

OTHER: Mike Hoover, Detente Management; Brad Tower, Commonwealth Real Estate Services.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.