

SENATE BILL REPORT

SB 5697

As of February 22, 2023

Title: An act relating to authorizing the utilities and transportation commission to regulate the rates and services of all persons engaging in the business of acting as a landlord for a mobile home park, manufactured housing community, or manufactured/mobile home community.

Brief Description: Authorizing the utilities and transportation commission to regulate the rates and services of all persons engaging in the business of acting as a landlord for a mobile home park, manufactured housing community, or manufactured/mobile home community.

Sponsors: Senators Van De Wege, Kuderer, Conway, Hunt, Lovelett and Wilson, C..

Brief History:

Committee Activity: Housing: 2/10/23, 2/17/23 [DPS-WM, DNP].
Ways & Means: 2/22/23.

Brief Summary of First Substitute Bill

- Authorizes the Utilities and Transportation Commission to regulate the rates and services of all persons engaging within the state in the business of acting as a landlord for mobile home parks, manufactured housing communities, or manufactured/mobile home communities.
- Prohibits, with limited exceptions, a landlord from increasing the rent for a tenancy subject to the Manufactured/Mobile Home Landlord-Tenant Act in an amount greater than the rate of inflation as measured by the consumer price index.
- Makes a landlord who charges and collects rent in excess of permitted amounts, liable to the tenant for an amount not to exceed \$100,000.

SENATE COMMITTEE ON HOUSING

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.

Majority Report: That Substitute Senate Bill No. 5697 be substituted therefor, and the 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: Julie Murray (786-7711)

Background: Utilities and Transportation Commission. The Utilities and Transportation Commission (UTC) regulates the rates, services, and practices of a variety of businesses in the state. The UTC is required to ensure that rates charged by these companies are fair, just, and reasonable.

Manufactured/Mobile Home Landlord Tenant Act. The Manufactured/Mobile Home Landlord Tenant Act (MHLTA) regulates the relationship between the owner of a manufactured/mobile home community (landlord) and the owner of the manufactured or mobile home (tenant). The MHLTA specifies what must be in the rental agreement before a tenant moves in, the responsibilities of the landlord and the tenant, and provides a dispute resolution program through the Attorney General's Office.

Rental Agreements—Notice of a Rent Increase. A rental agreement between a landlord and a tenant may not contain any provision which allows the landlord to alter the due date for rent payments or increase the rent during the term of the rental agreement if the term is less than two years, or more frequently than annually if the initial term is for two years or more. A rental agreement for a term exceeding two years may provide for annual increases in rent in specified amounts, or by a formula specified in such agreement.

A landlord seeking to increase the rent upon the expiration of the term of a rental agreement must notify the tenant in writing three months prior to the effective date of the rent increase.

Summary of Bill (First Substitute): Rent Increase Limit. Unless an exception applies, a landlord may not increase the rent for a tenancy during the first 12 months after the tenancy begins, and at any time after the first year of the tenancy, in an amount greater than the rate of inflation as measured by the consumer price index (CPI) above the existing rent. The CPI means the September 12-month percent change in the CPI for all urban consumers, west region, published by the Bureau of Labor Statistics of the United States Department of Labor in September of the current calendar year.

A landlord that terminates a tenancy may not set the rental rate for the next tenancy greater than the CPI above the previous rental rate.

If a mobile home park or manufactured housing community is sold or leased, the new owner or leaseholder may not increase rent beyond the amount that would have been permitted for the previous landlord.

Exceptions to the Rent Increase Limit. A landlord may increase rent in an amount greater than the rent increase limit by participating in the banked capacity program or as provided in existing statute for certain escalation clauses for pro rata shares of any increase or decrease in the mobile home park's real property taxes or utility assessments or charges. A rental agreement for a term exceeding two years may provide for annual increases in rent in specified amounts or by a formula specified in such agreement, but any rent increase in these types of agreements may not exceed the value of the previous year's rent plus the consumer price index for the year in which the agreement was signed.

Banked Capacity Program. If a landlord participates in the Banked Capacity Program, the landlord may increase the rent above the maximum rent increase percentage by an additional amount equal to the CPI for each year that the landlord has banked capacity.

Under the Banked Capacity Program, if a landlord does not increase the rent in a 12-month period, the landlord may choose to bank the rent increase capacity for future years. Within certain limitations, for each preceding year since the last increase in rent, the landlord may increase rent by the total CPI increase since the year in which rent was last raised. A landlord who participates in the Banked Capacity Program must provide an annual notice to current and prospective tenants of the total banked capacity and possible future rent increases. A landlord forfeits their right to claim banked capacity if the landlord fails to properly deliver notice to the tenant.

Utilities and Transportation Commission—Regulation. The UTC is authorized to regulate the rates and services of all persons engaging within this state in the business of acting as a landlord for mobile home parks, manufactured housing communities, or manufactured/mobile home communities.

If a landlord participates in the banked capacity program the landlord must maintain all records relating to the banked capacity program for a three-year period, make these records available for public inspection, and furnish these records to the UTC upon the UTC's request. Upon its own motion, or upon complaint by a tenant or third party, the UTC may investigate the records, accounts, practices, and activities of the landlord. If the UTC finds any violation, any costs incurred by the commission in its duties to review and investigate filings by the landlord shall be paid by the landlord.

Limitations on Banked Capacity. The landlord's ability to use banked capacity is limited in certain circumstances.

If a tenant is evicted, or if a tenant leaves after an eviction has been initiated, for any new rental agreement entered into within 12 months of the termination of the prior tenancy, the amount of rent that a landlord may charge a new tenant is limited to the previous tenant's rent plus any banked capacity that was accrued under the prior tenancy.

If a tenant voluntarily moves out, the amount of rent that a landlord may charge a new tenant is not limited by the rent increase limit or any banked capacity. However, if the landlord increases the rent for the new tenant beyond the previous tenant's rent, any banked capacity is lost. If the landlord chooses not to increase the rent for the new tenant, the landlord may retain any banked capacity that accrued under the prior tenancy.

If a new owner buys a property and takes over a lease, the new owner may not increase rent for existing tenants beyond the amount that the previous landlord would have been allowed to increase rent. The former landlord's banked capacity may be transferred as a part of a property sale.

Remedies. A landlord who charges and receives rent in excess of the permitted rent increase limits is liable to the tenant for an amount not to exceed \$100,000.

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

- Removes the annual reporting requirement for landlords to the UTC.
- Restores the provisions related to multi-year leases to allow for these types of agreements to continue, but limits the allowable rent increases to the value of the previous year's rent plus the consumer price index for the year in which the agreement was signed.
- Requires landlords who participate in the banked capacity program to retain all records relating to the program and make these records available for public inspection and for review by the UTC.
- Authorizes the UTC to, upon its own motion or upon a complaint by a tenant or third party, investigate the records, accounts, practices, and activities of a landlord. If the UTC finds a violation, any costs incurred by the UTC for review and investigation are to be paid by the landlord.

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: Mobile Home Parks are constructed in a way that makes it difficult to get traditional mortgages, instead they get chattel mortgages, which have higher interest rates and are very difficult to move out of. Investment groups have realized this. Mobile home parks have become a very lucrative investment. From 2010 to 2020, REITs that had a majority manufactured/mobile home park as part of the holdings had the highest performing returns averaging 22 percent a year. Historically mobile/manufactured homes were a relatively stable form of housing. But, now that mobile home parks have gotten the attention of investment firms and it has become difficult to build new ones, they have become much more unstable. Most tenants are elderly or retired with an average income of \$35,000. This bill will put some sideboards on rent increases, but might need some changes that make it easier for the UTC to administer regulation. One example would be a system where a landlord could raise rents, but tenants would retain the right to appeal the rent increase to the UTC. At that point the UTC would become involved. Out of all the housing that we have, this has become an unstable sector of housing that mainly houses our most vulnerable population. The current trend is that when MHC are purchased by for-profit organizations, many time the rent is increased by huge amounts. In the five years I've lived in an MHC, my rent raised from \$500 to over \$1000. Water and sewer used to be included, but is no longer the case. We have no amenities. With little available affordable housing and homes not made to move, where are residents supposed to go? Most residents are elderly and on fixed incomes. MHCs are safe affordable places to live and some have been able to keep rents stable. However, one park that was acquired by a corporate investor recently raised rents by 68 percent and began billing water, sewer, and garbage separately. Rent increases are unpredictable and destabilizing, rent stabilization is the only policy that can work quickly. Studies have shown a link between rent increases and homelessness. Though some complain of COVID pandemic restrictions on rent increases, the state provided over \$1 billion in rental assistance on top of local rental assistance, and on top of federal programs that directly provided relief to business owners including landlords. Rent increases mean our forever homes are being taken from us by way of economic eviction. The stress related to housing insecurity is resulting in health issues. Where do 70 and 80 year old people with health issues go? Some property owners claim hardship, but still have high profits and fail to pass on property tax discounts. MHCs are such valuable resources of affordable, unsubsidized, housing for seniors, veterans, disabled, and low-income residents. If rents continue to raise, these people will all be displaced with nowhere to go.

CON: Bad actors are outliers and drastic rent raises are not good. Others are mindful when it comes to rent increases. Often, when a sale occurs the rent increases are higher than when ownership does not change. During COVID housing providers were not able to raise rents and are still transitioning out of that period and trying to recover costs. There are other ways to consider looking at what is happening in the industry. A work session would allow for the details required in the bill to be worked through. The UTC can act as a consumer protection agency or entity, but typically the UTC does so in exchange for granting monopolies. That is not the case here. The legislation in front of us is really just a hard cap on the ability of people to price access to their private property. Price control on food or

housing decreases supply. We need more supply and it is very difficult to increase supply right now with limited builders. Developing lots is expensive. Fewer restrictions on where/how to build/develop lots. Rent control will dissuade developers. If rents are not able to be raised landlords are not able to recoup costs of improvements or investments. Bill conflicts with state laws in several areas. The dates of the CPI increase report could create confusion in terms of what rate to apply when rates are increased. There are concerns about the availability of multi-year leases. Section 4 dealing with the UTC, says "rents and services" and that "services" piece should be defined. Is the UTC the right agency to regulate housing? Does the UTC foresee itself regulating the rise in value of homes? Over the last 24 months, mobile homes have appreciated in value and have significantly outperformed the stock market. Tenants can sell and are not handcuffed to their homes. According to the MLS, the average days on market to sell a manufactured/mobile home is 17 days. The bill is too broad and won't have the intended outcome. The bill will hurt tenants drastically. CPI is not a good indicator of costs related to repairs/maintenance. The reporting requirements are too stringent. Most rent raises are commensurate with market values and landlords shouldn't be punished for a few bad actors.

Persons Testifying (Housing): PRO: Senator Kevin Van De Wege, Prime Sponsor; Ishbel Dickens, Assoc of Manufactured Home Owners; Anne Sadler, Association of Manufactured Home Owners - AMHO; Stacey Valenzuela; Kyle Lucas, Tenants United at Legacy Western Plaza MHP; Michele Thomas, Washington Low Income Housing Alliance; Deb Wilson; christine walker; Tereasa Staley; Sharon Pevey, AMHO; Caroline Hardy; Jan Leonard; Robin Zorich, AMHO.

CON: Jeremy Millard; Mike Hoover, Detente Management; Beau Harer, Detente Management, Inc; Ryan Erickson, Commonwealth Real Estate Services; Brad Tower, Commonwealth Real Estate Services; Mike Simonitch, Shelter Management; Michael Ewing; Joseph Hammond.

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