

HOUSE BILL REPORT

SSB 5668

As Passed House - Amended:

March 3, 2010

Title: An act relating to the sale of used manufactured/mobile homes.

Brief Description: Restricting the use of consignment contracts in the sale of used manufactured/mobile homes.

Sponsors: Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Berkey, Schoesler, McCaslin, Benton and Marr).

Brief History:

Committee Activity:

Commerce & Labor: 2/17/10, 2/23/10 [DPA].

Floor Activity:

Passed House: 3/3/10, 98-0.

Brief Summary of Substitute Bill (As Amended by House)

- Requires that consignment contracts for the sale of a used manufactured or mobile home state the minimum amount to be paid to the consignor and the maximum dollar amount or percentage of commission to be paid to the dealer.
- Requires a dealer to remit to the consignor any monies received beyond the agreed upon maximum dollar amount or percentage of commission.
- Requires that listing agreements state the maximum dollar amount or percentage of commission to be paid to the dealer for the sale of a used manufactured or mobile home.
- Requires the dealer to utilize certain procedures in negotiating the purchase agreement between the seller and buyer.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

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.

Minority Report: Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler and Crouse.

Staff: Rebecca Jones (786-5793) and Alison Hellberg (786-7152).

Background:

Manufactured and Mobile Homes.

In 1976 the U.S. Department of Housing and Urban Development (HUD) promulgated the HUD Manufactured Home Construction and Safety Standards (Code), a preemptive, federal building code. Mobile homes are factory-built dwellings built prior to the introduction of the HUD Code that met the state codes in effect at the time of construction or introduction of the home into the state. Manufactured homes are single-family dwellings built after and according to the HUD Code standards. Manufactured and mobile homes are regulated as dwellings and vehicles. The motor vehicles law, in part, regulates the sale and distribution of manufactured and mobile homes, requiring that the law surrounding dealers and manufacturers applies to the sale of manufactured and mobile homes.

The Department of Licensing (Department) is responsible for administering and enforcing the law surrounding vehicle dealers and manufacturers. Vehicle dealers, including a mobile home dealer, must be licensed by the Department. A listing dealer is a used mobile home dealer who makes contracts with sellers for compensation in exchange for the dealer finding a willing purchaser for the seller's mobile home. Manufactured and mobile homes that are not owned by the dealer are sold on consignment or through a listing agreement with a listing dealer.

Consignment Transactions.

Dealers who transact business through consignment are required to obtain a consignment contract for sale and comply with the dealers and manufacturers law. All funds received from the sale of a consigned vehicle must be placed in a trust account until the sale is completed, except a dealer must pay any outstanding liens against the vehicle from these funds. When title has been delivered to the purchaser, the dealer must pay the amount due to a consignor within 10 days after the sale.

Consignment contracts must include: (1) the consignor's statement guaranteeing to deliver title to the dealer upon sale of the vehicle; (2) the effective duration of the contract; and (3) the amount to be paid to the consignor. A consignment contract is not normally required to include the amount of compensation to be paid to the dealer; however, if the contract does not include a specified amount to be paid to the consignor, the minimum retail price and the amount of compensation to be paid to the dealer must be specified. When the dealer pays the consignor upon a completed sale, the dealer must give the consignor a copy of the purchase order used in the sale. Upon a sale, the dealer must promptly transfer title into the name of the purchaser.

Listing Agreement Transactions.

A listing dealer must obtain a listing agreement for the sale of a used mobile home. Funds from the purchaser must be placed in a trust account until the sale is completed, except a dealer is required to pay any outstanding liens against the vehicle from these funds. When title has been delivered to the purchaser, the dealer must pay the amount due to a seller within 10 days after the sale of the mobile home. A dealer must also provide a seller or consignor with a complete account of all the funds received and disbursed after the completion of the sale. Upon a sale, the dealer must promptly transfer title into the name of the purchaser.

The listing dealer must negotiate the agreement between the seller and purchaser in the following manner: (1) all written offers must be presented to the seller; (2) a copy of the agreement must be delivered to each respective party at various stages of the process; and (3) the listing dealer must retain copies of certain agreements. Upon completion of a sale, the listing dealer may pay any outstanding liens against the mobile home from the trust account before paying the sale proceeds to the seller.

Summary of Amended Bill:

The Legislature finds that adding requirements to the use of consignment contracts and listing agreements for the sale of manufactured and mobile homes protects the interests of homeowners.

Consignment Transactions.

When a dealer sells a used manufactured or mobile home through consignment, the consignment contract must state the minimum amount to be paid to the consignor and the maximum percentage or dollar amount of commission to be paid to the dealer. The dealer must remit to the consignor any monies received beyond the agreed upon maximum percentage or dollar amount of commission.

Listing Agreement Transactions.

When a dealer sells a used manufactured or mobile home through a listing agreement, the agreement must state the maximum percentage or dollar amount of commission to be paid to the dealer.

Certain procedures are required to be used when the dealer negotiates the purchase agreement between the seller and the buyer of the used manufactured or mobile home including: (1) presenting all written purchase offers to the seller; and (2) delivering copies of the purchase agreement to each respective party at various stages of the process.

A dealer must complete and attach a provided notice to any listing agreement. The notice describes the manufactured or mobile home and its location, and it specifies the commission to be paid to the dealer.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill brings transparency to the process of selling used manufactured and mobile homes. There have been situations where residents in mobile home parks, particularly the elderly residents, have entered into agreements with a listing agent to sell the mobile home. The listing agent claims to sell the home for a certain amount of money that is a fraction of the fair market value of the home, but the resident may not be knowledgeable or informed about what the fair market value of the home is. Moreover, the amount of the fee that will compensate the listing agent may never be disclosed. The listing agent then sells the home for the fair market value and keeps the difference between the agreed upon price with the resident and the amount for which the agent actually sold the home. This is a good consumer protection and a great consumer fairness bill. Residents of used manufactured and mobile homes should have the same protections and transparency in the selling process that residents of real estate have.

(Opposed) None.

Persons Testifying: John Woodring and Ken Spencer, Manufactured Housing Communities of Washington; and Bob Mitchell, Washington Realtors.

Persons Signed In To Testify But Not Testifying: None.