
SECOND SUBSTITUTE SENATE BILL 5477

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Kastama, Keiser, Franklin, McAuliffe and Rasmussen)

READ FIRST TIME 03/02/07.

1 AN ACT Relating to manufactured/mobile home community registrations
2 and dispute resolution; adding a new section to chapter 34.12 RCW;
3 adding a new chapter to Title 59 RCW; creating a new section; and
4 prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that there are
7 factors unique to the relationship between a manufactured/mobile home
8 tenant and a manufactured/mobile home community landlord. Once
9 occupancy has commenced, the difficulty and expense in moving and
10 relocating a manufactured/mobile home can affect the operation of
11 market forces and lead to an inequality of the bargaining position of
12 the parties. Once occupancy has commenced, a tenant may be subject to
13 violations of the manufactured/mobile home landlord-tenant act or the
14 consumer protection act without an adequate remedy at law. This
15 chapter is created for the purpose of protecting the public, fostering
16 fair and honest competition, and regulating the factors unique to the
17 relationship between the manufactured/mobile home tenant and the
18 manufactured/mobile home community landlord.

1 (2) The legislature finds that taking legal action against a
2 manufactured/mobile home community landlord for violations of the
3 manufactured/mobile home landlord-tenant act can be a costly and
4 lengthy process, and that many people cannot afford to pursue a court
5 process to vindicate statutory rights. Manufactured/mobile home
6 community landlords will also benefit by having access to a process
7 that resolves disputes quickly and efficiently.

8 (3)(a) Therefore, it is the intent of the legislature to provide an
9 equitable as well as a less costly and more efficient way for
10 manufactured/mobile home tenants and manufactured/mobile home community
11 landlords to resolve disputes, and to provide a mechanism for state
12 authorities to quickly locate manufactured/mobile home community
13 landlords.

14 (b) The legislature intends to authorize the department of
15 licensing to register manufactured/mobile home communities and collect
16 a registration fee.

17 (c) The legislature intends to authorize the attorney general to:

18 (i) Produce and distribute educational materials regarding the
19 manufactured/mobile home landlord-tenant act and the
20 manufactured/mobile home dispute resolution program created in section
21 3 of this act;

22 (ii) Administer the dispute resolution program by taking
23 complaints, conducting investigations, making determinations, issuing
24 fines and other penalties, and participating in administrative dispute
25 resolutions, when necessary, when there are alleged violations of the
26 manufactured/mobile home landlord-tenant act or the consumer protection
27 act; and

28 (iii) Collect and annually report upon data related to disputes and
29 violations, and make recommendations on modifying chapter 59.20 RCW, to
30 the appropriate committees of the legislature.

31 NEW SECTION. **Sec. 2.** For purposes of this chapter:

32 (1) "Department" means the department of licensing;

33 (2) "Director" means the director of licensing;

34 (3) "Landlord" or "community owner" means the owner of a mobile
35 home park or a manufactured housing community and includes the agents
36 of a landlord;

1 (4) "Manufactured home" means a single-family dwelling built
2 according to the United States department of housing and urban
3 development manufactured home construction and safety standards act,
4 which is a national preemptive building code. A manufactured home
5 also: (a) Includes plumbing, heating, air conditioning, and electrical
6 systems; (b) is built on a permanent chassis; and (c) can be
7 transported in one or more sections with each section at least eight
8 feet wide and forty feet long when transported, or when installed on
9 the site is three hundred twenty square feet or greater;

10 (5) "Mobile home" means a factory-built dwelling built prior to
11 June 15, 1976, to standards other than the United States department of
12 housing and urban development code, and acceptable under applicable
13 state codes in effect at the time of construction or introduction of
14 the home into the state. Mobile homes have not been built since the
15 introduction of the United States department of housing and urban
16 development manufactured home construction and safety act;

17 (6) "Manufactured/mobile home" means either a manufactured home or
18 a mobile home;

19 (7) "Manufactured/mobile home lot" means a portion of a
20 manufactured/mobile home community designated as the location of one
21 mobile home, manufactured home, or park model and its accessory
22 buildings, and intended for the exclusive use as a primary residence by
23 the occupants of that mobile home, manufactured home, or park model;

24 (8) "Mobile home park," "manufactured housing community," or
25 "manufactured/mobile home community" means any real property that is
26 rented or held out for rent to others for the placement of two or more
27 mobile homes, manufactured homes, park models, or recreational vehicles
28 for the primary purpose of production of income, except where the real
29 property is rented or held out for rent for seasonal recreational
30 purposes only and is not used for year-round occupancy;

31 (9) "Owner" means one or more persons, jointly or severally, in
32 whom is vested:

33 (a) All or part of the legal title to the real property; or

34 (b) All or part of the beneficial ownership, and a right to present
35 use and enjoyment of the real property;

36 (10) "Park model" means a recreational vehicle intended for
37 permanent or semi-permanent installation and is used as a permanent
38 residence;

1 (11) "Recreational vehicle" means a travel trailer, motor home,
2 truck camper, or camping trailer that is primarily used as a permanent
3 residence located in a mobile home park or manufactured housing
4 community;

5 (12) "Tenant" means any person, except a transient as defined in
6 RCW 59.20.030, who rents a mobile home lot;

7 (13) "Complainant" means a landlord, community owner, or tenant,
8 who has a complaint alleging a violation of chapter 59.20 or 19.86 RCW;

9 (15) "Respondent" means a landlord, community owner, or tenant,
10 alleged to have committed violation of chapter 59.20 or 19.86 RCW.

11 NEW SECTION. **Sec. 3.** (1) The attorney general shall administer a
12 manufactured/mobile home dispute resolution program.

13 (2) The purpose of the manufactured/mobile home dispute resolution
14 program is to provide manufactured/mobile home community landlords and
15 tenants with a cost-effective and time-efficient process to resolve
16 disputes regarding alleged violations of the manufactured/mobile home
17 landlord-tenant act and the consumer protection act.

18 (3) The attorney general under the manufactured/mobile home dispute
19 resolution program shall:

20 (a) Produce educational materials regarding chapter 59.20 RCW and
21 the manufactured/mobile home dispute resolution program, including a
22 notice in a format that a landlord can reasonably post in a
23 manufactured/mobile home community that summarizes tenant rights and
24 responsibilities, includes information on how to file a complaint with
25 the attorney general, and includes a toll-free telephone number and web
26 site address that landlords and tenants can use to seek additional
27 information and communicate complaints;

28 (b) Distribute the educational materials described in (a) of this
29 subsection to all known landlords and information alerting landlords
30 that:

31 (i) All landlords must post the notice provided by the attorney
32 general that summarizes tenant rights and responsibilities and includes
33 information on how to file complaints, in a clearly visible location in
34 all common areas of manufactured/mobile home communities, including in
35 each clubhouse;

36 (ii) The attorney general may visually confirm that the notice is
37 appropriately posted; and

1 (iii) The attorney general may issue a fine or other penalty if the
2 attorney general discovers that the landlord has not appropriately
3 posted the notice or that the landlord has not maintained the posted
4 notice so that it is clearly visible to tenants;

5 (c) Distribute the educational materials described in (a) of this
6 subsection to any complainants and respondents, as requested;

7 (d) Perform dispute resolution activities, including
8 investigations, negotiations, determinations of violations, and
9 imposition of fines or other penalties as described in section 4 of
10 this act;

11 (e) Create and maintain a database of manufactured/mobile home
12 communities that have had complaints filed against them. For each
13 manufactured/mobile home community in the database, the following
14 information must be contained, at a minimum:

15 (i) The number of complaints received;

16 (ii) The nature and extent of the complaints received;

17 (iii) The violation of law complained of; and

18 (iv) The manufactured/mobile home complaint resolution program
19 outcomes for each complaint;

20 (f) Provide an annual report to the appropriate committees of the
21 legislature on the data collected under this section, including program
22 performance measures, by December 31st, beginning in 2007.

23 (4) The manufactured/mobile home dispute resolution program,
24 including all of the duties of the attorney general under the program
25 as described in this section, shall be funded by the collection of
26 fines, other penalties, and fees deposited into the manufactured/mobile
27 home dispute resolution program account created in section 8 of this
28 act, and all other sources directed to the manufactured/mobile home
29 dispute resolution program.

30 NEW SECTION. **Sec. 4.** (1) A complainant has the right to file a
31 complaint with the attorney general alleging a violation of chapter
32 59.20 or 19.86 RCW.

33 (2) Upon receiving a complaint under this act, the attorney
34 general must:

35 (a) Inform the complainant of any notification requirements under
36 RCW 59.20.080 for tenant violations or RCW 59.20.200 for landlord

1 violations and encourage the complainant to appropriately notify the
2 respondent of the complaint; and

3 (b) If a statutory time period is applicable, inform the
4 complainant of the time frame that the respondent has to remedy the
5 complaint under RCW 59.20.080 for tenant violations or RCW 59.20.200
6 for landlord violations.

7 (3) After receiving a complaint under this act, the attorney
8 general shall initiate the manufactured/mobile home dispute resolution
9 program by investigating the alleged violations at its discretion and,
10 if appropriate, facilitating negotiations between the complainant and
11 the respondent.

12 (4)(a) Complainants and respondents shall cooperate with the
13 attorney general in the course of an investigation by (i) responding to
14 subpoenas issued by the attorney general, which may consist of
15 providing access to papers or other documents, and (ii) providing
16 access to the manufactured/mobile home facilities relevant to the
17 investigation. Complainants and respondents must respond to attorney
18 general subpoenas within thirty days.

19 (b) Failure to cooperate with the attorney general in the course of
20 an investigation is a violation of this chapter and a per se violation
21 of chapter 19.86 RCW.

22 (5) If after an investigation the attorney general determines that
23 an agreement cannot be negotiated between the parties, the attorney
24 general shall make a written determination on whether a violation of
25 chapter 59.20 or 19.86 RCW has occurred.

26 (a) If the attorney general finds by a written determination that
27 a violation of chapter 59.20 or 19.86 RCW has occurred, the attorney
28 general shall deliver a written notice of violation to the respondent
29 who committed the violation by certified mail. The notice of violation
30 must specify the violation, the corrective action required, the time
31 within which the corrective action must be taken, the penalties
32 including fines, other penalties, and actions that will result if
33 corrective action is not taken within the specified time period, and
34 the process for contesting the determination, fines, penalties, and
35 other actions included in the notice of violation through an
36 administrative hearing. The attorney general must deliver to the
37 complainant a copy of the notice of violation by certified mail.

1 (b) If the attorney general finds by a written determination that
2 a violation of chapter 59.20 or 19.86 RCW has not occurred, the
3 attorney general shall deliver a written notice of nonviolation to both
4 the complainant and the respondent by certified mail. The notice of
5 nonviolation must include the process for contesting the determination
6 included in the notice of nonviolation through an administrative
7 hearing.

8 (6) Corrective action must take place within fifteen days of the
9 respondent's receipt of a notice of violation, except as required
10 otherwise by the attorney general, unless the respondent has submitted
11 a timely request for an administrative hearing to contest the notice of
12 violation as required under subsection (8) of this section. If a
13 respondent fails to take corrective action within the required time
14 period and the attorney general has not received a timely request for
15 an administrative hearing, the attorney general may impose a fine, up
16 to a maximum of five hundred dollars per violation per day, for each
17 day that a violation remains uncorrected. The attorney general may
18 consider the severity and duration of the violation when issuing fines
19 and other penalties. If the respondent shows upon timely application
20 to the attorney general that a good faith effort to comply with the
21 corrective action requirements of the notice of violation has been made
22 and that the corrective action has not been completed because of
23 mitigating factors beyond the respondent's control, the attorney
24 general may delay the imposition of a fine or penalty.

25 (7) The attorney general may issue an order requiring the
26 respondent, or its assignee or agent, to cease and desist from an
27 unlawful practice and take affirmative actions that in the judgment of
28 the attorney general will carry out the purposes of this chapter. The
29 affirmative actions may include, but are not limited to, the following:

30 (a) Refunds of rent increases, improper fees, charges, and
31 assessments collected in violation of this chapter;

32 (b) Filing and utilization of documents that correct a statutory or
33 rule violation; and

34 (c) Reasonable action necessary to correct a statutory or rule
35 violation.

36 (8) A complainant or respondent may request an administrative
37 hearing before an administrative law judge under chapter 34.05 RCW to
38 contest:

1 (a) A notice of violation issued under subsection (5)(a) of this
2 section or a notice of nonviolation issued under subsection (5)(b) of
3 this section;

4 (b) A fine or other penalty imposed under subsection (6) of this
5 section; or

6 (c) An order to cease and desist or an order to take affirmative
7 actions under subsection (7) of this section.

8 The complainant or respondent must request an administrative
9 hearing within fifteen days of receipt of a notice of violation, notice
10 of nonviolation, fine, other penalty, order, or action. If an
11 administrative hearing is not requested within this time period, the
12 notice of violation, notice of nonviolation, fine, other penalty,
13 order, or action constitutes a final order of the attorney general and
14 is not subject to review by any court or agency.

15 (9) If an administrative hearing is initiated, the respondent and
16 complainant shall each bear the cost of his or her own legal expenses.

17 (10) The administrative law judge appointed under chapter 34.12 RCW
18 shall:

19 (a) Hear and receive pertinent evidence and testimony;

20 (b) Decide whether the evidence supports the attorney general
21 finding by a preponderance of the evidence; and

22 (c) Enter an appropriate order within thirty days after the close
23 of the hearing and immediately mail copies of the order to the affected
24 parties.

25 The order of the administrative law judge constitutes the final
26 agency order of the attorney general and may be appealed to the
27 superior court under chapter 34.05 RCW.

28 (11) When the attorney general imposes a fine, refund, or other
29 penalty against a respondent, the respondent may not seek any recovery
30 or reimbursement of the fine, refund, or other penalty from a
31 complainant or from other manufactured/mobile home tenants.

32 (12) All receipts from the imposition of fines or other penalties
33 collected under this section other than those due to a complainant must
34 be deposited into the manufactured/mobile home dispute resolution
35 program account created in section 8 of this act.

36 (13) This section is not exclusive and does not limit the right of
37 landlords or tenants to take legal action against another party as
38 provided in chapter 59.20 RCW or otherwise. Exhaustion of the

1 administrative remedy provided in this chapter is not required before
2 a landlord or tenants may bring a legal action. This section does not
3 apply to unlawful detainer actions initiated under RCW 59.20.080 prior
4 to the filing and service of an unlawful detainer court action;
5 however, a tenant is not precluded from seeking relief under this
6 chapter if the complaint claims the notice of termination violates RCW
7 59.20.080 prior to the filing and service of an unlawful detainer
8 action.

9 NEW SECTION. **Sec. 5.** The attorney general, director, or
10 individuals acting on behalf of the attorney general or director are
11 immune from suit in any action, civil or criminal, based upon any
12 disciplinary actions or other official acts performed in the course of
13 their duties under this chapter, except their intentional or willful
14 misconduct.

15 NEW SECTION. **Sec. 6.** (1) The department shall annually register
16 all manufactured/mobile home communities. Each community must be
17 registered separately. The department must deliver by mail
18 registration notifications to all known manufactured/mobile home
19 community landlords. Registration information packets must include:

- 20 (a) Registration forms; and
21 (b) Registration assessment information, including registration due
22 dates and late fees, and the collections procedures, liens, and
23 charging costs to tenants.

24 (2) To apply for registration, the landlord of a
25 manufactured/mobile home community must file with the department an
26 application for registration on a form provided by the department and
27 must pay a registration fee as described in subsection (3) of this
28 section. The department may require the submission of information
29 necessary to assist in identifying and locating a manufactured/mobile
30 home community and other information that may be useful to the state,
31 which must include, at a minimum:

- 32 (a) The names and addresses of the owners of the
33 manufactured/mobile home community;
34 (b) The name and address of the manufactured/mobile home community;
35 (c) The name and address of the landlord and manager of the
36 manufactured/mobile home community;

1 (d) The number of lots within the manufactured/mobile home
2 community that are subject to chapter 59.20 RCW; and

3 (e) The addresses of each manufactured/mobile home lot within the
4 manufactured/mobile home community that is subject to chapter 59.20
5 RCW.

6 (3) Each manufactured/mobile home community landlord shall pay to
7 the department:

8 (a) A one-time master application fee for the first year of
9 registration and, in subsequent years, an annual master renewal
10 application fee, as provided in RCW 19.02.075; and

11 (b) An annual registration assessment of ten dollars for each
12 manufactured/mobile home that is subject to chapter 59.20 RCW within a
13 manufactured/mobile home community. Manufactured/mobile home community
14 landlords may charge a maximum of five dollars of this assessment to
15 tenants. Nine dollars of the registration assessment for each
16 manufactured/mobile home shall be deposited into the
17 manufactured/mobile home dispute resolution program account created in
18 section 8 of this act to fund the costs associated with the
19 manufactured/mobile home dispute resolution program. The remaining one
20 dollar shall be deposited into the master license fund created in RCW
21 19.02.210. The annual registration assessment must be reviewed once
22 each biennium by the department and the attorney general and may be
23 adjusted to reasonably relate to the cost of administering this
24 chapter. The registration assessment may not exceed ten dollars, but
25 if the assessment is reduced, the portion allocated to the
26 manufactured/mobile home dispute resolution program account and the
27 master license fund shall be adjusted proportionately.

28 (4) Registrations not filed by the due date are subject to a
29 delinquency fee of twenty dollars for each day the registration is
30 late. Registrations not renewed by the expiration date are subject to
31 the delinquency fees under RCW 19.02.085.

32 (5) Thirty days after sending late fee notices to a noncomplying
33 landlord, the department may refer the past due account to a collection
34 agency. If there is no response from a noncomplying landlord after
35 sixty days in collections, the department may file an action to enforce
36 payment of unpaid registration assessments and late fees in the
37 superior court for Thurston county or in the county in which the
38 manufactured/mobile home community is located. If the department

1 prevails, the manufactured/mobile home community landlord shall pay the
2 department's costs, including reasonable attorneys' fees, for the
3 enforcement proceedings.

4 (6) Registration is effective on the date determined by the
5 department, and the department shall issue a registration number to
6 each registered manufactured/mobile home community. The department
7 must provide an expiration date, assigned by the department, to each
8 manufactured/mobile home community who registers.

9 NEW SECTION. **Sec. 7.** The department must have the capability to
10 compile, update, and maintain the most accurate database possible of
11 all the manufactured/mobile home communities in the state, which must
12 include all of the information collected under section 6 of this act,
13 except for the addresses of each manufactured/mobile home lot within
14 the manufactured/mobile home community that is subject to chapter 59.20
15 RCW, which must be made available to the attorney general and the
16 department of community, trade, and economic development in a format to
17 be determined by a collaborative agreement between the department of
18 licensing and the attorney general.

19 NEW SECTION. **Sec. 8.** The manufactured/mobile home dispute
20 resolution program account is created in the custody of the state
21 treasurer. All receipts from sources directed to the
22 manufactured/mobile home dispute resolution program must be deposited
23 in the account. Expenditures from the account may be used only for the
24 costs associated with administering the manufactured/mobile home
25 dispute resolution program. Only the attorney general or the attorney
26 general's designee may authorize expenditures from the account. The
27 account is subject to allotment procedures under chapter 43.88 RCW, but
28 an appropriation is not required for expenditures.

29 NEW SECTION. **Sec. 9.** The legislature finds that the practices
30 covered by this chapter are matters vitally affecting the public
31 interest for the purpose of applying the consumer protection act,
32 chapter 19.86 RCW. A violation of this chapter is not reasonable in
33 relation to the development and preservation of business and is an
34 unfair or deceptive act in trade or commerce and an unfair method of

1 competition for purposes of applying the consumer protection act,
2 chapter 19.86 RCW.

3 NEW SECTION. **Sec. 10.** A new section is added to chapter 34.12 RCW
4 to read as follows:

5 When requested by the attorney general, the chief administrative
6 law judge shall assign an administrative law judge to conduct
7 proceedings under Title 59 RCW.

8 NEW SECTION. **Sec. 11.** Sections 1 through 9 of this act constitute
9 a new chapter in Title 59 RCW.

10 NEW SECTION. **Sec. 12.** The attorney general may take the necessary
11 steps to ensure that this act is implemented on its effective date.

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