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SENATE BILL 5477

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Kastama, Keiser, Franklin, McAuliffe and Rasmussen

Read first time 01/22/2007.      Referred to Committee on Consumer Protection & Housing.

1            AN ACT Relating to manufactured/mobile home community registrations  
2 and dispute resolution; amending RCW 59.22.050 and 59.22.070; adding a  
3 new section to chapter 34.12 RCW; adding a new chapter to Title 59 RCW;  
4 prescribing penalties; and declaring an emergency.

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  
14 unfair practices without an adequate remedy at law. This chapter is  
15 created for the purpose of protecting the public, fostering fair and  
16 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 community, trade, and economic development to register  
16 manufactured/mobile home communities, collect a registration fee, and  
17 collaborate with the attorney general to disseminate educational  
18 materials regarding the manufactured/mobile home landlord-tenant act  
19 and the manufactured/mobile home dispute resolution program created in  
20 section 3 of this act.

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

22 (i) Administer a dispute resolution program by taking complaints,  
23 conducting investigations, making determinations, and administratively  
24 resolving disputes, when there are alleged violations of the  
25 manufactured/mobile home landlord-tenant act or the consumer protection  
26 act;

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

30 (iii) Produce, and collaborate with the department of community,  
31 trade, and economic development to distribute, educational materials  
32 regarding the manufactured/mobile home landlord-tenant act and the  
33 manufactured/mobile home dispute resolution program created in section  
34 3 of this act.

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

36 (1) "Department" means the department of community, trade, and  
37 economic development;

1 (2) "Director" means the director of the department of community,  
2 trade, and economic development;

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

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

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

22 (6) "Manufactured/mobile home" means either a manufactured home or  
23 a mobile home;

24 (7) "Manufactured/mobile home lot" means a portion of a  
25 manufactured/mobile home community designated as the location of one  
26 mobile home, manufactured home, or park model and its accessory  
27 buildings, and intended for the exclusive use as a primary residence by  
28 the occupants of that mobile home, manufactured home, or park model;

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

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

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

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

3 (10) "Park model" means a recreational vehicle intended for  
4 permanent or semi-permanent installation and is used as a permanent  
5 residence;

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

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

12 (13) "Unfair practice" means any act that would constitute an  
13 unfair or deceptive act or practice under chapter 19.86 RCW;

14 (14) "Complainant" means a landlord, community owner, or tenant,  
15 who has a complaint alleging an unfair practice or violation of this  
16 chapter;

17 (15) "Respondent" means a landlord, community owner, or tenant,  
18 alleged to have committed an unfair practice or violation of this  
19 chapter.

20 NEW SECTION. **Sec. 3.** The attorney general shall administer a  
21 manufactured/mobile home dispute resolution program, which shall be  
22 funded by the collection of fines, other penalties, and fees deposited  
23 into the manufactured/mobile home dispute resolution program account  
24 created in section 11 of this act and all other sources directed to the  
25 manufactured/mobile home dispute resolution program. The purpose of  
26 the program is to provide manufactured/mobile home community landlords  
27 and tenants with a cost-effective and time-efficient process to resolve  
28 disputes regarding alleged violations of the manufactured/mobile home  
29 landlord-tenant act and the consumer protection act.

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

1 RCW 59.20.080 for tenant violations or RCW 59.20.200 for landlord  
2 violations and encourage the complainant to appropriately notify the  
3 respondent of the complaint; and

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

8 (3) After receiving a complaint under this act, the attorney  
9 general shall initiate the manufactured/mobile home dispute resolution  
10 program by:

11 (a) Investigating the alleged violations at its discretion upon  
12 receipt of a complaint alleging unfair practices or violations of  
13 chapter 59.20 RCW;

14 (b) Discussing the issues surrounding or relating to the complaint  
15 with the complainant, respondent, or any witnesses, either individually  
16 or jointly;

17 (c) Explaining options available to the complainant or respondent,  
18 including the involvement of other agencies; and

19 (d) Negotiating an agreement between the complainant and the  
20 respondent.

21 (4)(a) Complainants and respondents shall cooperate with the  
22 attorney general in the course of an investigation by:

23 (i) Furnishing any papers or documents requested;

24 (ii) Furnishing in writing an explanation covering the matter  
25 contained in the complaint when requested by the attorney general;

26 (iii) Allowing authorized access to attorney general  
27 representatives for inspection of manufactured/mobile home community  
28 facilities relevant to the alleged violation being investigated; or

29 (iv) Responding to subpoenas issued by the attorney general.

30 (b) Failure to cooperate with the attorney general in the course of  
31 an investigation is a violation of this chapter.

32 (5) If after an investigation the attorney general determines that  
33 an agreement cannot be negotiated between the parties, the attorney  
34 general shall make a written determination on whether an unfair  
35 practice or violation of chapter 59.20 RCW has occurred.

36 (a) If the attorney general finds by a written determination that  
37 an unfair practice or violation of chapter 59.20 RCW has occurred, the  
38 attorney general shall deliver a citation to the respondent who

1 committed the violation by certified mail or in person. The citation  
2 must specify the violation, the corrective action required, the time  
3 within which the corrective action must be taken, the penalties  
4 including fines and other penalties that will result if corrective  
5 action is not taken within the specified time period, and the process  
6 for contesting the citation through a hearing. The attorney general  
7 must deliver to the complainant a copy of the citation by certified  
8 mail or in person.

9 (b) If the attorney general finds that an unfair practice or  
10 violation of chapter 59.20 RCW has not occurred, the attorney general  
11 shall deliver a written determination of that finding by certified mail  
12 or in person, including the process for contesting the determination  
13 through a hearing, to both the complainant and the respondent.

14 (6) Except as required otherwise by the attorney general,  
15 corrective action must take place within fifteen days of the receipt of  
16 the attorney general's citation, unless the respondent has submitted a  
17 timely request for an administrative hearing as required under  
18 subsection (8) of this section. If a respondent fails to take  
19 corrective action within the required time period and the attorney  
20 general has not received a timely request for an administrative  
21 hearing, the attorney general may impose a fine, up to a maximum of  
22 five hundred dollars per violation, for every day that the violation  
23 remains uncorrected. The attorney general shall establish written  
24 guidelines, considering in part the severity and duration of the  
25 violation, for issuing fines and other penalties. If the respondent  
26 shows upon timely application to the attorney general that a good faith  
27 effort to comply with the corrective action requirements of the  
28 citation has been made and that the corrective action has not been  
29 completed because of mitigating factors beyond the respondent's  
30 control, the attorney general may delay the imposition of a fine or  
31 penalty.

32 (7) The attorney general may issue an order requiring the  
33 respondent, or its assignee or agent, to cease and desist from an  
34 unfair or unlawful practice and take affirmative actions that in the  
35 judgment of the attorney general will carry out the purposes of this  
36 chapter. The affirmative actions may include, but are not limited to,  
37 the following:

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

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

5 (c) Reasonable action necessary to correct a statutory or rule  
6 violation.

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

10 (a) A citation issued under subsection (5)(a) of this section or  
11 written notice issued under subsection (5)(b) of this section;

12 (b) A fine or other penalty imposed under subsection (6) of this  
13 section for failing to take corrective action in a timely manner; or

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

16 The complainant or respondent must request a hearing within fifteen  
17 days of receipt of the citation, written notice, fine or other penalty,  
18 or order being contested. If a hearing is not requested within this  
19 time period, the citation, written notice, fine or other penalty, or  
20 order constitutes a final order of the attorney general and is not  
21 subject to review by any court or agency.

22 (9) The administrative law judge appointed under chapter 34.12 RCW  
23 shall:

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

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

27 (c) Enter an appropriate order within thirty days after the close  
28 of the hearing and immediately mail copies of the order to the affected  
29 parties.

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

33 (10) When the attorney general imposes a fine, refund, or other  
34 penalty against the respondent, the respondent may not seek any  
35 recovery or reimbursement of the fine, refund, or other penalty from  
36 the complainant or other manufactured/mobile home tenants.

37 (11) All receipts from the imposition of fines or other penalties

1 collected under this section other than those due to the complainant  
2 must be deposited into the manufactured/mobile home dispute resolution  
3 program account created in section 11 of this act.

4 (12) This section is not exclusive and does not limit the right of  
5 landlords or tenants to take legal action against another party as  
6 provided in chapter 59.20 RCW or otherwise. Exhaustion of the  
7 administrative remedy provided in this chapter is not required before  
8 a landlord or tenants may bring a legal action. This section does not  
9 apply to unlawful detainer actions initiated under RCW 59.20.080 prior  
10 to the filing and service of an unlawful detainer court action;  
11 however, a tenant is not precluded from seeking relief under this  
12 chapter if the complaint claims the notice of termination violates RCW  
13 59.20.080 prior to the filing and service of an unlawful detainer  
14 action.

15 NEW SECTION. **Sec. 5.** (1) The attorney general must:

16 (a) Produce educational materials regarding the manufactured/mobile  
17 home landlord-tenant act and the manufactured/mobile home dispute  
18 resolution program created in section 3 of this act, including a notice  
19 that summarizes manufactured/mobile home community tenant rights and  
20 responsibilities and includes information on how to file a complaint  
21 with the attorney general and a toll-free telephone number that  
22 manufactured/mobile home community landlords and tenants can use to  
23 seek additional information and communicate complaints;

24 (b) Collaborate with the department to distribute the educational  
25 materials and notice required by (a) of this subsection to each:

26 (i) Manufactured/mobile home community landlord annually with the  
27 department's annual registration materials; and

28 (ii) Known manufactured/mobile home community tenant to the best of  
29 its ability using the addresses for each manufactured/mobile home lot  
30 provided by landlords, as required by section 8(2)(e) of this act, and  
31 other resources to be identified by the department.

32 (2) Each manufactured/mobile home community landlord must post the  
33 notice in a clearly visible location in all common areas of  
34 manufactured/mobile home communities, including in each clubhouse.

35 NEW SECTION. **Sec. 6.** (1) The attorney general must continually  
36 maintain and update a database of manufactured/mobile home communities



1 that have had complaints filed against them. For each  
2 manufactured/mobile home community in the database, the following  
3 information must be contained at a minimum:

- 4 (a) The number of complaints received;
- 5 (b) The nature and extent of the complaints received;
- 6 (c) The violation of law or unfair practice complained of;
- 7 (d) The manufactured/mobile home complaint resolution program  
8 outcomes for each complaint; and
- 9 (e) Recommendations about modifying chapter 59.20 RCW.

10 (2) The attorney general shall report upon the data collected under  
11 this section to the appropriate committees of the legislature annually  
12 by December 31st, beginning in 2007.

13 NEW SECTION. **Sec. 7.** The attorney general, director, or  
14 individuals acting on behalf of the attorney general or director are  
15 immune from suit in any action, civil or criminal, based upon any  
16 disciplinary actions or other official acts performed in the course of  
17 their duties under this chapter, except their intentional or willful  
18 misconduct.

19 NEW SECTION. **Sec. 8.** (1) The department shall annually register  
20 all manufactured/mobile home communities and send out notifications to  
21 all known manufactured/mobile home community landlords that the  
22 registration forms and registration assessments under section 10 of  
23 this act are due. The registration assessment notifications must  
24 include information about late fees, liens, and charging costs to  
25 tenants. The department must include in the notification the  
26 registration form prepared by the department as required in this  
27 section and educational materials prepared and provided to the  
28 department by the attorney general as required in section 5 of this  
29 act.

30 (2) To apply for registration, the landlord of a  
31 manufactured/mobile home community must file with the department an  
32 application for registration on a form prepared by the department. The  
33 application must include, but is not limited to:

- 34 (a) The name and address of the owner of the manufactured/mobile  
35 home community;
- 36 (b) The name and address of the manufactured/mobile home community;

1 (c) The name and address of the landlord and manager of the  
2 manufactured/mobile home community;

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

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

8 (3) Registration is effective on the date determined by the  
9 department. All registrations must be assigned an expiration date by  
10 the department. The department must:

11 (a) Establish a process for the annual renewal of registrations;  
12 and

13 (b) Mail annually a letter with the effective registration and  
14 expiration date to each manufactured/mobile home community landlord,  
15 who has been registered by the department.

16 NEW SECTION. **Sec. 9.** The department must compile, update, and  
17 maintain the most accurate database possible of all the  
18 manufactured/mobile home communities in the state, which must include  
19 all of the information collected under section 8 of this act. The  
20 department is encouraged to work with groups to generate the database  
21 including, but not limited to, the office of community development,  
22 mobile homeowners' associations, tenant advocacy groups, park owners'  
23 associations, and county assessors. The database must be made  
24 available to the public.

25 NEW SECTION. **Sec. 10.** (1) Each manufactured/mobile home community  
26 landlord shall pay to the department a registration assessment of five  
27 dollars for each manufactured/mobile home that is subject to chapter  
28 59.20 RCW within a manufactured/mobile home community.  
29 Manufactured/mobile home community landlords may charge a maximum of  
30 two dollars and fifty cents of this assessment to tenants. Four  
31 dollars of the registration assessment for each manufactured/mobile  
32 home shall be deposited into the manufactured/mobile home dispute  
33 resolution program account created in section 11 of this act to fund  
34 the costs associated with administering the manufactured/mobile home  
35 dispute resolution program. The remaining one dollar shall be

1 deposited into the mobile home affairs account created in RCW 59.22.070  
2 for the purpose of implementing RCW 59.22.050.

3 (2) If a landlord fails to pay the assessment before the  
4 registration expiration date, a late fee is assessed for each  
5 manufactured/mobile home that is subject to chapter 59.20 RCW. The  
6 landlord is not entitled to any reimbursement of this fee from the  
7 tenants of the manufactured/mobile home community. All receipts from  
8 the imposition of late fees collected under this section shall be  
9 deposited into the mobile home affairs account created in RCW 59.22.070  
10 for the purpose of implementing RCW 59.22.050.

11 (a) A late fee shall be assessed at fifty percent of the total  
12 amount due for registration, if the fee is received by the department  
13 more than thirty days, but less than sixty days after the registration  
14 fee due date.

15 (b) A late fee shall be assessed at one hundred percent of the  
16 total amount due for registration, if the fee is received by the  
17 department more than sixty days late.

18 (3) The department shall collect the registration assessments due  
19 from all manufactured/mobile home community landlords, and allow ninety  
20 days to pass before sending notices of late fees to noncomplying  
21 landlords as provided in this act.

22 NEW SECTION. **Sec. 11.** The manufactured/mobile home dispute  
23 resolution program account is created in the custody of the state  
24 treasurer. Expenditures from the account may be used only for the  
25 costs associated with administering the manufactured/mobile home  
26 dispute resolution program. Only the attorney general or the attorney  
27 general's designee may authorize expenditures from the account. The  
28 account is subject to allotment procedures under chapter 43.88 RCW, but  
29 an appropriation is not required for expenditures.

30 NEW SECTION. **Sec. 12.** A new section is added to chapter 34.12 RCW  
31 to read as follows:

32 When requested by the attorney general, the chief administrative  
33 law judge shall assign an administrative law judge to conduct  
34 proceedings under Title 59 RCW.

1       **Sec. 13.** RCW 59.22.050 and 1991 c 327 s 3 are each amended to read  
2 as follows:

3       (~~(1)~~) In order to provide general assistance to mobile home  
4 resident organizations, park owners, and landlords and tenants, the  
5 department shall establish an office of (~~mobile home affairs~~)  
6 manufactured housing, which will serve as the coordinating office  
7 within state government for matters relating to mobile homes or  
8 manufactured housing.

9       (~~This office will provide an ombudsman service to mobile home park~~  
10 ~~owners and mobile home tenants with respect to problems and disputes~~  
11 ~~between park owners and park residents and to~~) The office of  
12 manufactured housing shall:

13       (1) Annually register all manufactured/mobile home communities as  
14 required in section 8 of this act;

15       (2) Compile, update, and maintain the most accurate database  
16 possible of all the manufactured/mobile home communities in the state  
17 as required in section 9 of this act;

18       (3) Collect registration assessments and associated late fees as  
19 required in section 10 of this act;

20       (4) Provide technical assistance to resident organizations or  
21 persons in the process of forming a resident organization pursuant to  
22 chapter 59.22 RCW. The office will keep records of its activities in  
23 this area(~~-~~

24 ~~(2) The office shall~~);

25       (5) Perform all the consumer complaint and related functions of the  
26 state administrative agency that are required for purposes of complying  
27 with the regulations established by the federal department of housing  
28 and urban development for manufactured housing, including the  
29 preparation and submission of the state administrative plan(~~-~~

30 ~~(3) The office shall~~); and

31       (6) Administer the mobile home relocation assistance program  
32 established in chapter 59.21 RCW, including verifying the eligibility  
33 of tenants for relocation assistance.

34       **Sec. 14.** RCW 59.22.070 and 1995 c 399 s 156 are each amended to  
35 read as follows:

36       There is created in the custody of the state treasurer a special

1 account known as the (~~mobile home affairs~~) office of manufactured  
2 housing account.

3 Disbursements from this special account (~~shall be as follows:~~

4 ~~(1) For the two year period beginning July 1, 1988, forty thousand~~  
5 ~~dollars, or so much thereof as may be necessary for costs incurred in~~  
6 ~~registering landlords and collecting fees, and thereafter five thousand~~  
7 ~~dollars per year for that purpose.~~

8 ~~(2) All remaining amounts shall~~) must be remitted to the  
9 department for the purpose of implementing RCW 59.22.050 (~~and~~  
10 ~~59.22.060~~)).

11 NEW SECTION. Sec. 15. Sections 1 through 11 of this act  
12 constitute a new chapter in Title 59 RCW.

13 NEW SECTION. Sec. 16. This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of the  
15 state government and its existing public institutions, and takes effect  
16 immediately.

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