

Date of Hearing: April 26, 2017

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 1269 (Mark Stone) – As Amended March 30, 2017

SUBJECT: Mobilehome Residency Law

SUMMARY: Establishes the Mobilehome Residents and Senior Protection Act (Act), a dispute resolution and enforcement program within the Department of Fair Employment and Housing (DFEH) to resolve disputes related to the Mobilehome Residency Law (MRL). Specifically, **this bill:**

- 1) Provides that it is the intent of the Legislature in enacting this Act to protect and safeguard the most vulnerable mobilehome owners and residents by affording them the enforcement and hearing procedures for housing discrimination.
- 2) Establishes the Act, which provides mobilehome owners and residents with the existing housing discrimination enforcement and hearing procedures of the DFEH for the enforcement of the MRL.
- 3) Provides that any homeowner or resident, as defined and claiming to be aggrieved by an alleged violation of any section of the MRL may file with the DFEH a verified complaint in writing that shall state the name and address of the person alleged to have committed the violation complained of, and that shall set forth the particulars of the alleged violation and contain any other information required by DFEH.
- 4) Provides that, in the case of failure to eliminate a violation of the MRL that has occurred, or is about to occur, through conference, conciliation, mediation, or persuasion, or in advance thereof if circumstances warrant, the Director of DFEH shall bring a civil action in the name of the department on behalf of the aggrieved person as a real party in interest.
- 5) Requires DFEH to produce, for homeowners and residents, written materials summarizing the Act, including how to file a complaint with the DFEH, a toll-free telephone number and Internet website address a homeowner or resident can use to seek additional information and communicate complaints.
- 6) Requires DFEH to collect and make available on a publicly searchable Internet database, at a minimum, the following information:
 - a) The number of complaints;
 - b) The violation complained; and
 - c) The outcome for each complaint.
- 7) Permits DFEH, in its sole discretion, to investigate potential violations of the MRL that are discovered during the course of an existing investigation, but for which DFEH has not received a formal complaint.

- 8) Provides that DFEH shall have the authority to promulgate any necessary procedural rules to administer complaints and violations of the MRL.
- 9) Establishes in the State Treasury the Mobilehome Residency Law Protection Fund into which funds collected pursuant to the Act shall be deposited. Expenditures from the account shall be used only for the costs associated with the duties of administering the Act.
 - a) Requires DFEH to annually assess upon the management of a mobilehome park a registration fee of five dollars for each mobilehome in the park that is subject to the MRL.
 - b) Provides that mobilehome parks may charge the maximum five dollars of this assessment to homeowners and residents. The purpose of this charge shall be described in writing to each homeowner and resident charged and shall not be passed through to any homeowner or resident in the form of any rent increase. The registration assessment for each mobilehome shall be deposited in the Mobilehome Residency Law Protection Fund.
 - c) Provides that DFEH may file an action to enforce payment of unpaid registration assessments and late fees in the superior court in the county in which the mobilehome community is located. If DFEH prevails, the mobilehome park management shall pay the department's costs, including reasonable attorney's fees, for the enforcement proceedings.
 - d) Requires all receipts from fees, damages or other penalties collected under this article as a result of administering and enforcing the Act, other than those due to a complainant, to be deposited into the Mobilehome Residency Law Protection Fund.
- 10) Defines "management" as the owner of a mobilehome park or an agent or representative authorized to act on his behalf in connection with matters relating to a tenancy in the park.
- 11) Defines "mobilehome" as a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the Vehicle Code, as specified.
- 12) Defines "mobilehome park" as an area of land where two or more mobilehome sites are rented, or held out for rent, to accommodate mobilehomes used for human habitation.
- 13) Defines "homeowner" as a person who has a tenancy in a mobilehome park under a rental agreement.
- 14) Defines "resident" as a homeowner or other person who lawfully occupies a mobilehome.

EXISTING LAW:

- 1) Regulates, pursuant to the MRL, the rights, responsibilities, obligations, and relationships between mobilehome park management and park residents. (Civil Code Section 798, et seq.)

- 2) (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code).
- 3) Establishes DFEH within the state's Business, Consumer Services, and Housing Agency (Govt. Code Section 12901).
- 4) Grants DFEH the authority to, among other things, receive, investigate, conciliate, mediate, and prosecute complaints alleging practices made unlawful pursuant to the Fair Employment and Housing Act (FEHA) (Govt. Code Section 12930).
- 5) Governs the procedure for the prevention and elimination of housing discrimination made unlawful pursuant to FEHA (Govt. Code Sections 12980- 12989.3).

FISCAL EFFECT: Unknown

COMMENTS:

Background: More than 700,000 people live in California's approximately 4,700 mobilehome parks. Mobilehomes are not truly mobile, in that it is often cost prohibitive to relocate them. The cost to move a mobilehome ranges from \$2,000 to upwards of \$20,000 depending on the size of the home and the distance traveled. A mobilehome owner whose home is located in a mobilehome park does not own the land the unit sits on, and he or she must pay rent and fees for the land and any community spaces.

The MRL extensively regulates the relationship between landlords and homeowners who occupy a mobilehome park. A limited number of provisions also apply to residents who rent, as opposed to own, their mobilehome. The MRL has two parts: Articles 1 through 8 apply to most mobilehome parks and Article 9 applies to resident-owned parks or parks which are established as a subdivision, cooperative or condominium. The provisions cover many issues including but not limited to the following: 1) the rental and lease contract terms and specific conditions of receipt and delivery of written leases, park rules and regulations, and other mandatory notices; 2) mandatory notice and amendment procedures for mobilehome park rules and regulations; 3) mandatory notice of fees and charges, and increases or changes in them; and 4) specified conditions governing mobilehome park evictions. A dispute that arises pursuant to the application of the MRL generally must be resolved in a civil court of competent jurisdiction.

This bill would create, for homeowners and residents, an enforcement mechanism for the MRL within DFEH, using DFEH's existing procedures for responding to complaints of housing discrimination. DFEH would also be required to produce written informational materials for homeowners and residents, as well as post statistical reports on its website. To fund the program, mobilehome parks must pay DFEH a registration fee of five dollars for each mobilehome in the park that is subject to the MRL. The parks may pass on this fee to homeowners and residents, but not through an increase in rent.

Need for this bill: According to the author, "the only current remedy available to a mobilehome resident when there has been a violation of the MRL is civil litigation. For seniors on fixed incomes as well as low-income residents, litigation is not an economically feasible enforcement mechanism, particularly for any issue that does not qualify for class-action. There are two data points that speak to the need for the bill. A) The State of Washington has tracked outcomes and

its annual data from 2011 - 2016 (<http://www.atg.wa.gov/program-statistics-and-case-outcomes>) indicates that 95% - 98% of all complaints for violations of a similar MRL statute are made by residents. B) GSMOL has presented members of the Committee with 990 letters (and 1,299 individual mobilehome residents) regarding the need for the bill. A review of those letters highlight specific violations of California's MRL. These violations include selective, inconsistent or no enforcement of park rules, including park owners violating their own park rules of "no subletting" by renting out their mobile homes, but not allowing homeowners to rent out their own mobile homes; interference with home sales; attempts to prevent homeowners from use of the clubhouse, especially for meetings; onsite management failure to keep posted office hours or respond to resident complaints; excessive bullying and threatening behavior by onsite managers; and frivolous charges leading to eviction."

DFEH: DFEH is the largest state civil rights agency in the country with 220 fulltime permanent staff operating out of five offices throughout California. The mission of the DFEH is "is to protect the people of California from unlawful discrimination in employment, housing, and public accommodations and from hate violence and human trafficking." The state's various civil rights laws give DFEH these responsibilities:

- Engage in public outreach and provide training and technical assistance to employers, business establishments, and housing providers regarding their responsibilities under the law;
- Investigate discrimination complaints and cases of systemic discrimination;
- Facilitate mediation and resolution of disputes involving civil rights; and
- Enforce the laws by prosecuting violations in civil court.

DFEH has existing procedures for, among other things, investigating, conciliating, and enforcing allegations of housing discrimination made unlawful pursuant to FEHA.

The Department of Housing and Community Development (HCD): HCD oversees several areas of mobilehome law, including health and safety standards, registration and titling of mobilehomes and parks, and, through the Mobilehome Ombudsman, assists the public with questions or problems associated with various aspects of mobilehome law. The Mobilehome Ombudsman provides assistance by taking complaints and helping to resolve and coordinate the resolution of those complaints. However, the Ombudsman does not have enforcement authority for the MRL, and cannot arbitrate, mediate, negotiate, or provide legal advice on mobilehome park rent disputes, lease or rental agreements, but may provide general information on these issues.

HCD also inspects parks and mobilehomes for health and safety issues. Under the Mobilehome Park Maintenance (MPM) program, HCD annually inspects 5% of parks for compliance with health and safety requirements under the Health and Safety Code (Mobilehome Parks Act) and Title 25. The program is funded through a \$4 fee that the property owner may charge half (\$2) to the homeowners. In addition to the MPM program, HCD also responds to health and safety complaints under the Mobilehome Parks Act.

Washington Manufactured Housing Dispute Resolution Program: Washington State has approximately 1,357 registered mobilehome communities and 61,545 rented mobile home lots throughout the state. In 2007, the Washington State Legislature recognized that there are factors unique to the relationship between a mobilehome tenant and their landlord, as well as the

difficulty and expense of moving and relocating a mobilehome. In response, the State Legislature passed a law to authorize the Attorney General's (AG) Office to administer the Manufactured Housing Dispute Resolution Program (MHDRP). It also authorizes the Department of Revenue (DOR) to register mobilehome communities and collect registration fees to fund the program. Landlords are required to register each pad in their park with the department and pay \$10 per year for each space that is rented to a person who owns their home. Landlords may charge each homeowner a maximum of \$5 per year of this assessment. The fee is then used to fund the MHDRP and cover the DOR registration and licensing costs. Both homeowners and landlords may file a request for dispute resolution under this program, and the AG's Office may negotiate with opposing parties, determine whether further investigation is needed, decide whether a violation has occurred and issue fines and other penalties when appropriate in order to bring compliance with the law.

The MHDRP is required to provide an annual report of its activities to the Washington State Legislature, as well as statistical reports for review on its website. The 2016 Annual Report provides that, during 2016, the program received complaints from 228 mobilehome residents and 4 landlords. The top three types of complaints filed by residents were about rental agreements, utility issues, and park rules and enforcement. The AG initiated formal investigations in 15% of complaints.

Staff comment: This bill would apply DFEH's housing discrimination complaint procedures to the investigation and enforcement of alleged MRL violations, such as unlawful rent increases or disputes about park rules and regulations. DFEH is the state's civil rights agency, and is tasked with preventing and eliminating discrimination based on membership in a protected class. It has never had a role in enforcing the MRL, but does have extensive expertise in investigating, conciliating, and enforcing allegations of a wide variety of housing discrimination by landlords, real estate agents, home sellers, builders, mortgage lenders, and others. This includes allegations involving mobilehome parks and residents. While HCD has existing expertise in certain areas of mobilehome law, such as Health and Safety Code violations and titling and registration issues, it has never had a role in enforcing the MRL. Regardless of where a program such as the one envisioned by this bill is housed, it will certainly involve additional training and other resources due to state agencies' lack of expertise in the MRL.

There are approximately 393,000 mobilehome spaces in the state. This bill would require DFEH to annually assess upon the management of a mobilehome park a registration fee of five dollars for each mobilehome in the park that is subject to the MRL, and would authorize parks to charge this fee to homeowners and residents, although not through a rent increase. This would likely generate a little under \$2 million per year. It is unclear what additional staffing, training, or other resources DFEH would need to implement this program, and whether revenue generated from the five dollar fee would be sufficient.

Arguments in support: According to supporters, including approximately 1,300 mobilehome park residents, if this bill is signed into law, it will provide mobilehome owners a realistic and affordable way to challenge violations of the MRL to better protect property rights and residents' investments in their homes. The Golden State Manufactured Home Owners League (GSMOL) contends that mobilehome owners have "purchased and maintained the largest classification of unsubsidized, affordable housing in our state. As California works toward affordable housing solutions, we need your help to protect us from displacement by park owners who violate the law."

Arguments in opposition: Opponents argue that MRL enforcement is an inappropriate role for DFEH. Opponent Western Manufactured Housing Communities Association (WMA) contends that most of DFEH's duties under this bill are already statutorily mandated to be performed by HCD. WMA suggests that the best solution to help resolve resident complaints is to adequately fund HCD's Office of the Mobilehome Ombudsman to perform their current duties as outlined in statute and not create a new two million dollar program in a different department.

Committee amendments:

The Committee amendments clarify that the definitions in this bill are for the sole purpose of investigation or pursuit of conciliation or remedy arising from a complaint alleging a violation the MRL, and make a technical change.

Related legislation:

AB 1803 (Nava, 2010): Would have created the Mobilehome Residency Law Mediation Act, a dispute resolution program within the Attorney General's Office to resolve disputes related to the MRL. *This bill failed passage in the Assembly Committee on Housing and Community Development.*

REGISTERED SUPPORT / OPPOSITION:

Support

Golden State Manufactured Home Owners League (sponsor)
Sonoma Valley GSMOL
Mobilehome Residents (1,355)

Opposition

California Mobilehome Parkowners Alliance
Western Manufactured Housing Communities Association

Analysis Prepared by: Rebecca Rabovsky / H. & C.D. / (916) 319-2085