

Date of Hearing: May 9, 2012

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Norma Torres, Chair

AB 2272 (Wagner) – As Amended: April 19, 2012

SUBJECT: Mobilehomes: injunctions

SUMMARY: Provides that, until January 1, 2016, the management of a mobilehome park may seek an order enjoining a violation of a park rule or regulation as a limited civil case.

Specifically, this bill:

- 1) Allows management to seek a petition for an order enjoining a continuing or recurring violation of any reasonable rule or regulation of a mobilehome park within the limited jurisdiction of the superior court of the county in which the mobilehome park is located.
- 2) Specifies that an injunction sought pursuant to the above provision shall be considered a limited civil case.
- 3) Includes a sunset date of January 1, 2016, for the above provisions.

EXISTING LAW

- 1) Permits the management of a mobilehome park to petition the court for an order enjoining a continuing or recurring violation of any reasonable rule or regulation of a mobilehome park (Civil Code Section 798.88).
- 2) Permits management to terminate the tenancy if a resident fails to comply with a reasonable rule or regulation of the park that is part of the rental agreement or any amendment thereof. However, no act or omission of the resident shall constitute a failure to comply with a reasonable rule or regulation unless management has given the resident written notice of the alleged rule or regulation violation and the resident has failed to respond, as specified. [Civil Code Section 798.56 (d)]
- 3) Provides that an action or special proceeding shall be treated as a limited civil case if the following conditions are satisfied:
  - a) The amount in controversy, as defined, does not exceed \$25,000;
  - b) The relief sought is a type that may be granted in a limited civil case; and
  - c) The relief sought, whether in the complaint, a cross-complaint, or otherwise, is exclusively of the type described in one or more statutes that classify an action or special proceeding as a limited civil case or that provides that an action or special proceeding is within the original jurisdiction of the municipal court.

(Code of Civil Procedure Section 85)

- 4) Provides that the following types of relief may not be granted in a limited civil case:
  - a) Relief exceeding the maximum amount in controversy for a limited civil case;
  - b) A permanent injunction, except as otherwise authorized by statute;
  - c) A determination of title to real property;
  - d) Declaratory relief, except specified.

FISCAL EFFECT: None

COMMENTS:

Under existing law, when a resident of a mobilehome park violates one of the rules or regulations of the park, management can either terminate the tenancy after giving the resident a 30-day notice to correct the violation, or, if the violation is continuing or recurring, management may seek an injunction ordering the resident to cease or otherwise correct the violation. According to the author, this bill would encourage the owner or management to seek the "lesser remedy" of an injunction instead of the relatively more severe remedy of eviction. While existing law already permits management to seek injunctive relief instead of an eviction when there is a violation, the author and sponsor believe that managers would be more likely to do so and avoid an eviction if the injunction could be sought as a "limited" as opposed to an "unlimited" action in the superior court. According to the author and sponsor, the "unlimited" jurisdiction of the superior court is more expensive and less convenient than a simple eviction filed in the limited jurisdiction of the superior court. In short, because an injunction is currently more expensive than pursuing an unlawful detainer, park management often opts for eviction even though an injunction would be less disruptive for all concerned.

"Limited" vs. "Unlimited" Civil Actions: Prior to their unification in 1998, California had both county superior courts and municipal courts. Among other distinctions, the municipal court had jurisdiction over cases where the amount in controversy was \$25,000 or less and the superior court had jurisdiction over cases above \$25,000. In 1998, the California Constitution was amended to permit unification of the municipal and superior courts into a single superior court system (California Constitution, Article VI, Section 5). Although the municipal courts ceased to exist, civil cases that would have formerly been within the jurisdiction of the municipal courts are now classified as "limited" civil cases, while matters formerly within the jurisdiction of the superior courts are classified as "unlimited" civil actions. The "amount in controversy" distinction, however, remains the same: where the amount in controversy is \$25,000 or less, the action is classified as a "limited" civil case; where the amount is more than \$25,000, it is classified as an "unlimited" civil case.

The classification of a case as either a limited or unlimited action has implications that go beyond the amount of money that the court may award. Most importantly, for purposes of this bill, a plaintiff in a limited civil action may not obtain a permanent injunction and both parties have more limited discovery than litigants in an unlimited case. According to the author and sponsor, this means that it is sometimes cheaper and easier for management to evict a resident who refuses to comply with park rules and regulations than it is seek an injunction ordering the resident to cease the violation. If, however, management could file an injunction as a limited

civil case, the author contends, it would be cheaper to file for an injunction than to file for an unlawful detainer (UD). For example, a survey by the Assembly Judiciary Committee found that in most superior courts, the fee for filing a limited civil case is \$225 while the fee for filing an unlimited case is \$395. The fee for filing a UD action is typically \$240. Existing law creates a financial incentive to evict rather than enjoin (\$240 vs. \$395), while this bill would create a slight financial incentive to enjoin rather than evict (\$225 vs. \$240). Many other factors influence management's decision to choose between enjoining and evicting, including the nature of the violation. For example, a violation can only be enjoined if it is continuing or recurring, whereas in order to evict the violation must be a violation of the rental agreement and the resident must have failed to respond when given a 30-day notice to correct the violation. All other things being equal, however, this bill would tilt the balances in favor of enjoining, and this would presumably be best for both management and the resident. One likely effect of the bill, however, will be to save management \$170 if and when they make the decision to enjoin, even though the decision to enjoin instead of evict might be based on other factors than filing costs.

Sunset Provision: Whatever the economic calculations and its probable effect on management decisions, this bill raises another issue. As noted above, existing law prohibits the granting of injunctive relief in a limited civil case except as otherwise authorized by statute. While existing law permits and anticipates bills of this sort—this bill is providing that authorizing statute—existing law also suggests that at one time the Legislature made a conscious determination that injunctive relief was not generally appropriate in limited civil cases. Why this is so is not entirely clear; it may simply be a byproduct of the fact that limited civil cases inherited the jurisdiction of the old municipal courts and those courts did not provide equitable relief. If that is so, then it may be time to reconsider the rationale for the general prohibition entirely rather than carve out another exception. However, because this bill does carve out an exception to the general rule, the author has decided to include a sunset provision that will permit the Legislature to revisit the issue and ensure that asking judges in limited civil cases to issue injunctive relief does not create unanticipated problems.

Arguments in Support: According to the author:

As a matter of public policy, the availability of injunctive relief promotes quiet enjoyment and reduces disruption in housing. An injunction against a tenant nuisance is a far less drastic remedy than the summary displacement of an eviction. The less intrusive remedy of injunctive relief against violation of mobilehome park rule under Civil Code Section 798.88 is recognition of this policy. Yet, owners are dissuaded because injunctions are filed in the unlimited jurisdiction of the Superior Court, which is a more expensive and less convenient forum for both sides than a simple eviction filed in limited jurisdiction in the judicial district. Parkowners are discouraged from considering a less intrusive remedy. In other words, the injunction is more expensive than pursuing an unlawful detainer, so mobilehome parkowners are more inclined to pursue an unlawful detainer instead.

This proposal would make the process to pursue injunctive relief against a mobilehome park rule under Civil Code Section 798.88, no less burdensome and costly than a comparative and more intrusive remedy of eviction. Simply, the legislation would provide that injunctions for violations of rules and regulations be filed in limited jurisdiction courts.

Double referred: The bill passed on consent the Committee on Judiciary on April 24, 2012, by a vote of 10 to 0.

REGISTERED SUPPORT / OPPOSITION:

Support

Western Manufactured Housing Communities Association

Opposition

None on file

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