

Date of Hearing: August 30, 2018

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 3066 (Mark Stone) – As Amended August 24, 2018

SUBJECT: Mobilehome Residency Law Protection Act

SUMMARY: Establishes the Mobilehome Residency Law Protection Program (MRLP), beginning July 1, 2020, within the Department of Housing and Community Development (HCD) to help coordinate the resolution of complaints from homeowners relating to the Mobilehome Residency Law (MRL). Specifically, **this bill:**

- 1) States the intent of the Legislature to enact the MRLP to protect and safeguard the most vulnerable mobilehome homeowners by affording them an additional avenue to enforce violations of the Mobilehome Residency Law (MRL).
- 2) Provides that HCD shall not arbitrate, mediate, negotiate, or provide legal advice in connection with mobilehome park rent disputes, lease or rental agreements, or disputes arising from lease or regnal agreements but may provide information to the complaining party, management, or other responsible party.
- 3) Requires alleged violations of law or regulations to be referred to the department's Division of Codes and Standards.
- 4) Provides that HCD may refer any alleged violation of law not within its jurisdiction to the appropriate enforcement agency.
- 5) Requires HCD after receiving a complaint, to provide a letter confirming receipt of the complaint and the provisions of the MRL that may relate to the complaint to the complainant. The letter shall also indicate if HCD is referring the complaint to an appropriate enforcement agency.
- 6) Requires HCD to select the most severe, deleterious, materially, and economically impacted alleged violations of the MRL for state evaluation.
- 7) Allows HCD to request various documents from park management when evaluating a complaint and authorizes a \$250 penalty for failure to comply. Provides that HCD shall not provide the documents to any other entity other than the nonprofit legal services provider, an appropriate enforcement agency, or the complainant.
- 8) Requires HCD to notify a complaining party and park owner if the complaint is referred to a nonprofit legal services provider. Gives the homeowner and park owner 25 days to resolve the complaint after which it will be referred to an appropriate enforcement agency or nonprofit legal services provider.
- 9) Allows HCD to aggregate multiple complaints into a single investigation if the complaints involve a common park owner or a common third-party or off-site management entity that manages multiple parks.

- 10) Provides that participation in the administrative procedures authorized by the MRLP is not grounds to authorize a delay in the prosecution of an unlawful detainer action. A court shall not be prevented from exercising any power to delay an unlawful detainer action based upon any other grounds.
- 11) Authorizes HCD to contract with one or more qualified and experienced nonprofit legal service providers and refer complaints that are not resolved for possible enforcement action.
- 12) Requires HCD to contract with a nonprofit legal service provider that meets all of the following requirements:
 - a) Has experience handling complaints, disputes, or matters arising from the provisions of the MRL or matters related to general landlord-tenant law;
 - b) Has experience representing individuals in dispute resolution processes, state court proceedings, and appeals; and
 - c) Has sufficient staff and financial ability to provide legal services to homeowners.
- 13) Requires a nonprofit legal services provider to maintain adequate legal malpractice insurance and agrees to indemnify and hold the state harmless from any claims arising from the legal services provided.
- 14) Provides that a nonprofit legal services provider has sole authority to determine which referred complaints will be addressed or pursued based on the resources provided to it by HCD.
- 15) Requires the non-profit legal services provider to inform HCD of any complaints not handled due to a shortage of resources.
- 16) Prohibits a nonprofit legal services provider from charging a homeowner any fees for any services performed in connection with a complaint referred to it by HCD.
- 17) Authorizes a \$10 fee per on all permitted lots in mobilehome parks to fund the MRLP program. HCD shall collect the fee at the same time it collects the annual operating permit fee imposed by the Mobilehome Park Act.
- 18) Requires HCD, on January 1, 2023, to submit a written report to the Legislature outlining data collected on the MRLP program. The report shall include:
 - a) The amount of fees collected for and expended on the program;
 - b) The total number of complaints received, processed, and referred to an enforcement agency or to a nonprofit legal services provider;
 - c) The types of complaint allegations received;
 - d) The outcome of each complaint received by the program;
 - e) Activities completed by a nonprofit legal services provider;

- f) The most common complaint allegations; and
- g) Recommendations for any statutory or administrative changes to the program.

19) Sunsets the program on January 1, 2024.

20) Includes the following definitions:

- a) "Homeowner" means a person who has tenancy in a mobilehome park subject to a rental agreement.
- b) "Management" means an owner of a mobilehome park or his agent that is authorized to act on his or her behalf on matters of tenancy.
- c) "Mobilehome" means a structure designed for human habitation that may be moved on a street or highway under a permit and a manufactured home as defined in Health and Safety Code Section 18007.
- d) "Mobilehome park" means an area of land where two or more homes are rented out, or held out for rent, to accommodate mobilehomes for human habitation.
- e) "Rental agreement" means an agreement between the management and a homeowner establishing the terms and conditions of a park tenancy. This includes a rental agreement.

EXISTING LAW: Regulates, pursuant to the MRL, the rights, responsibilities, obligations, and relationships between mobilehome park management and park residents. (Civil Code Section 798, et seq.) (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code).

FISCAL EFFECT: According to the Senate Appropriations Committee:

- HCD estimates first-year costs of \$994,000 and annual costs thereafter of \$889,000 in large part for 2.0 Associate Governmental Program Analysts, 3.0 Program Technician II, 1.0 Staff Services Analyst (General), and 1.0 District Representative II to implement the program proposed by this bill. (Fee)
- Contract(s) between HCD and one or more nonprofit legal services of approximately \$3 million annually to evaluate referrals and provide legal assistance to mobilehome owners alleging violations of the MRL. Contract costs would be offset through the collection of a \$10 annual registration fee assessed to mobilehome park management for each lot within a park that is subject to the MRL. (Fee)

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.

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 four 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.

Purpose of the bill: This bill, which will be known as the Mobilehome Residency Law Protection Act, creates a five-year pilot program, housed within the Department of Housing and Community Development and charged with receiving, reviewing, and referring allegations of violations of the MRL to appropriate resources, including legal aid attorneys contracted with the program. To fund the program, at least partially, the bill also imposes a \$10 annual fee on every permitted mobilehome space in the state.

Related legislation: AB 1269 (Stone) would have established 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), until January 1, 2023. The bill was vetoed, below is the veto message:

I am returning Assembly Bill 1269 without my signature.

Beginning July 1, 2020, this bill would require the Department of Fair Employment and Housing to enforce the Mobilehome Residency Law and conduct mandatory dispute resolution between mobilehome residents and park owners.

While well-intentioned, this bill would significantly expand the operations and duties of the Department of Fair Employment and Housing without an adequate fee structure that supports the additional workload.

I believe increased education and enforcement are needed to protect mobilehome owners and residents. For this reason, I am directing the Department of Housing and Community Development to work with the author to make changes to the Mobilehome Assistance Center to address the concerns raised by the sponsors.

REGISTERED SUPPORT / OPPOSITION:

Support

Golden State Manufactured Home Owners League

Opposition

Western Manufactured Housing Communities Association (WMA) (oppose unless amended)

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