

Date of Hearing: April 30, 2014

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Ed Chau, Chair

AB 2026 (Stone) – As Amended: April 21, 2014

SUBJECT: Mobilehome parks: sales.

SUMMARY: Creates a standard that mobilehome park owners must use in determining a prospective mobilehome purchaser's financial ability to pay the rent and park charges and the likelihood a purchaser will comply with park rules and regulations. Specifically, this bill:

- 1) Requires that, upon request of a prospective purchaser of a mobilehome that will remain in the park, management must provide a list of the information it requires in order to determine if the person will be acceptable as a homeowner in the park, together with a copy of the current written procedures, standards or requirements that management will use to evaluate the purchaser's application.
- 2) Requires that, for purposes of approving a mobilehome purchaser, a purchaser is presumed to have the financial ability to pay the rent and park charges if he or she has been approved by a state or federally chartered financial institution for a loan to purchase the mobilehome that the purchaser intends to occupy, and written documentation of this approval has been provided to park management.
- 3) Provides that, where the purchaser has not been approved for a loan to purchase the mobilehome, management must determine the purchaser's financial ability to pay the rent and charges of the park based upon consideration of all asset and income producing information provided by the purchaser.
- 4) Provides that management's income standard for a prospective purchaser must not exceed a multiplier of three times the purchaser's income over the projected housing-related expenses of the proposed mobilehome tenancy.
- 5) Provides that a purchaser who demonstrates sufficient monthly income from all sources that meets or exceeds the income standard disclosed by management is presumed to have the financial ability to pay the rent and charges of the park.
- 6) Prohibits park management from withholding approval of a purchaser on the basis that the purchaser will not comply with the rules and regulations of the park unless management provides the purchaser with documentary evidence that the purchaser has failed to comply with the rules and regulations during a previous tenancy within the three years preceding the application for tenancy.
- 7) Prohibits park management from withholding approval of a mobilehome purchaser solely because the purchaser owns another mobilehome or real property residence, and prohibits management from requiring that the mobilehome be the sole residence of the purchaser.
- 8) Clarifies that, if a purchaser's application is denied, management must notify the purchaser in writing of the specific reason or reasons for the denial.

- 9) Provides that, if a purchaser's application is denied, the selling homeowner and the purchaser may, within five business days of receiving the denial, request an in-person meeting with management. This meeting must take place within ten days, at which time management must reconsider its denial based upon any additional information the purchaser provides.
- 10) Provides that, if the approval of a purchaser is withheld for any unauthorized reason, the management or owner may be held liable for all damages to both the selling homeowner and the prospective purchaser proximately resulting therefrom.
- 11) Provides that, if a mobilehome that will remain in the park is transferred or sold, management may only require repairs or improvements to the exterior of the mobilehome as determined following an inspection by the appropriate enforcement agency.

EXISTING LAW:

- 1) Regulates, pursuant to the Mobilehome Residency Law (MRL), the rights, responsibilities, obligations, and relationships between mobilehome park management and park residents. (Civil Code Section 789, et seq.)
- 2) Provides that the management of a mobilehome park may require prior approval of a purchaser of a mobilehome that will remain in the park. (Civil Code Section 798.74)
- 3) Provides that management cannot withhold approval of a purchaser's application for residency if the purchaser has the financial ability to pay the rent and charges of the park, unless management reasonably determines that the purchaser, based on his or her prior tenancies, will not comply with the rules and regulations of the park. (Civil Code Section 798.74)
- 4) Authorizes management to require the purchaser to document the amount and source of his or her gross monthly income or other means of support, but prohibits management from requiring personal income tax returns in order to obtain approval for residency in the park. (Civil Code Section 798.74)
- 5) Provides that a park management or owner may be held liable for all damages if the approval of a prospective purchaser is withheld for any unauthorized reason. (Civil Code Section 798.74)
- 6) Provides that, in the case of a sale or transfer of a mobilehome that will remain in the park, management may require repairs or improvements to the exterior of the mobilehome if they are based upon or required by a local ordinance or state statute or regulation, or a rule or regulation of the mobilehome park implementing such a law. (Civil Code Section 798.73.5)
- 7) Exempts any mobilehome that is not the principal residence of the homeowner and that has not been rented to another party from rent control. (Civil Code Section 798.21)

- 8) Specifies that a mobilehome is considered the homeowners principal residence unless the homeowner is receiving a homeowner's exemption for another property or mobilehome in California, or unless a review of public records reasonably demonstrates that the principal residence of the homeowner is out of state. (Civil Code Section 798.21)

FISCAL EFFECT: Unknown

COMMENTS:

More than 700,000 people live in California's approximately 4,700 mobilehome parks. 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. In order to sell a mobilehome located in a park, potential buyers must be approved by park management. Homeowners trying to sell their home are therefore reliant on park management to approve the buyer so that the sale can be completed.

Purpose of the bill:

According to the author, park management is not limited in the number of potential buyers they can reject, which places pressure on homeowners to find a buyer that qualifies under the standards set in place by management. The author explains that "most standards are not set or regulated by the state and can vary widely from park to park. As a result, responsible and trustworthy potential buyers can be unfairly turned away." This bill "seeks to protect home owners from unreasonable standards set by mobilehome park owners" by standardizing certain aspects of the approval process for a potential buyer, including defining the phrase "financial ability to pay."

Mobilehome parks' right of prior approval:

There is a delicate balance between a mobilehome park's interest in who resides in the park and a homeowner's right to sell his or her own property. Mobilehomes are not truly mobile, in that it is often cost prohibitive to relocate them. Selling a mobilehome is a three-party transaction, as the park owns the land under the mobilehome and has an interest in who will purchase the home and live in the park. If a park resident is unable to find a purchaser that meets the park's requirements, that resident most often either sells the home to the park owner at below fair market rates or incurs the high expense of moving the home to another park.

Existing law authorizes parks to require the right of prior approval of a purchaser of a mobilehome that will remain in the park. Approval may be withheld if management determines that the purchaser does not have the financial ability to pay the rent and charges of the park, or if management reasonably determines, based on the purchaser's prior tenancies, that he or she will not comply with the park's rules and regulations. AB 2026 clarifies and standardizes the framework for management's right of prior approval of a purchaser, making the process more predictable for buyers and sellers.

A purchaser's financial ability to pay rent and park charges:

AB 2026 requires that, upon request of any prospective homeowner that will remain in the park, management must provide a list of the information they will require to determine if the person will be acceptable as a homeowner in the park. Any income standard set by the park cannot exceed a multiplier of three times the purchaser's income over the projected housing-related expenses in connection with the proposed tenancy. Management must consider all income and asset information provided by the purchaser in considering his or her financial ability to pay.

This bill also shifts the burden, in two specific circumstances, to the park to demonstrate why a purchaser does not financially qualify to live in the park. First, it creates a presumption of a purchaser's financial ability to pay if the purchaser provides documentation that he or she has been approved by a state or federally chartered financial institution for a loan to purchase the mobilehome that the purchaser intends to occupy. Second, in the event that a purchaser has not been approved for a loan to purchase a mobilehome, a purchaser who demonstrates sufficient monthly income from all sources that meets or exceeds the park's income standard is presumed to have the financial ability to pay the rent and charges of the park. However, these presumptions do not mandate that a park accept a purchaser that meets these specifications. Rather, it shifts the burden to the park to demonstrate why the purchaser does not financially qualify. Management is still authorized to require the purchaser to document the amount and source of his or her gross monthly income or other means of support.

A purchaser's compliance with rules and regulations of the park:

Under existing law, management may deny a purchaser's application if it reasonably determines, based on the purchaser's prior tenancies, that he or she will not comply with the park's rules and regulations. AB 2026 narrows this provision by prohibiting park management from withholding approval of a mobilehome purchaser on the basis unless management provides the purchaser with documentary evidence that the purchaser has failed to comply with the rules and regulations during a previous tenancy within the three years preceding the purchaser's application for tenancy.

While the intent behind this section is to standardize the application process and provide a needed level of predictability, it does not address the scenario where a park may already be familiar with a prospective purchaser's previous tenancies due to a prior eviction from the park. The Committee may wish to take an amendment, stated below in the Committee amendments section, providing that a park may deny a purchaser on this basis if he or she has been evicted from the same park where he or she is applying for residency at any time preceding the purchaser's application.

Post-denial procedure:

AB 2026 also makes changes to the law relating to a prospective purchaser's rights if his or her application is denied. Under existing law, there is no right to a post-denial meeting. This bill clarifies that management must notify the prospective purchaser in writing of the specific reason or reasons for the denial. The bill also provides that, if a prospective purchaser is denied, the selling homeowner and the purchaser may, within five business days of receiving the denial, request an in-person meeting with management. This meeting must take place within ten days, and management must reconsider its denial based upon any additional information provided by the prospective purchaser.

Liability:

AB 2026 also provides that, if management denies a prospective purchaser for any unauthorized reason, the management or owner may be held liable for all damages to both the selling homeowner and the prospective purchaser proximately resulting therefrom.

Repairs:

Under existing law, upon the sale or transfer of a mobilehome, management may require repairs or improvements to the exterior of the mobilehome so long as the repair or improvement is based upon or required by a local ordinance or state statute or regulation relating to mobilehomes, or a rule or regulation of the park implementing such a law. AB 2026 provides that management may only require repairs or improvements as determined following an inspection by the appropriate enforcement agency. Nearly 70 local enforcement agencies throughout the state have assumed enforcement powers from the Department of Housing and Community Development (HCD). In those jurisdictions that have not assumed enforcement powers, HCD conducts mobilehome inspections. There is a fee associated with these inspections that varies depending on the enforcement agency.

Sole residence requirement:

AB 2026 prohibits park management from withholding approval of a mobilehome purchaser solely because the purchaser owns another mobilehome or real property residence, and prohibits management from requiring that the mobilehome that is the subject of the purchase be the sole residence of the purchaser as a condition of granting approval. This would apply to, for example, a situation where a purchaser is in the process of selling his or her previous home while purchasing a mobilehome. This bill would not affect the existing provision of the MRL that provides an exemption to rent control for mobilehomes that are not the principal residence of the homeowner.

Arguments in Support:

Supporters contend that most park standards for prospective purchasers are not regulated by the state and can vary widely from park to park. As a result, responsible and trustworthy potential purchasers can be unfairly turned away as a result of the park management approval process. In supporters' view, current law is too vague and has led to numerous problems statewide for manufactured homeowners. A lack of fair standards creates an unfair dynamic that invites abuse, as homeowners who are prevented from completing a sale are often forced to sell their homes at steep discounts, usually to the park. Supporters point to examples of park failing to fairly evaluate buyers and setting unreasonably high standards that frustrate sale completion. In supporters' view, AB 2026 restores balance to the selling-in-park process.

Arguments in Opposition:

Opponents argue that the bill would place the responsibility to approve or disapprove tenancy in the hands of financial institutions, and have concerns that financial institutions only have an interest in determining that a borrower can repay the loan on a mobilehome, but have no interest in the mobilehome park community as a whole. In opponents' view, AB 2026 removes management's ability to filter out a prospective bad tenant, which would be a disservice to

current residents and potentially lead to a costly eviction action. Certain opponents also expressed concerns that requiring an official inspection for repairs upon resale could be cost-prohibitive.

The Committee may wish to accept the amendments below, which make the following substantive changes:

- 1) Provides that a park may deny a purchaser's application if the purchaser has been evicted from the same park where he or she is applying for residency at any time preceding the purchaser's application for tenancy.
- 2) Clarifies that, if management denies a purchaser due to a reasonable determination of noncompliance with park rules and regulations, based on the purchaser's tenancies during the previous 3 years, it shall provide the prospective purchaser with documentary evidence supporting this determination in the written rejection of the purchaser's application.
- 3) Deletes the requirement that management may only require repairs or improvements as determined following an inspection by the appropriate enforcement agency.
- 4) Deletes the language added to the subsection relating to a park's liability, if it denies a purchaser for any unauthorized reason, providing that management is liable to both the seller and the buyer.

Committee Amendments:

- 1) On page 3, in line 15, restore the language "mobilehome." and in lines 15 through 17, strike out "mobilehomes, as determined following an inspection by the appropriate enforcement agency, as defined in Section 18207 of the Health and Safety Code. "
- 2) On page 4, in line 20, strike out "support" and insert:  
  
support, but in no event shall the income standard exceed a multiplier of three times the purchaser's income over the projected housing-related expenses to be paid by the purchaser in connection with the proposed mobile home tenancy.
- 3) On page 4, in line 39, strike out "disclosed by", on page 5, in line 1, strike out "management pursuant to subdivision (d)" and insert:  
  
established pursuant to subdivision (a)
- 4) On page 5, in line 6, strike out "management provides the purchaser with documentary", strike out lines 7 to 9, inclusive, and insert:  
  
either of the following apply:  
(A) The prospective purchaser has been evicted from the same park where he or she is applying for residency at any time preceding the purchaser's application for tenancy.  
(B) Management reasonably determines, based upon the prospective purchaser's

prior tenancies within the three years preceding the purchaser's application, that the prospective purchaser will not comply with the rules and regulations of the park. If management withholds approval on this basis, it shall provide the prospective purchaser with documentary evidence supporting this determination in the written rejection of the purchaser's application pursuant to subdivision (e).

- 5) On page 5, in line 24, after "ability" insert:

to pay

- 6) On page 5, in line 25, strike out "The income standard shall not" and strike out lines 26 to 28, inclusive

- 7) On page 5, in line 39, after "10" insert:

business

- 8) On page 5, in line 40, strike out "denial based upon any", on page 6, strike out line 1 and insert:

denial, including the consideration of any additional information relevant to the application provided by the prospective homeowner.

- 9) On page 6, in lines 4 through 5, strike out "to the selling homeowner and the prospective homeowner"

REGISTERED SUPPORT / OPPOSITION:

Support

Golden State Manufactured-Home Owners League (co-sponsor)  
Western Center on Law and Poverty (co-sponsor)  
California Rural Legal Assistance Foundation (co-sponsor)  
Educational Community for Homeowners (ECHO)  
California Senior Legislature  
Bay Federal Credit Union  
Senior Citizens Legal Services  
City of Capitola  
City of Watsonville  
County of Santa Barbara  
Homeowners Organized To Maintain Equity (H.O.M.E.)  
Northern Santa Barbara County Manufactured Homeowners Team  
Residents of mobilehome parks (3)

Opposition

|  |   |
|--|---|
| Western Manufactured Housing Communities Association (WMA) | Leisure Lake Mobile Estates                             |
| California Mobilehome Parkowners Alliance (CMPA)           | Los Amigos Mobile Home Park                             |
| A V Ranchos Mobile Home Park                               | Mission Mobile Manor                                    |
| Arbor Mobile Home Park                                     | Morehead Park   |
| Bal Trailer Court  | Morro Palms Mobile Lodge                                |
| Beachwood Mobile Home Park                                 | Mountain View Estates                                   |
| Belmont Shores Mobile Estates                              | N & K Commercial Property                               |
| Bessire and Casenhiser, INC                                | Oak Tree Ranch  |
| Birtcher Anderson Realty Management                        | Ojai Valley Estates                                     |
| Boulders At The Lake MHP                                   | Olive Lane Mobile Estates                               |
| Camellia Village Mobil Home Estates                        | Orchard Trailer Park, INC.                              |
| Casa De Santiago   | Palo Mobile Estates                                     |
| Castle City Mobile Home Park                               | Park Lane Mobile Home Estates                           |
| Civic Justice Association of California                    | Peach Mobile Estates                                    |
| Clayton Regency Mobile Home Park                           | PHTRE, LP   |
| Corona La Linda Mobilehome Community                       | Ramble Greek Inc.                                       |
| Crane Lakeside Park and Resort, Inc.                       | Rancho Bonita Mobile Home Park                          |
| Crestview  | Rancho Del Rio Estates                                  |
| Del Ray Estates  | Rancho La Siesta  |
| Delta Hawaii Mobile Home Park                              | Rancho Riverside MHC                                    |
| Desert Sands Estates                                       | Rancho San Jose MHC                                     |
| Diamond K  | Rancho Santa Paula                                      |
| Donner Creek Mobile Park                                   | Rancho Santa Ynez Mobile Estates                        |
| Eagle City Mobile Estates                                  | RDPH Properties, Inc.                                   |
| El Dorado Mobile Home Park                                 | Redwood Village Mobile Home Estates                     |
| El Rancho Verde  | Resident Owned Parks (ROP)                              |
| Evans Management Services (EMS)                            | River Ranch Mobile Home Park                            |
| Fernwood Mobile Home Community                             | RoadRunner Club   |
| Garden Terrace Estates                                     | San Roque MHP   |
| Garden West Estates  | San Vicente   |
| Glenwood Park  | Snug Harbor Mobile Home Park, LLC                       |
| Grecian Isle   | Spanish Ranch 1   |
| Haven Management Services                                  | Stonegate Estates                                       |
| Holiday Island Mobile Home Park                            | T & L Property Management                               |
| Hometown America Communities                               | The Boulder at the Ranch I                              |
| Huntington Harbor Village                                  | The Boulders at the Ranch II                            |
| Imperial Manor Mobile Home Community                       | The Caritas Corporation                                 |
| Imperial Village MHP                                       | The Willows at Bethel Island                            |
| Investment Property Group (IPG)                            | Trade Winds Mobile Estates                              |
| J & C Management, INC                                      | Villa Corona Mobile Home Park                           |
| Lake Los Serranos Company                                  | Vista De Santa Barbara                                  |
| Lakehills Estates  | Woodland Park Mobile Estates                            |
| Lamplighter Mobile Home Park                               | Individual Owners and Managers of Mobilehome Parks (37) |