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BILL ANALYSIS

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Senate Bill 237

Sponsor: Senator Gilbert J. DiNello

Committee: Local Government and Veterans

Date Completed: 3-28-89

SUMMARY OF SENATE BILL 237 as introduced 3-8-89:

The bill would amend the Mobile Home Commission Act to:

- Permit the Mobile Home Code Commission to provide for mediation of disputes.
- Require a park owner to give written notice, as outlined in the bill, if changes were proposed in the amount of lot rental, service or utilities, or rules or regulations of the mobile home park.
- Require the park owner and a committee of homeowners to meet to discuss the proposed change.
- Require the homeowners committee to file with the Department of Commerce a request for mediation, under certain circumstances.
- Prohibit an action relating to a dispute over a proposed change from being filed in any court unless mediation had been requested.
- Require the Commission to promulgate rules on the provision of mediation services.
- Specify that the mediation of a dispute would not be binding unless the parties agreed, and specify that a party would not be foreclosed from bringing an action in court if the parties did not agree to be bound by the mediation.

Notification

A mobile home park owner would be required to give written notice, as outlined in the bill, if he or she proposed to make one or more of the following changes: an increase in the "lot rental amount", which would mean all financial obligations that were required as a condition of tenancy in a mobile home park; a reduction in services or utilities provided by the park owner; or, a change in the rules and regulations of the mobile home park.

Notification would have to be given at least 90 days before the effective date of the proposed change, and would have to be given to each mobile homeowner who would be affected by the change and to the board of directors of a homeowners association of the mobile home park, if such an association had been formed.

A notice would have to contain all of the following:

- A description of the proposed change.
- The effective date of the proposed change.
- Identification of all other homeowners who would be affected by the change. The identification could be by lot number or name. If the homeowners were not identified by name, the park owner would have to make the names and addresses available on request.
- If the change pertained to "pass-through charges", a separate listing for each charge. "Pass-through charge" would mean the homeowner's proportionate share of the necessary and actual costs of a capital improvement to a mobile home park required by law, rule, or ordinance.
- If an increase in the lot rental amount reflected a pass-through charge, the additional payment and starting and ending date of each pass-through charge.

A rule adopted as a result of restrictions imposed by governmental entities to protect the public health, safety, and welfare could be enforced before the expiration of the 90-day period, but the bill specifies that such a rule would not be exempt from other requirements of the bill.

#### Mediation

Within 30 days after the notification required in the bill, the park owner and a committee of up to five homeowners would have to meet at a mutually convenient time to discuss the reasons for the proposed change. Committee members would have to be chosen by the board of directors of the homeowners association, if any, or if there were no homeowners association, by majority vote of the homeowners affected by the proposed change.

Within 30 days after this meeting, the homeowners committee would be required to file with the Department of Commerce a request for mediation, if the majority of the affected homeowners had agreed in writing to one or more of the following: that the increase in the lot rental amount was unreasonable, that the increase had made the lot rental amount unreasonable, that the decrease in services or utilities was not accompanied by a corresponding decrease in rent or was otherwise unreasonable, or that the change in rules and regulations was unreasonable. "Mediation" would mean a process in which a neutral, impartial person met with the parties to a dispute to help them reach a mutually satisfactory resolution of their dispute.

An action relating to a dispute regarding a proposed change could not be filed in any court unless a request had been submitted to the Department for mediation and the request had been processed in accordance with the bill's provisions.

If a party refused to agree to mediate, that party would not be entitled to attorney's fees in any action relating to a dispute regarding a proposed change.

The bill specifies that a homeowners association would have no standing to represent the mobile home park homeowners in a challenge to a proposed change unless a majority of the homeowners agreed, in writing, to such representation.

The Mobile Home Code Commission would be required to promulgate rules, pursuant to the Administrative Procedures Act, to govern the provision of mediation services for settlement of a dispute regarding a proposed change in lot rental amount, services or utilities, and rules and regulations of the mobile home park. The rules also could include provisions regarding payment by the parties for mediation services. The Department would be required to employ or contract with "qualified" individuals to provide mediation services in accordance with the rules.

The bill specifies that the mediation of a dispute regarding a proposed change would not be binding, unless the parties agreed otherwise in writing. If the parties had not agreed to be bound by the result of the mediation or arbitration, a party would not be foreclosed from bringing an action in a court of competent jurisdiction.

MCL 125.2304 et al.

Legislative Analyst: L. Arasim

#### FISCAL IMPACT

Senate Bill 237 would impose additional duties and responsibilities on the Mobile Home Commission housed in the Commerce Department. The passage of the bill could require additional Commission staff to mediate disputes and draft rules. The actual impact on the Commission is indeterminate due to the inability to estimate the numbers of disputes that could require State mediation.

Fiscal Analyst: G. Olson

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.