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House Bill 4054 (Substitute H-3 as passed by the House)
Sponsor: Representative Andy Schor
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 4-22-15

CONTENT

The bill would amend the Mobile Home Commission Act to do the following:

- **Expand the powers and duties of the Manufactured Housing Commission with regard to notifying local units of government of complaints and issuing, amending, or rescinding of guidelines.**
- **Require an applicant for licensure of a mobile home park to provide financial assurance for corrective actions to be taken if the park were determined to be a distressed park; and otherwise expand the requirements for licensure.**
- **Require the Commission to promulgate rules providing standards and procedures to determine whether a mobile home park that was not in substantial compliance with park rules was a distressed park.**
- **Require the Department of Licensing and Regulatory Affairs (LARA), rather than the Department of Environmental Quality (DEQ), to conduct a physical inspection of mobile home parks.**
- **Require LARA to submit a copy of an inspection report to each local unit in which a mobile home park was located.**
- **Increase the maximum civil fine that the Commission may impose for a violation of the Act.**
- **Require LARA to notify local units of government, the mobile home park owner and operator, and the surety executing a financial assurance bond, if it determined that the owner or operator had violated the Act or rules by failing to maintain or repair park infrastructure or facilities.**
- **Allow LARA or its representative to enter a mobile home park and perform maintenance or repairs, if the owner, operator, or surety did not do so within 60 days after the notice was served, and to draw on the financial assurance for the expense of the work.**
- **Allow LARA to grant an extension of up to 90 days to perform maintenance or repairs.**
- **Allow LARA or a local unit to bring an action to enforce regulations and to abate or enjoin a violation, if LARA had ordered a mobile home park owner or operator to correct a violation that imminently threatened the health or safety of park residents or the public and the owner or operator failed to comply.**
- **Allow a local health department to issue an order requiring a mobile home park to cease operations or prohibiting the presence of people at the park, if the condition of the park were an imminent danger to the health or lives of individuals.**
- **Require a State governmental entity or local unit exercising powers or performing duties under the Act to make a list of its powers and duties publicly available.**

The bill would take effect 90 days after its enactment.

Powers of the Commission

The Act created the Mobile Home Commission to oversee the licensure and operation of mobile home parks. Executive Reorganization Order 1997-12 renamed the Commission the Manufactured Housing Commission. The bill would codify that name.

The Act allows the Commission to take certain actions. The bill also would allow the Commission to do the following:

- Post and maintain all current guidelines on the LARA website.
- Promptly notify each local government in which a mobile home park was located of the details of a complaint received by LARA about a condition at a mobile home park or seasonal mobile home park that imminently threatened the health or safety of the park's residents.

In addition, the bill would allow the Commission to promptly notify a local unit of government of the issuance, amendment, or rescission of a guideline if LARA had knowledge that a mobile home park or seasonal mobile home park was located in that local unit, or an application had been filed for the licensure of a park proposed to be located in the local unit. The notice would have to be sent by first-class mail or electronic mail to the clerk and the chief executive officer of the local unit. It also would have to be sent to the local unit's enforcing agency, if the local unit had assumed responsibility for the administration and enforcement of the Single State Construction Code Act and the State Construction Code, or part of the Code, within its jurisdiction.

The bill would define "guideline" as that term is defined in the Administrative Procedures Act (i.e., an agency statement or declaration of policy that the agency intends to follow, that does not have the force or effect of law, and that binds the agency but does not bind any other person).

Mobile Home Park License

The Mobile Home Commission Act prohibits a person from operating a mobile home park or seasonal mobile home park without a license. The term of a license is three years.

Under the bill, LARA could issue a license only if all of the following requirements were met:

- The applicant submitted a complete license application.
- Certifications and recommendations of appropriate agencies and local governments were submitted to and approved by LARA.
- The applicant provided financial assurance, if the park were determined to be a distressed park under rules promulgated under the bill.
- The applicant paid the fee required by the Act.
- The park was approved as being in substantial compliance after its most recent inspection.

Promulgation of Rules

The bill would require the Commission to promulgate rules providing standards and procedures for it to determine whether a mobile home park or seasonal mobile home park that was not in substantial compliance with rules promulgated under Sections 5 and 6 of the Act (described below) was a distressed park. The standards and procedures would have to give the owner an opportunity for an evidentiary hearing and require the Commission to consider at least all of the following:

- The length of time the park had not been in substantial compliance with the rules promulgated under Sections 5 and 6.
- Whether the owner or operator was notified and had sufficient opportunity to bring the park into substantial compliance.
- Any imminent threat to the health or safety of the park's residents.
- Whether the park had been or was likely to be abandoned by the owner or operator.

The Commission also would have to promulgate rules requiring the owner of a distressed mobile home park or seasonal mobile home park to post financial assurance in the form of a bond, cash deposit, or other financial arrangement to ensure the repair and cleanup of the park, including the repair of substandard or noncomplying park-owned utility systems and the removal and disposal of abandoned mobile homes, scrap material, or other waste.

Within 180 days after the bill's effective date, the Commission would have to submit a report of its progress on rule promulgation to the standing committees of the Senate and House of Representatives with primary responsibility for legislation affecting mobile home parks.

(Section 5 of the Act requires LARA, after consultation with and considering comments from representatives of the manufactured housing industry and other interested parties, to promulgate the Mobile Home Code. That Code must consist of rules governing certain factors regarding the construction, density, and layout of mobile home parks as well as their business practices.

Section 6 requires the Department of Environmental Quality, after consultation with and considering comments from representatives of the manufactured housing industry and other interested parties, to promulgate rules for mobile home parks setting forth minimum standards for such things as water and sewage systems, drainage, garbage and rubbish disposal, insect and rodent control, and general operation, maintenance, and safety.)

Inspection of Mobile Home Parks

The Act requires the DEQ or its authorized representative to conduct a physical inspection of mobile home parks and seasonal mobile home parks in accordance with standards it established. The bill instead would require LARA or its authorized representative to conduct a physical inspection of parks in accordance with standards it established. The bill would require LARA to prepare a report documenting the findings of the inspection and submit a copy of the report to each local unit in which the mobile home park or seasonal mobile home park was located.

Sanctions for Violations

The Act provides for various penalties the Commission may impose if, after notice and a hearing, a person is determined to have violated the Act. One of those sanctions is a civil fine of up to \$10,000. The bill would raise the maximum amount of a civil fine to \$50,000.

Notice of Violation

Under the bill, if LARA determined that the owner or operator of a mobile home park or seasonal mobile home park had violated the Act or rules promulgated under it by failing to maintain or repair any park infrastructure or facilities, the Department would have to give notice of the determination by personal service or first-class mail to each of the following:

- The local units where the park was located.
- The owner.
- The operator.
- The surety executing a bond, if financial assurance in the form of a bond had been posted.

If the owner, operator, or surety did not perform the specified maintenance or repair within 60 days after service of the notice, LARA or its authorized representative could enter the park and perform the maintenance or repair. At the request of the owner, operator, or surety, LARA could grant an extension of up to an additional 90 days. The owner, operator, and any surety would be jointly and severally liable for all expenses incurred by the Department or its authorized representative in performing the specified maintenance or repair. The bill would require LARA to certify the claim to the owner, operator, and surety, listing in the claim the items of expense in performing the work. The Department also would have to draw on any financial assurance for the payment of the claim. When the specified maintenance or repair was completed, LARA would have to notify the local government where the park was located.

Failure to Comply with Correction Order; Court Action

Under the bill, if LARA ordered the owner or operator of a mobile home park or seasonal mobile home park to correct a violation of the Act or rules promulgated under it that imminently threatened the health or safety of the park's residents or the public, and the owner or operator failed to comply with the order, the Department or the local unit could bring an action to enforce the applicable regulations and to abate or enjoin the violation.

If the violation were not corrected, and it imminently threatened the health or safety of the residents or the public, LARA or the local unit could file a motion for a preliminary injunction or other temporary relief appropriate to remove the threat while the action was pending.

The bill would require LARA or the local unit to serve a copy of the complaint and summons on each owner and lienholder of record, and any operator, of the park that could be identified with the exercise of reasonable diligence. The local unit also would have to file a notice of the action with the county register of deeds.

The court would have to make orders and determinations consistent with the objectives of the Act. The court could enjoin the maintenance of an unsafe, unhealthy, or unsanitary condition, or violation of the applicable regulations, and could order the defendant to perform maintenance and repairs or make other corrections including removal of a building or structure necessary to abate the condition. The court could authorize LARA or the local unit to perform maintenance or repairs or to remove a building or structure owned or operated by the owner or operator of the park. The court, however, could not authorize removal of a building or structure unless the cost of repair would be greater than its State equalized value.

If the expense of maintenance, repair, or removal were not otherwise provided for, the court could enter an order approving the expense and place a lien on the real property for the payment of the expense. The order could establish the lien as a senior lien, except as to tax and assessment liens and a mortgage of first priority recorded before all other liens of record. The order also could specify the time and manner for foreclosure of the lien if it were not satisfied. For the lien to be perfected, a copy of the order would have to be filed with the county register of deeds within 10 days after the order was entered.

Order to Cease Operations

If the condition of a mobile home park or seasonal mobile home park were an imminent danger to the health or lives of individuals, the local health department could issue an order under Section 2451 of the Public Health Code, including an order requiring the park to cease operation or prohibiting the presence of people at all or part of the park because of its condition.

(Under Section 2451 of the Public Health Code, upon a determination that an imminent danger to the health or lives of individuals exists in the area served by the local health department,

the local health officer must immediately inform the individuals affected by the imminent danger. The health officer also is required to issue an order that must be delivered to a person authorized to avoid, correct, or remove the imminent danger or be posted at or near the site of the danger. The order must require immediate action necessary to avoid, correct, or remove the imminent danger. It also may specify actions to be taken or prohibit the presence of people in locations or under conditions where the imminent danger exists.)

List of Powers & Duties

The bill would require any State governmental entity or local unit that exercised powers or performed duties under the Act to make publicly available a list of its powers and duties under the Act. For this purpose, a local unit could use a list prepared by a statewide association.

MCL 125.2302 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the Manufactured Housing Commission within the Department of Licensing and Regulatory Affairs, as well as local units of government. Under the bill, the Commission would have to promulgate rules, resulting in some new administrative costs. The rules would require owners of distressed mobile home parks to post a surety bond or cash deposit that could be drawn upon to pay for repairs to substandard utility systems and other costs. Surety posted by the owner of a distressed mobile home park would allow LARA to recoup some of its costs related to the actual work done to remedy a situation resulting from a violation of the Act, and the bill would allow a court to place a lien against the property for costs in excess of the surety. These two mechanisms appear to be sufficient to cover LARA's repair costs, but they do not appear to cover administrative and legal costs that would likely be associated with addressing these sorts of issues. Those costs would be borne by existing resources, and are unknown.

The bill would increase the maximum civil fine for violations of the Act from \$10,000 to \$50,000. Revenue from these fines is credited to the Mobile Home Code Fund, which supports the program. According to an accounting query on the Michigan Administrative Information Network, an average of approximately \$21,700 was collected from these fines annually over the last 10 years. If it is assumed that the average fine would increase by a factor of five under the bill, given the increase in the maximum, average revenue from these fines would increase by \$86,800 each year.

Overall, the fiscal impact of the bill is indeterminate for LARA. The bill would likely result in a small amount of new revenue for LARA from increased civil fines, but it also would create new responsibilities. The fiscal impact of the bill would depend on how many distressed mobile home parks would require action from LARA and whether the administrative costs associated with those actions would be higher than the revenue generated by increased fines.

Fiscal Analyst: Josh Sefton

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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.