



**House  
Legislative  
Analysis  
Section**

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**MANUFACTURED HOMES:  
CHANGES TO MOBILE HOME ACT**

**House Bill 5169 as introduced  
Sponsor: Rep. Gene DeRossett**

**House Bills 5170 and 5177 as introduced  
Sponsor: Rep. Gloria Schermesser**

**House Bill 5176 as introduced  
Sponsor: Rep. Patricia Lockwood**

**House Bill 6080 as introduced  
Sponsor: Rep. Randy Richardville**

**Committee: Commerce  
First Analysis (5-29-02)**

**House Bills 5169, 5170, 5176, 5177 and 6080 (5-29-02)**

***THE APPARENT PROBLEM:***

A bipartisan work group sponsored by the House of Representatives has been wrestling this session with the difficult issue of how to regulate mobile home parks or, as they are now known, manufactured home communities. The appeal of manufactured homes is obvious; they represent relatively low-cost housing, which is especially important given the steep rise in land values and home values in some areas of the state. Put simplistically, local units of government want more control over the siting, development, and inspection of manufactured home communities. The issues facing local government vary from place to place (although the issue of local control remains constant). In many areas, particularly rural parts of the state, residents and local officials are concerned about new park developments. The development of a new manufactured home park or community can have a significant impact, sometimes dramatically increasing a municipality's population, including its school enrollment. This can strain a local unit's ability to provide services and infrastructure, overload school buildings, adversely affect natural resources, and change the character of rural areas.

In areas where there are already a substantial number of older parks, local governments are concerned about the ability to enforce ordinances that protect the health and safety of residents both inside and outside of the parks. Parks in place before the creation of the Mobile Home Commission Act, which first took effect in 1977, do not have to meet the construction standards that newer homes do. In yet other areas, where manufactured housing is common,

and where the homes can be larger and more expensive than conventional housing, the issue is the overcrowding of schools and the lack of the ability of local units to capture the revenue from the parks or communities to cover the costs of school building, due in large part to the unique tax status of homes in manufactured home parks. (Manufactured homes in parks or communities pay a \$3 per month specific tax instead of property taxes that other homes, including manufactured homes on regular lots, pay. While \$2 of that goes to the state for schools, none of it is available for school construction. Home purchasers must, however, pay sales or use taxes, and the park owners pay property taxes at commercial rates.) It should be noted that the manufactured housing industry disputes the portrait drawn by local units.

Local units of government are limited in their jurisdiction over manufactured home communities by a state law, the Mobile Home Commission Act. That act charges a state commission with promulgating a mobile home code to govern, among other things, "the licensure, density, layout, permits for construction, [the] construction of mobile home parks, including standards for roads, utilities, open space, proposed recreational facilities, and safety measures sufficient to protect [the] health, safety, and welfare of mobile home park residents". The parks or communities require a license from the Department of Consumer and Industry Services. The act gives the regulation of water supply, sewage collection, and treatment to state health officials (and

that function is now the responsibility of the Department of Environmental Quality).

The mobile home code also addresses the business, sales, and service practices of dealers, installers, and repairers; governs the setup and installation of homes inside parks or communities; and regulates aspects of the business of mobile home manufacturers and assemblers. Further, the act contains limits on mobile home or manufactured housing ordinances of local units of government. A local unit can propose standards higher than those found in the state code, but they require the approval of the commission before local adoption. The commission is an 11-member panel appointed by the governor, with representation from home manufacturers, park owners, park residents, financial institutions, labor, and local government. Representatives of local government say the commission is too heavily weighted in favor of the industry at the expense of the interests of local units of government.

Local units say that in addition to these restrictions, often when they attempt to use their own master plans and zoning ordinances to determine where manufactured home communities ought to be located, they face resistance and litigation from developers. Reportedly, there are local units in the state levying taxes, or contemplating levying taxes, to pay for litigation costs. There are a number of other issues as well, stemming from the unique circumstances in parks or communities whereby a person or family owns the home but does not own the land that it sits on, and from the fact that a home in a manufactured home community is treated in some ways more like a vehicle than a house under state law.

The legislators associated with the work group have prepared legislation to begin addressing many of the issues associated with manufactured housing communities (although the work continues) and some of that legislation has been under discussion at the standing committee level.

### ***THE CONTENT OF THE BILLS:***

The Mobile Home Commission Act provides for the licensing and regulation of mobile home parks and of mobile homes. All but one of the bills in this package would amend that act.

House Bill 5169 would amend the act (MCL 125.2301 et al.) in a number of ways, notably to substitute the terms "manufactured home" and "manufactured housing" for the term "mobile home". The act would be renamed the Manufactured Housing

Commission Act. Similarly, the Mobile Home Commission would be renamed the Manufactured Housing Commission.

The term "manufactured home" would have the same definition in the act as the term "mobile home" does at present, with the addition that for a manufactured home manufactured after June 15, 1976, the term would include a structure constructed in accordance with the federal National Manufactured Housing Construction and Safety Standards Act of 1974.

Nomenclature. House Bill 5169 would make a number of changes in terminology, including the substitution of "community" for "park" (as in manufactured home community rather than mobile home park); "retailer" for "dealer"; "servicer" for "repairer"; "certificate of ownership" for "certificate of title"; "customer" for "consumer"; and "resident" for "tenant". References to the Department of Public Health would be replaced by references to the Department of Environmental Quality (which reflects current practice). Also, references to the Department of Commerce would be replaced by references to the Department of Consumer and Industry Services. (House Bill 5170 would continue to use the term "tenant" rather than adopting the term "resident".)

Repossession. The act currently prohibits someone who owns or operates a mobile home park from engaging in, or allowing an employee or agent to engage in, various unfair or deceptive practices. House Bill 5169 would add to this list 1) requiring a repossession lender to pay a homeowner's debt incurred before repossession of the manufactured home; and 2) prohibiting a repossession lender from selling a manufactured home on-site.

No Minimum Home Value. The act currently allows mobile home park rules and regulations to include provisions governing the physical condition and the aesthetic characteristics of mobile homes in relation to the park in which they are located. However, the age or size of a home cannot be used as the sole basis for refusing to allow an on-site, in-park sale or for refusing to allow a home to remain on site. House Bill 5169 would specify that the community rules or regulations could not establish minimum value or minimum sale price of a manufactured home as a condition to an in-community sale of the home.

Repealer. House Bill 5169 would repeal Section 49 of the act. That section was added when the Mobile Home Commission Act was reenacted in 1987 after an earlier attempt to extend the sunset in the original act was declared unconstitutional by the attorney general due to a defect in the act's title. It is a

declaration of the legislature's intent to validate the mobile home commission's existence and actions during the period of uncertainty that resulted from that situation.

House Bill 5170 would amend sections of the Revised Judicature Act of 1961 (MCL 600.4704 et al.) that deal with tenancy in mobile home parks, to adopt the same terminology found in House Bill 5169. House Bill 5170 is tie-barred to House Bill 5169.

House Bill 5176 would amend the Mobile Home Commission Act (MCL 125.2303) to change the composition of the commission membership. The 11-member commission currently contains one elected official from local government and one representative of organized labor. Under the bill there would be two elected local government officials and the separate organized labor representative would be deleted. Currently, however, the commission contains one resident of a licensed mobile home park with 100 or more sites and one resident from a smaller park. The bill would specify that one of those resident members would also have to be a representative of organized labor.

(The commission membership currently consists of a representative from an organization representing mobile home residents; a representative of financial institutions; three operators of mobile home parks, two from parks with 100 or more sites and one from a park with fewer than 100 sites; a representative of organized labor; an elected official of a local government; a licensed mobile home dealer; two residents of mobile home parks, one from a park with 100 or more sites and one from a park with fewer than 100 sites; and a manufacturer of mobile homes.)

House Bill 5177 would amend the Mobile Home Commission Act (MCL 125.2307a) to require the commission to promulgate rules to allow a local government to adopt higher standards for a mobile home park or seasonal mobile home park without commission approval if the local unit's standards met the requirements enumerated in those promulgated rules.

(Currently, the act requires that a local government proposing a standard higher than the standard provided in statute or in the code promulgated by the commission to file the standard with the commission for review. The proposed standard is to be approved unless it is unreasonable, arbitrary, or not in the public interest. The act specifies that a local government ordinance cannot be designed as

exclusionary to mobile homes generally. The commission is currently permitted, but not required, to promulgate rules to establish the criteria for the implementation of higher standards by a local government.)

House Bill 6080 would amend the Mobile Home Commission Act (MCL 125.2345) to specify that nothing in the act prohibits a municipality from enforcing a local health or safety ordinance within a mobile home park or seasonal mobile home park if that local ordinance is not in conflict with the provisions of the act or rules promulgated by the Mobile Home Commission.

The bill would strike existing language in the act stating: "This act shall not be construed to prohibit a municipality from enforcing its local ordinances or from taking any other appropriate action to protect the public health, safety, or welfare, as authorized by law or its charter".

#### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency reports that all but one of the bills would have no fiscal impact on the state or on local units of government. House Bill 5177, says the agency, would have one-time costs related to the require promulgation of rules. These costs could be offset over time by cost savings to the Manufactured Housing Commission, as the commission would no longer have to review proposals for higher standards when those standards complied with commission rules. (HFA committee analyses of each bill, dated 5-13-02)

#### ***ARGUMENTS:***

##### ***For:***

The package of bills represents first steps toward providing local units of government more control over the development, siting, and inspection of mobile home parks (which would be officially referred to as manufactured housing communities), as well as increasing their ability to enforce local codes within the parks. It does this in a number of ways. First, it increases the number of seats on the state's manufactured housing commission for representatives of local units of government. Since the decisions made by the commission regarding the design and development of manufactured housing communities have a significant impact on townships, villages, and cities, it makes sense for local elected officials to have a larger voice and more influence than they currently have. (The commission would

still be weighted towards the manufactured home industry.)

The package also would provide a means for local governments to adopt higher standards for manufactured housing parks without having to go to the state commission each time for approval as is required now. Instead, the state commission would be required to promulgate rules setting forth in advance the requirements for higher local standards, and then local governments that meet those requirements could adopt higher standards for manufactured housing communities without commission approval. State law would also be amended in this package to specifically allow a municipality to enforce local and health and safety ordinances within a manufactured home community. Local officials have cited cases of their being restricted from the full enforcement of local ordinances to protect residents from unsafe conditions.

The package also modernizes the act, particularly with regard to terminology. Many of the terms adopted are already in use by the industry or by regulators (adopted administratively), but the statute should properly reflect this as well. The terms "trailer" and "mobile home" are simply inadequate today given the nature of the manufactured housing being produced. Many of these are large, expensive homes.

**Response:**

Some representatives of local government have termed the package "disappointing" and "superficial" and would prefer much stronger provisions regarding the jurisdiction of local units over mobile home parks or manufactured home communities. Some people believe that while the state commission is the proper forum for matters relating to industry standards and practices and for disputes between park owners and residents, it should not have oversight over the location and building of parks. That should be the purview of local planning boards and governing bodies. The package also does not address the issue of the taxation of these residential units. One representative of local government has said that if the residences are to be referred to as "manufactured homes" rather than "mobile homes" or "trailers", then they should pay property taxes like other homes (and like manufactured homes outside of parks) rather than paying special mobile home or trailer taxes. It should also be noted that the bills do not address the problem facing schools of how to derive more revenues for school construction purposes from manufactured home communities to deal with the

space problems in schools that the communities create.

**Rebuttal:**

Proponents of addressing manufactured home issues acknowledge that this package is only a start and that work needs to continue on such issues as taxation, resident rights, and on strengthening local control. It may well be that the package will change as it works its way through the legislative process.

**Against:**

Industry representatives have said that many of the complaints about manufactured housing communities are unfounded or overdrawn. Local units, for example, do have the ability to plan for and zone for manufactured home communities. Often they don't do so, or they do it inadequately or unrealistically. While local governments complain about litigation from developers, they often in essence allow the courts to do their planning for them due to their own inaction or intransigence. Developers are within their rights to sue when local units enact ordinances that make development uneconomical or impractical. (For example, a township might require parks be connected with sewer service and municipal water but provide no such services in the township.) The manufactured housing commission does not choose sites for parks or communities. It cannot overturn local zoning. It can review local ordinances aiming to regulate matters inside the park and can it protect developers from exclusionary zoning regulations. Contrary to complaints about the "heavy industry presence" on the commission, the commission is quite balanced, with five industry members, five consumer and government members, and one member representing financial institutions. There are few split votes in any case, and most votes are unanimous. And if there are complaints about communities with health and safety violations, local units should turn their attention to the Department of Environmental Quality, which has jurisdiction. Moreover, manufactured home communities often face stricter regulations than conventional subdivisions. While taxes are not specifically at issue in this package, it should be noted that manufactured home community owners and operators dispute the charge that they do not pay their fair share of taxes. Park owners pay property taxes at the business or commercial rate, and owners of manufactured homes pay sales or use taxes when purchasing the units (and the tax is paid each time they are sold), in addition to the specific tax. They say the problem is how the revenues are distributed.

***POSITIONS:***

The Michigan Municipal League supports the concept of the bills. (5-28-02)

The Michigan Township Association is not opposed to the bills but is disappointed they do not accomplish more. (5-28-02)

SEMOG (the Southeast Michigan Council of Governments) does not support the bills (5-29-02)

The Department of Consumer and Industry Services does not have a position on the bills at present. (5-28-02)

The Michigan Manufactured Housing Association opposes each of the bills. (5-28-02)

Analyst: C. Couch

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.