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BILL ANALYSIS



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House Bill 4868 (Substitute H-5 as passed by the House)
House Bill 4869 (Substitute H-4 as passed by the House)
Sponsor: Representative Ruth Ann Jamnick
House Committee: Local Government and Urban Policy
Senate Committee: Local, Urban and State Affairs

Date Completed: 9-23-04

CONTENT

House Bill 4868 (H-5) would create the "Manufactured Home Owners' Residency Act" to prohibit the owners and operators of manufactured home parks from taking certain actions, including denying a park resident the right to sell his or her home; requiring a resident to remove the home from the park solely on the basis of a sale or proposed sale; and directly or indirectly prohibiting the use of a "for sale" sign within the park. The bill also would require a park owner or operator to give residents a 30-day notice before implementing an increase in a fee, charge, or other type of assessment relating to park residency. In addition, the bill would provide for civil fines and remedies.

House Bill 4869 (H-4) would create the "Manufactured Homeowners Association Act" to allow a park resident to organize a homeowners' association that a park owner would be prohibited from harassing, evicting, or retaliating against and permit a park resident who organized an association to distribute fliers and knock on doors in the park no more than once each calendar year.

The bills are tie-barred to each other.

House Bill 4868 (H-5)

Under the bill, a park owner would not be allowed to make or enforce a rule, regulation, policy, or rental agreement provision that did any of the following:

- Denied a park resident the right to sell the resident's manufactured home within the manufactured home park.
- Required a park resident to remove the manufactured home from the park solely on the basis of a sale or proposed sale of the home.
- Required a park resident to remove a manufactured home from a manufactured home park for the purpose of renovating or modernizing the park.

("Park owner" would mean an owner or operator of a manufactured home park. "Park resident" would mean an owner of a manufactured home who rented a lot in a manufactured home park, including a member of the homeowner's household.)

The bill would prohibit a park owner from interfering with a park resident's right to sell the resident's manufactured home within the manufactured home park.

A park owner also would not directly or indirectly prohibit the use of a "for sale" sign within a manufactured home park, but could impose either a size or a location restriction on a "for sale" sign displayed within a park.

A park owner could prohibit the placement of more than two political yard signs, measuring more than 22 by 28 inches, per manufactured home site during a period of time beginning four weeks before and one week after an election unless a longer or shorter time period was provided in an applicable local ordinance. ("Political yard sign" would mean a campaign sign that demonstrated a position on current candidates for public elected office or current proposals for public vote.)

A park owner that violated one of the provisions described above would be subject to a maximum civil fine of \$500 for each violation. The fine would have to be paid to the State Treasurer for deposit into the General Fund. The civil fine would be in addition to, but not limited by, a criminal penalty prescribed by the Act.

A park owner would be prohibited from threatening a park resident with an unlawful eviction in violation of Section 5775 of the Revised Judicature Act (which requires just cause for the termination of a tenancy). A park owner also could not initiate an unlawful eviction against a resident. A person who either threatened or initiated an unlawful eviction would be guilty of a State civil infraction and subject to a civil fine of up to \$500.

A park owner who charged residents for utilities could offer a discount incentive of up to 10% for early payment of utility bills.

If a park owner chose to develop rules regulating the size and weight of trucks within the manufactured housing community, the rules could not prohibit commercial pickup trucks.

A park owner would have to provide a park resident with 30 days' notice before implementing an increase in a fee, charge, or other type of assessment relating to a manufactured home park residency.

A park owner would be prohibited from establishing a rule or regulation that was unreasonable, arbitrary, or capricious. A park owner's enforcement of any rule or regulation, including one related to eviction, could not be in retaliation for a park resident's attempt to secure or enforce rights under the proposed Act, any law of the State, any law of a political subdivision of the State, or any law of the United States.

The Attorney General or an affected individual could bring an action to enforce the proposed Act in a court of competent jurisdiction in the county where the defendant resided or did business. A person whose rights were affected because of a violation of the Act would be entitled to recover actual damages or \$500, whichever was greater, and reasonable attorney fees. The court also could consider equitable remedies, including injunctive relief.

The bill would define "manufactured home" as a structure, transportable in one or more sections, that was built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, including the plumbing, heating, air-conditioning, and electrical systems contained in the structure. It would include a manufactured home as defined in Section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974.

"Manufactured home park" would mean a parcel or tract of land under the control of a person upon which three or more manufactured homes were located on a continual, nonrecreational basis that was licensed or licensable for use as a manufactured home park by the State and that was offered to the public for that purpose regardless of whether a

charge was made for that purpose, together with a building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

House Bill 4869 (H-4)

Under the bill, a park resident could organize a manufactured homeowners association. In organizing the association, the resident would be allowed to do both of, but would not be limited to, the following: distributing fliers regarding the organization of the association, and knocking on doors within the park in which he or she was a resident. A resident could not engage in these activities more than once each calendar year.

A park owner would be prohibited from harassing, evicting, or retaliating against a park resident because the resident organized, was organizing, became, or was becoming a member of a manufactured homeowners association. A park owner could not interfere with the organization or operation of a manufactured homeowners association. This would include interference by denying the association the use of common areas or meeting space otherwise available to park residents.

A park owner that made the common area available to a manufactured homeowners association under the same terms and conditions under which the common area was made available to other residents, including appropriate rental fees, a damage deposit, and allocation of cleanup responsibilities, would not have interfered with or denied the use of the common area to the association.

An organizational meeting for a manufactured homeowners association could be held not more than once each calendar year. Any park resident could attend the meeting and join the association. At the organizational meeting, park residents would have to vote on the adoption of bylaws and officers. Adoption of the bylaws and election of officers would have to be by a majority vote of park residents attending the meeting.

Any time after a manufactured homeowners association was organized, it could be dissolved by a vote of the majority of the association members. If the association had funds remaining after dissolution, they would have to be used first to cover the association's outstanding debt. Any funds that remained after the debt was paid would have to be distributed, pro rata, to the members of the association.

The Attorney General or an affected individual could bring an action to enforce the proposed Act in a court of competent jurisdiction in the county where the defendant resided or did business. A person whose right was affected because of a violation of the Act would be entitled to recover actual damages or \$500, whichever was greater, together with reasonable attorney fees. The court also could order equitable relief, including injunctive relief.

The Act's definitions of "manufactured home", "manufactured home park", "park owner", and "park resident" would be the same as those proposed by House Bill 4868 (H-5).

Legislative Analyst: J.P. Finet

FISCAL IMPACT

To the extent that the bills would increase the circumstances under which someone could pursue civil litigation related to manufactured housing communities, they potentially would increase judiciary costs. House Bill 4868 (H-5) would potentially increase State and local revenue by creating a civil fine of up to \$500 per violation of the proposed Section 4

(regarding signs), which would be directed to the State General Fund, and creating a new civil infraction with a civil fine of up to \$500 per violation of the proposed Section 6 (regarding unlawful evictions), which would be dedicated to public libraries.

Fiscal Analyst: Bethany Wicksall

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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.