

Act No. 40
Public Acts of 2015
Approved by the Governor
June 3, 2015
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EFFECTIVE DATE: September 1, 2015

STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2015

**Introduced by Reps. Schor, Derek Miller, Rutledge, Driskell, Yonker, Kivela, Victory, Crawford, Plawecki,
Rendon and Dianda**

ENROLLED HOUSE BILL No. 4054

AN ACT to amend 1987 PA 96, entitled "An act to create a mobile home commission; to prescribe its powers and duties and those of local governments; to provide for a mobile home code and the licensure, regulation, construction, operation, and management of mobile home parks, the licensure and regulation of retail sales dealers, warranties of mobile homes, and service practices of dealers; to provide for the titling of mobile homes; to prescribe the powers and duties of certain agencies and departments; to provide remedies and penalties; to declare the act to be remedial; to repeal this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 2, 4, 16, 17, 43, and 48 (MCL 125.2302, 125.2304, 125.2316, 125.2317, 125.2343, and 125.2348), section 2 as amended by 2012 PA 588, sections 4, 16, and 17 as amended by 2006 PA 328, and section 43 as added by 1988 PA 337, and by adding sections 48b and 50.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

(a) "Campground" means a campground as defined in section 12501 of the public health code, 1978 PA 368, MCL 333.12501.

(b) "Code" means all or a part of the mobile home code promulgated under section 5.

(c) "Commission" means the manufactured housing commission.

(d) "Department" means the department of licensing and regulatory affairs, except as follows:

(i) Department means the department of state in all of the following circumstances:

(A) As used in section 5(1) with respect to rules promulgated under section 5(1)(h).

(B) As used in section 9(5) with respect to rules adjusting fees under section 30a or 30c.

(C) As used in sections 30 to 30i.

(ii) Department, as used with respect to powers and duties concerning water supply systems and sewage collection and disposal systems for mobile home parks and seasonal mobile home parks, means the department of environmental quality.

(e) "Guideline" means that term as defined in section 3 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.203.

(f) “Installer and repairer” means a person, including a mobile home dealer, who for compensation installs or repairs mobile homes.

(g) “Local government” means a county or municipality.

(h) “Mobile home” means a structure that is transportable in 1 or more sections, built on a chassis, and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

(i) “Mobile home dealer” means a person other than a manufacturer engaged in the business of buying mobile homes for resale, exchange, lease, or rent or offering mobile homes for sale, lease, rent, or exchange to customers.

(j) “Mobile home park” means a parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

(k) “Municipality” means a city, village, or township.

(l) “Person” means an individual, partnership, association, trust, or corporation, or any other legal entity or combination of legal entities.

(m) “Recreational vehicle” means a vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

(n) “Seasonal mobile home park” means a parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual or temporary basis but occupied on a temporary basis only, and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home. Seasonal mobile home park does not include a campground licensed pursuant to sections 12501 to 12516 of the public health code, 1978 PA 368, MCL 333.12501 to 333.12516.

(o) “Secured party” means that term as defined in section 9102 of the uniform commercial code, 1962 PA 174, MCL 440.9102.

(p) “Security interest” means that term as defined in section 1201 of the uniform commercial code, 1962 PA 174, MCL 440.1201.

(q) “Termination statement” means that term as defined in section 9102 of the uniform commercial code, 1962 PA 174, MCL 440.9102.

Sec. 4. (1) The commission may do all of the following:

(a) After consultation with and considering comments from representatives of the manufactured housing industry and other interested parties, recommend rules to the department to implement and administer this act.

(b) Act for the purpose of establishing a uniform policy relating to all phases of mobile home businesses, mobile home parks, and seasonal mobile home parks.

(c) Determine the sufficiency of local mobile home ordinances that are designed to provide local governments with superintending control over mobile home businesses, mobile home parks, or seasonal mobile homes parks.

(d) Conduct public hearings relating to the powers prescribed in this subsection.

(2) The director or an authorized representative of the director shall do all of the following:

(a) After consultation with and considering comments from representatives of the manufactured housing industry and other interested parties, promulgate rules to implement and administer this act.

(b) Conduct hearings relating to violations of this act or rules promulgated under this act.

(c) Make investigations to determine compliance with this act and rules promulgated under this act.

(d) Provide assistance to the commission as the commission requires.

(e) On not less than a quarterly basis, report to the commission on the expenditure of all fees collected under this act and the relation of those expenditures to the enforcement and administration of this act.

(f) Post and maintain on the department’s website all current guidelines.

(g) Promptly notify a local government of the issuance, amendment, or rescission of a guideline if the department has knowledge that a mobile home park or seasonal mobile home park is located in, or an application has been filed for the licensure of a park proposed to be located in, the local government. The notice shall be sent by first-class mail or electronic mail to each of the following:

(i) The clerk of the local government.

(ii) The chief executive officer of the local government.

(iii) The enforcing agency for the local government if, under section 8a or 8b of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1508a and 125.1508b, the local government has assumed responsibility for the administration and enforcement within its jurisdiction of that act and the state construction code or a part of the state construction code of limited application.

(h) If the department receives a complaint about a condition at a mobile home park or seasonal mobile home park that imminently threatens the health or safety of the residents of the park, promptly notify each local government in which the park is located of the details of the complaint.

(3) The commission shall not regulate mobile homes that are not located within a mobile home park or a seasonal mobile home park, except as relates to the business, sales, and service practices of mobile home dealers and the business practices of mobile home installers and repairers.

Sec. 16. (1) A person shall not operate a mobile home park or seasonal mobile home park without a license. The term of a license is 3 years. The department shall issue a license only if all of the following requirements are met:

(a) The applicant submits a complete license application.

(b) Certifications and recommendations of appropriate agencies and local governments are submitted to and approved by the department.

(c) The applicant pays the fee set forth in subsection (4).

(d) The mobile home park or seasonal mobile home park was approved as being in substantial compliance after its most recent inspection under section 17.

(2) The commission shall promulgate rules to do all of the following:

(a) Provide standards and procedures for the commission to determine whether a mobile home park or seasonal mobile home park that is not in substantial compliance with the rules promulgated under sections 5 and 6 is a distressed park. The standards and procedures shall provide the owner with an opportunity for an evidentiary hearing and require the commission to consider at least all of the following:

(i) The length of time the mobile home park or seasonal mobile home park has not been in substantial compliance with the rules promulgated under sections 5 and 6.

(ii) Whether the owner or operator was notified and had sufficient opportunity to bring the mobile home park or seasonal mobile home park into substantial compliance.

(iii) Any imminent threat to the health or safety of the residents of the mobile home park or seasonal mobile home park.

(iv) Whether the mobile home park or seasonal mobile home park has been or is likely to be abandoned by the owner or operator.

(b) Require 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 mobile home park or seasonal mobile home 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.

(3) Not more than 180 days after the effective date of the amendatory act that added this subsection, the commission shall submit a report on progress on rule promulgation under subsection (2) to the standing committees of the senate and house of representatives with primary responsibility for legislation affecting mobile home parks.

(4) The fee for a license to operate a mobile home park is \$225.00, plus an additional \$3.00 for each home site in excess of 25 home sites in the mobile home park, or any lesser amount established pursuant to section 9(5). The fee for a license to operate a seasonal mobile home park is \$120.00, plus an additional \$1.50 for each home site in excess of 25 home sites in the seasonal mobile home park, or any lesser amount established pursuant to section 9(5).

(5) If a person submits a timely application for renewal of a license and pays the appropriate fee, the person may continue to operate a mobile home park or seasonal mobile home park unless notified that the application for renewal is not approved.

(6) A campground that is currently licensed under sections 12501 to 12516 of the public health code, 1978 PA 368, MCL 333.12501 to 333.12516, and was previously licensed under the former licensing provisions of 1959 PA 243, MCL 125.1035 to 125.1043, as a seasonal trailer park may apply for and shall be granted a license as a seasonal mobile home park under this act if the campground meets all other requirements for licensure under this act as a seasonal mobile home park.

Sec. 17. (1) The department or its authorized representative shall conduct a physical inspection of mobile home parks and seasonal mobile home parks in accordance with standards established by the department. The department shall prepare a report documenting the findings of the inspection and submit a copy of the report to each local government in which the mobile home park or seasonal mobile home park is located.

(2) Except for purposes of issuing a license or renewing a license pursuant to this act, a local government shall not inspect a mobile home park or seasonal mobile home park unless the local unit has reason to believe that this act, the code, or rules promulgated pursuant to this act were violated.

Sec. 43. (1) If, after notice and a hearing as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, a person is determined to have violated this act, the commission may impose 1 or more of the following penalties:

(a) Censure.

(b) Probation.

(c) License limitation.

(d) License suspension. The commission may request the appointment of a receiver when taking action under this subdivision.

(e) License revocation. The commission may request the appointment of a receiver when taking action under this subdivision.

(f) License denial.

(g) A civil fine of not more than \$50,000.00.

(h) Restitution.

(2) A fine collected under this section shall be deposited with the state treasurer and credited to the mobile home code fund created in section 9.

(3) If the department determines that the owner or operator of a mobile home park or seasonal mobile home park has violated this act or rules promulgated under this act by failing to maintain or repair any infrastructure or facilities of the mobile home park or seasonal mobile home park, the department shall give notice of the determination by personal service or first-class mail to the local governments where the mobile home park is located, the owner, the operator, and, if financial assurance in the form of a bond has been posted under rules promulgated under section 16(2), the surety executing the bond. If the owner, operator, or surety does not perform or commence the specified maintenance or repair within 60 days after service of the notice, the department or its authorized representative may enter the mobile home park or seasonal mobile home park and perform the specified maintenance or repair. At the request of the owner, operator, or surety, the department may grant an extension of up to an additional 90 days. The owner, operator, and any surety are jointly and severally liable for all expenses incurred by the department or its authorized representative in performing the specified maintenance or repair. The department shall certify the claim to the owner, operator, and any surety, listing in the claim the items of expense in performing the maintenance or repair, and shall draw on any financial assurance for the payment of the claim. The department shall notify the local government where the mobile home park is located when the specified maintenance or repair has been completed.

(4) This section does not prohibit actions from being taken under other sections of this act.

(5) The pursuit in court of the lawful rights of a licensee does not constitute a violation of this act, regardless of the outcome of the court action.

Sec. 48. (1) If the department orders the owner or operator of a mobile home park or seasonal mobile home park to correct a violation of this act or rules promulgated under this act that imminently threatens the health or safety of the residents of the park or the public and the owner or operator fails to comply with the order, the department or the local government may bring an action to enforce the applicable regulations and to abate or enjoin the violation.

(2) If the violation is not corrected and imminently threatens the health or safety of the residents of the mobile home park or seasonal mobile home park or the public, the department or the local government may file a motion for a preliminary injunction or other temporary relief appropriate to remove the threat while the action is pending.

(3) The department or the local government shall serve a copy of the complaint and a summons on each owner and lienholder of record, and any operator, of the mobile home park or seasonal mobile home park that can be identified by the department or the local government with the exercise of reasonable diligence. The local government shall also file a notice of the action with the register of deeds for the county where the park is located.

(4) The court shall make orders and determinations consistent with the objectives of this act. The court may enjoin the maintenance of an unsafe, unhealthy, or unsanitary condition, or a violation of the applicable regulations, and may 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 may authorize the department or the local government to perform maintenance or repairs or to remove a building or structure owned or operated by the owner or operator of the mobile home park or seasonal mobile home park. However, the court shall not authorize removal of a building or structure unless the cost of repair of the building or structure will be greater than the state equalized value of the building or structure.

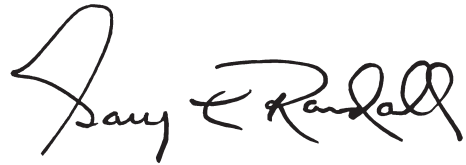
(5) If the expense of maintenance, repair, or removal is not provided for by financial assurance under section 16(2)(b) or otherwise provided for, the court may enter an order approving the expense and place a lien on the real property for the payment of the expense. The order may establish the lien as a senior lien, except as to tax and assessment liens, and except as to a mortgage of first priority recorded prior to all other liens of record. The order may also specify the time and manner for foreclosure of the lien if the lien is not satisfied. To perfect the lien, a copy of the order shall be filed with the register of deeds for the county where the mobile home park or seasonal mobile home park is located within 10 days after entry of the order.

Sec. 48b. If the condition of a mobile home park or seasonal mobile home park is an imminent danger to the health or lives of individuals, the local health department may issue an order under section 2451 of the public health code, 1978 PA 368, MCL 333.2451, including, but not limited to, an order requiring the mobile home park or seasonal mobile home park to cease operation or prohibiting the presence of individuals at all or part of the park because of the condition of the park.

Sec. 50. Any state governmental entity or local government that exercises powers or performs duties under this act shall make publicly available a list of its powers and duties under this act. For the purposes of this section, a local government may utilize a list prepared by a statewide association.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor