

Legislative Analysis



MOBILE HOME COMMISSION ACT AMENDMENTS

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<http://www.house.mi.gov/hfa>

House Bill 6003 as introduced
Sponsor: Rep. John D. Cherry

Analysis available at
<http://www.legislature.mi.gov>

House Bill 6004 as introduced
Sponsor: Rep. Ben Frederick

House Bill 6005 as introduced
Sponsor: Rep. Bronna Kahle

House Bill 6007 as introduced
Sponsor: Rep. Kevin Hertel

House Bill 6006 as introduced
Sponsor: Rep. Tim Sneller

House Bill 6008 as introduced
Sponsor: Rep. Mike Mueller

Committee: Regulatory Reform
Complete to 9-1-20

BRIEF SUMMARY:

House Bills 6003 to 6008 each would amend the Mobile Home Commission Act, which provides for the regulation of mobile homes in mobile home parks or seasonal home parks by the Department of Licensing and Regulatory Affairs (LARA) and the Manufactured Housing Commission. Significant changes proposed by the bills include the following:

- Requiring LARA to employ a minimum of three full-time inspectors and one full-time auditor, along with additional staff as required to implement the act and departmental rules. (HB 6006)
- Creating new administrative fines for violations of the act and for owning or operating an unlicensed mobile home park or seasonal home park. (HB 6006)
- Requiring LARA to publish on its website certain information on mobile home and seasonal home parks. (HBs 6005 and 6006)
- Requiring lease agreements for a mobile home to comply with the Truth in Renting Act and prospective tenants to be offered a lease term of at least one year. (HB 6008)
- Requiring LARA to issue a license for a mobile home park or seasonal home park within 60 days of receiving an application if all application requirements were met. (HB 6003)
- Creating a process through which a mobile home park owner could apply for title of a mobile home deemed to be abandoned. (HB 6007)

DETAILED SUMMARY:

House Bill 6003 would amend requirements for licensure under the Mobile Home Commission Act. Section 16 now prohibits the operation of a mobile home park or seasonal home park without a license. The bill would replace the term “operate” with “own.”

The bill would also provide that if LARA determines that an owner of a mobile home park or seasonal home park is not licensed, LARA must notify the owner of the lack of a license and impose any fines it considers appropriate. A person who has applied to LARA for a license

would not be in violation of operating without a license unless LARA denies the license application and the person has exhausted all the available appeals related to the denial.

Currently, LARA is required to issue a license if all requirements listed in the act are met. The bill would require LARA to issue the license within 60 days of receiving the license application if all of the listed requirements were met.

One of the current requirements is that the applicant submit a completed application. The bill would add that the completed application must demonstrate the applicant's integrity, reputation, business probity, financial ability, and experience in operating a mobile home park or seasonal home park. A lack of business probity would include a history of excessive rent increases on the part of the applicant, its parent companies, or subsidiaries.

The bill would also delete a requirement that the Manufactured Housing Commission promulgate rules addressing specified topics and procedures. This provision would be added to a new section in House Bill 6005.

MCL 125.2316

House Bill 6004 would provide that all administrative rules promulgated under the act by LARA or the commission and not rescinded on the bill's effective date must be considered authorized, valid, and enforceable and remain in effect until amended or rescinded by LARA.

MCL 125.2305

House Bill 6005 would provide that, notwithstanding any provision of law to the contrary, if a license application is denied because the applicant did not meet the application requirements, LARA would have to notify the applicant of the denial. The applicant could appeal the decision to the commission. The commission would have to hold a hearing and, within 120 days of the appeal, issue a recommendation to LARA. Upon receipt of the commission's recommendation, and based on the commission's licensure recommendation or rejection of the applicant's appeal, LARA would have to issue or decline to issue the license. If a recommendation is not issued within 120 days of the appeal, LARA would have to consider the commission's failure to issue a recommendation as a recommendation to issue the license.

Any person intending to become an owner of a mobile home park or seasonal home park would have to apply to LARA for a license. If a license is issued, the owner must notify LARA within 30 days of a change in ownership or a change in the owner's mailing or business email address.

Website

By 180 days after the bill's effective date, LARA would have to publish and maintain on its website a list of every mobile home park or seasonal home park in the state. The information would have to designate whether the park was licensed under the act and its license number. The list would have to be updated at least once a month. If the database maintained by LARA under the requirements of House Bill 6006 contains the information required by this provision, that database would fulfill this requirement.

Rule promulgation

The provision currently in section 16 of the act requiring the commission to promulgate rules, and the list regarding what the rules must address, would be relocated to the new section 16b.

The commission would still have to submit a report on the progress of the rule promulgation to the Senate and House standing committees with primary responsibility for legislation affecting mobile home parks.

Proposed MCL 125.2316b

House Bill 6006 would LARA to employ not less than three full-time inspectors and one full-time auditor, along with such additional staff as required to implement and enforce the act and related departmental rules.

Currently, after consulting with and considering comments from representatives of the manufactured housing industry and other interested parties, the commission may recommend rules to LARA to implement and administer the act. The bill would specify that “interested parties” must at least include residents of mobile home parks.

Administrative fines

In addition to currently authorized sanctions the commission may impose for violations of the act, the bill would allow an administrative fine of up to \$5,000 to be imposed.

The bill would also require LARA to provide a written notice to an unlicensed owner or operator of a mobile home park that an application for licensure must be made to LARA within 30 days of the date of the notice. If the unlicensed owner or operator fails to apply for licensure within the 30-day period, LARA would have to begin proceedings to impose a fine on the unlicensed owner or operator. If LARA determines that a person owned or operated a mobile home park or seasonal home park without a license, and after notice and a hearing as provided under the Administrative Procedures Act, a fine would have to be imposed of up to \$100,000. (Fines collected under this section of the act are credited to the Mobile Home Code Fund.)

Website

By January 1, 2022, LARA would have to establish, or cause to be established, a database of owners and operators of mobile home parks and seasonal home parks. The database would have to include contact information for the owners and operators and would have to be available to the public on LARA’s website. An owner or operator would have to update their contact information annually and update the information within 30 days of a change of ownership. LARA would have to update its published list of mobile home parks at least once a month.

MCL 125.2304 and 125.2343

House Bill 6007 would authorize an owner of a mobile home park at which a mobile home owned by another person is located to declare the mobile home abandoned if all of the following conditions are met:

- A court order restores possession of the premises to the mobile home park owner.
- Either the mobile home has been continuously unoccupied for at least 90 days after the court order was issued or rent has not been paid for at least 10 days after the court order was issued.
- Any indebtedness secured by the mobile home or that is related to a lease agreement or terms of tenancy between the mobile home park owner and the mobile home owner is delinquent.

Notice of intent

After the above conditions are met, and before declaring a mobile home abandoned, the mobile home park owner must affix to the mobile home a notice of intent to declare the mobile home abandoned and send the notice of intent by certified mail to all of the following:

- Mobile home owner.
- All persons identified on the lease.
- All lienholders at the addresses listed on the mobile home owner's title.

Upon receiving the notice of intent, the mobile home owner or a lienholder could enter into the mobile home park to remove the mobile home. The mobile home owner or the lienholder would be responsible to the mobile home park owner for any damage to the mobile home park resulting from removing the mobile home; this would include any amount owed to the mobile home park.

In addition, the mobile home park owner would have to file the notice of intent with the secretary of state (SOS). Within 10 days after receiving the notice of intent, the SOS would have to mail a written notice to the mobile home owner at all current addresses the SOS has in its records for him or her. The written notice would have to contain all of the following:

- A statement explaining the requirements of HB 6007.
- Contact information for the SOS if the mobile home owner intends to contest the declaration that the mobile home is abandoned.
- A statement explaining that the mobile home owner may contest the declaration that the mobile home is abandoned before a court.

Further, a mobile home park owner would have to do all of the following upon filing the notice of intent with the SOS:

- Calculate whether the fair market value of the mobile home exceeds the sum of the amount of rent due for the premises (e.g., the lot rent), any unpaid fees, and any unpaid amount for utility services owed to the mobile home park by the mobile home owner.
- If the fair-market value exceeds the sum of the unpaid amounts described above, make a good-faith effort to notify the mobile home owner that he or she is entitled to receive compensation from the mobile home park that is equal to the fair market value of the mobile home minus the sum for the amounts due.

Mobile home park owner applying for title of abandoned mobile home

If the mobile home remains in the mobile home park for at least 30 days after the date the written notice to the SOS is postmarked, both of the following apply:

- All liens on the mobile home are extinguished. (If there is evidence of a mail return receipt from each lienholder showing proof of delivery of the letter of intent to declare the mobile home abandoned sent by the mobile home park owner to the lienholder, a title issued by the SOS to the mobile home park is free of all liens.)
- The mobile home park owner can declare the mobile home abandoned and can apply to the SOS to obtain title to the mobile home.

The application for title of the abandoned mobile home would have to include an affidavit that includes all of the following information:

- That the person applying for the title is the licensed owner of the mobile home park in which the mobile home is located.

- That the title of the mobile home is being transferred to the licensed owner of the mobile home park in which the mobile home is located.
- That the mobile home park owner complied with all the requirements of HB 6007.
- That the mobile park owner is not aware of any challenge to the declaration that the mobile home is abandoned or of any court proceeding challenging the declaration that the mobile home is abandoned.

The SOS could require the mobile home park to provide proof of its compliance with HB 6007 in the application to transfer the title of the mobile home to the mobile home park owner. Within 10 days after receiving the application to transfer the title of the mobile home to the mobile home park, the SOS would be required to issue title to the mobile home park owner.

Lastly, as part of the transfer of title to an abandoned mobile home, the owner of a mobile home is entitled to the fair market value of the mobile home minus the sum of the amount of rent due and unpaid for the premises occupied by the mobile home, any unpaid fees, and any unpaid amount for utility services that are owed to the mobile home park by the mobile home owner.

Proposed MCL 125.2330j

House Bill 6008 would require a lease agreement under the act to comply with the Truth in Renting Act. A lease with a term of at least one year would have to be offered to a prospective tenant. However, this provision would not prohibit an owner or operator from entering into a monthly rental agreement with a tenant. In addition, at least 30 days before a lease with a term of one year or more expires, the owner or operator would have to deliver a written or email notice to the tenant that identifies the date the lease ends and offers a renewal or a new lease.

Proposed MCL 125.2328d

The bills are all tie-barred to each other, which means that none of the bills can take effect unless all of the bills are enacted.

FISCAL IMPACT:

House Bills 6003, 6004, 6005, and 6008 would not have any appreciable fiscal impact on any unit of state or local government.

House Bill 6006 would have an indeterminate net fiscal impact on LARA. The bill would require LARA to employ at least three full-time inspectors and one full-time auditor. The department estimates that costs for these employees would total \$506,000 per year. While it is not specified how these positions would be funded, presumably the Mobile Home Code Fund would be utilized. The table below shows the fiscal year-end balance and fiscal year-end fund change in this fund for each of the previous four fiscal years (the most recent years for which finalized data are available).

Fiscal Year	Year-End Fund Balance	Year-End Fund Change
FY 2018-19	\$4,217,198	\$1,264,594
FY 2017-18	\$2,953,865	\$1,673,193
FY 2016-17	\$1,265,697	\$585,244
FY 2015-16	\$680,454	(\$115,893)

The bill would allow an administrative fine of up to \$5,000 to be assessed on persons found to have violated the Mobile Home Commission Act and a fine of up to \$100,000 to be imposed on persons who owned or operated a mobile home park without a license. The revenue from these fines would depend on the volume of infractions and is presently indeterminate.

House Bill 6007 would result in increased costs for the Department of State (DOS) from additional mailing and administrative responsibilities. The bill may also result in increased revenue to the Mobile Home Code Fund. Actual costs to DOS would depend on the number of notices of intent to declare a mobile home abandoned that are sent to the secretary of state, which is not known at this time. Primary factors for increased costs include additional mailing materials and postage, as well as the possible need to hire an additional FTE position to administer the new mailing and tracking process to satisfy the bill's requirements.

While the increase of additional mailing and postage costs cannot yet be determined, it would likely be marginal and may be able to be supported through the department's ongoing annual appropriations. However, if an additional FTE position were needed to satisfy the bill's requirements, the cost would be between \$60,000 and \$80,000 annually.

The bill authorizes no additional revenue to DOS to cover new expenses. DOS currently expends approximately \$300,000 annually for costs related to mobile home titling and licensing services. These expenses are supported by reimbursements from LARA from the Mobile Home Code Fund. Section 9 of the Mobile Home Commission Act authorizes DOS to adjust fees for purposes of administering licensing and titling services required under the act. This revenue authorization, however, would not cover expenses related to processing declarations of abandoned mobile homes. LARA reimburses DOS approximately \$10 for each mobile home title and license transaction.

The bill may also result in an increase in fee revenue to the Mobile Home Code Fund should it lead to an increase in title transfers following declarations of mobile homes being abandoned. DOS received \$2.2 million in mobile home title and license fees in FY 2018-19. LARA is estimating an end-of-year balance of \$4.8 million in the Mobile Home Code Fund after FY 2019-20 expenditures.

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