
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2746 Session of
1992

INTRODUCED BY CIVERA, HARPER AND BARLEY, MAY 18, 1992

REFERRED TO COMMITTEE ON URBAN AFFAIRS, MAY 18, 1992

AN ACT

1 Providing for the establishment of a Manufactured Housing
2 Ombudsman and fixing the powers and duties of the ombudsman;
3 establishing the Manufactured Housing Hearing Board and
4 providing for its membership, powers and duties; establishing
5 a restricted account; and making an appropriation.

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3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Manufactured
7 Housing Ombudsman and Hearing Board Act.

8 Section 2. Legislative purpose.

9 An increasing number of citizens of this Commonwealth live in
10 manufactured homes, and many of these citizens reside in
11 manufactured housing communities. Because of the growing number
12 of problems and complaints dealing with various aspects of
13 living in manufactured housing communities and because of the
14 unique nature of manufactured housing and the difficulty in
15 relocating manufactured housing, it is necessary to designate a
16 Manufactured Housing Ombudsman and Manufactured Housing Hearing
17 Board to resolve the problems and complaints involving residents
18 and owners of manufactured housing communities. In addition, the
19 creation of the Manufactured Housing Ombudsman will assist in a
20 more equitable and expeditious implementation of the act of
21 November 24, 1976 (P.L.1176, No.261), known as the Mobile Home
22 Park Rights Act.

23 Section 3. Definitions.

24 The following words and phrases when used in this act shall
25 have the meanings given to them in this section unless the
26 context clearly indicates otherwise:

27 "Board." The Manufactured Housing Hearing Board established
28 under section 4.

29 "Comparable manufactured housing community." A manufactured
30 housing community with similar facilities, services, amenities

1 and management.

2 "Manufactured housing." A transportable, single-family
3 dwelling unit which contains plumbing, heating and/or cooling
4 and electrical systems intended for permanent occupancy, is
5 constructed as a single unit or as two or more units designed to
6 be joined into one integral unit, is built on a permanent
7 chassis and is designed to be used as a dwelling with or without
8 a permanent foundation when connected to the required utilities.

9 "Manufactured housing community." A site, lot, field or
10 tract of land, privately or publicly owned or operated, upon
11 which three or more manufactured homes, occupied for dwelling or
12 sleeping purposes, are or are intended to be located, regardless
13 of whether or not a charge is made for such accommodation.

14 "Manufactured housing resident." An owner of a manufactured
15 home who leases or rents space in a manufactured housing
16 community. The term does not include a person who rents or
17 leases a manufactured home.

18 "Ombudsman." The Manufactured Housing Ombudsman established
19 under section 5.

20 "Respondent." The person against whom the original complaint
21 is directed.

22 "Secretary." The Secretary of Community Affairs of the
23 Commonwealth.

24 "Unreasonable." Not fair, proper, just, moderate or suitable
25 under the circumstances or fit or appropriate to the end in
26 view.

27 Section 4. Manufactured Housing Hearing Board.

28 (a) Establishment.--The Manufactured Housing Hearing Board
29 is established as an independent quasi-judicial agency.

30 (b) Members.--The board shall consist of five members. One

1 member shall be appointed by the President pro tempore of the
2 Senate, one member shall be appointed by the Minority Leader of
3 the Senate, one member shall be appointed by the Speaker of the
4 House of Representatives and one member shall be appointed by
5 the Minority Leader of the House of Representatives. The fifth
6 member shall be the secretary, or his designee.

7 (c) Chairman.--The board shall designate one member of the
8 board to serve as chairman.

9 (d) Terms.--A member of the board shall serve for a term of
10 five years or until a successor is appointed and qualified
11 within six months of the expiration of the original term. Board
12 members may be reappointed to successive terms. No board member,
13 however, shall be a manufactured home owner, manufactured home
14 manufacturer or dealer, own or manage a manufactured housing
15 community, be an agent for same or have a financial interest in
16 or in any way be associated with a manufacturer of manufactured
17 housing or an owner of a manufactured housing community. In
18 addition, no member shall be in any way affiliated with
19 manufactured housing or any manufactured housing groups or
20 associations.

21 (e) Compensation.--Board members shall receive an annual
22 salary of \$14,000. The chairman of the board shall receive an
23 annual salary of \$15,000. In addition, all members shall be
24 reimbursed for actual and reasonable expenses for travel,
25 lodging and meals incurred in the performance of their official
26 duties.

27 (f) Meetings.--The board shall meet at least four times a
28 year or as often as is necessary to implement the provisions of
29 this act, and the meetings shall be rotated between Pittsburgh,
30 Philadelphia, Scranton and Harrisburg as feasible to facilitate

1 the attendance of those having appeals pending before the board.

2 Section 5. Manufactured Housing Ombudsman.

3 (a) Establishment.--There is hereby established, under the
4 Governor's Office, the Manufactured Housing Ombudsman to
5 investigate and resolve complaints and disputes involving
6 manufactured housing.

7 (b) Appointment.--The position of ombudsman shall be a full-
8 time position. The ombudsman shall be appointed by the board.

9 (c) Compensation.--The compensation of the ombudsman shall
10 be fixed by the board.

11 (d) Powers and duties.--The ombudsman shall have the
12 following powers and duties:

13 (1) (i) To investigate and resolve complaints related
14 to manufactured housing concerning the following:

15 (A) Resident disputes with owners and managers
16 of manufactured housing communities in general.

17 (B) Resident disputes with owners and managers
18 of manufactured housing communities over the
19 interpretation of provisions contained in the act of
20 November 24, 1976 (P.L.1176, No.261), known as the
21 Mobile Home Park Rights Act.

22 (C) Resident disputes with owners and managers
23 of manufactured housing communities over the approval
24 of a prospective purchaser of an existing
25 manufactured home owned by a resident.

26 (D) The reasonableness of rules and regulations
27 promulgated by manufactured housing community owners
28 pursuant to the Mobile Home Park Rights Act.

29 (E) Environmental concerns, including, but not
30 limited to, the provision of safe drinking water and

1 proper sewage disposal.

2 (F) Interpretation of provisions of lease
3 agreements.

4 (G) The reasonableness of proposed rent
5 increases.

6 (H) The reasonableness of pending eviction
7 procedures.

8 (ii) The decision of the ombudsman shall be final
9 and binding on all parties unless appealed to the board
10 as provided for in section 7. Once an investigation has
11 been initiated by the ombudsman concerning a complaint
12 filed, any pending proposed rent increase, rule or
13 regulation or eviction proceeding shall be stayed pending
14 a final decision by the ombudsman. The only exception to
15 this automatic stay shall be a proposed annual rent
16 increase that does not exceed the annual increase in the
17 cost of living, as determined by the United States
18 Department of Labor for the preceding calendar year. A
19 resident in such case, however, shall not be precluded
20 from filing a complaint with the ombudsman on the
21 reasonableness of the proposed increase. If, after an
22 investigation, the increase is determined to be
23 unreasonable, the owner of the manufactured housing
24 community shall, pending a final decision of the
25 ombudsman, refund to each resident affected the increased
26 amount paid which was determined to be unreasonable, or
27 credit the resident with an equal amount of the rent due,
28 in the month following the decision of the ombudsman or,
29 if appealed, in the month following a decision by the
30 board. If the ombudsman determines that an existing or

1 proposed rule or regulation promulgated by the owner or
2 manager of a manufactured housing community is
3 unreasonable, the rule or regulation shall be rescinded.
4 If the ombudsman has determined that a proposed rent
5 increase is unreasonable, the rent increase shall not go
6 into effect. Copies of all decisions of the ombudsman
7 shall be forwarded to the Office of Attorney General.

8 (iii) When making a determination as to the
9 reasonableness of a proposed rent increase, the ombudsman
10 may consider the following:

11 (A) Rents charged by comparable manufactured
12 housing communities within the same competitive
13 geographic area.

14 (B) Recent changes in the Consumer Price Index.

15 (C) Rate of inflation since the last rent
16 increase.

17 (D) Historic trend of prior rent increases for
18 that manufactured housing community.

19 (E) Historic trend of prior rent increases for
20 comparable manufactured housing communities within
21 the same competitive geographic area.

22 (F) Financial data relative to any change in
23 ownership of the manufactured housing community.

24 (G) Current and prior financial statements of
25 the owners of the manufactured housing community,
26 including, but not limited to, annual operating
27 costs, including taxes paid.

28 (H) Actual cost data relative to improvements
29 made or to be made to the manufactured housing
30 community when it is used as a justification for the

1 proposed rent increase.

2 (I) Historical evidence of improvements made to
3 that manufactured housing community previously when
4 rents were increased.

5 (iv) In addition to other factors, the ombudsman may
6 determine a proposed rent increase to be unreasonable if
7 the proposed increase results in the rent exceeding
8 market rent or the rent that would result from market
9 forces when both parties have equal bargaining position.

10 (2) To initiate any legal proceeding before any Federal,
11 State or county court necessary to protect the rights of
12 manufactured housing residents and to represent the residents
13 before the court in any such proceeding.

14 (3) To initiate any proceeding before any Federal, State
15 or local agency necessary to protect the rights of
16 manufactured housing residents and to represent the residents
17 in any such proceedings.

18 (4) (i) To educate the public as to what they should be
19 aware of before purchasing manufactured housing or
20 leasing space in a manufactured housing community. This
21 shall include, but shall not be limited to, the
22 preparation of a brief statement titled "ALERT TO
23 PROSPECTIVE PURCHASER OF MANUFACTURED HOUSING OR LESSEE
24 IN MANUFACTURED HOUSING COMMUNITY." Following the title
25 shall appear a brief summary of the key facts of which
26 anyone contemplating purchasing a manufactured home or
27 leasing space in a manufactured housing community should
28 be aware. The notice, including the title, shall be in
29 ten-point boldface print. A copy of the statement shall
30 be provided by:

1 (A) Manufactured housing dealers or others
2 licensed in this Commonwealth under the act of
3 December 22, 1983 (P.L.306, No.84), known as the
4 Board of Vehicles Act, to a prospective purchaser of
5 a new manufactured home at least 48 hours before the
6 purchaser signs an agreement of sale.

7 (B) Anyone licensed under the Board of Vehicles
8 Act, or any real estate salesperson or broker
9 licensed under the act of February 19, 1980 (P.L.15,
10 No.9), known as the Real Estate Licensing and
11 Registration Act, to a prospective purchaser of a
12 pre-owned manufactured home at least 48 hours before
13 the purchaser signs an agreement of sale.

14 (C) Manufactured housing community owners or
15 managers, to a prospective lessee at least 48 hours
16 before the lessee signs a lease for space in a
17 manufactured housing community operated in this
18 Commonwealth.

19 (ii) The ombudsman shall, within 90 days of the
20 effective date of this act, forward a copy of the
21 statement under subparagraph (i) to anyone licensed to
22 sell manufactured housing in this Commonwealth, as well
23 as to all owners or managers of manufactured housing
24 communities, along with a copy of this act and a notice
25 of their responsibilities pursuant to this section.
26 Failure to receive a copy of this act and notification
27 from the ombudsman, as required by this section, shall
28 not relieve anyone of his responsibilities under this
29 section.

30 (5) To educate the public concerning the powers and

1 duties of the ombudsman and the services available.

2 (e) Staff.--The ombudsman shall work closely and
3 cooperatively with the Office of Attorney General, and, in
4 addition to staff support from the Office of General Counsel,
5 the Human Relations Commission and other appropriate State
6 agencies, including the Office of Attorney General, the board
7 may appoint attorneys as assistants and such additional
8 clerical, technical and professional staff as may be appropriate
9 and may contract for such additional services as are necessary
10 to implement the provisions of this act. The compensation of
11 assistants and clerical, technical and professional staff shall
12 be set by the board. An assistant or other staff employee shall
13 not, while serving in such position, engage in any business,
14 vocation or other employment involving manufactured housing or
15 have other interests involving manufactured housing inconsistent
16 with his official responsibilities.

17 Section 6. Informal disposition before ombudsman.

18 (a) General rule.--A person who rents or owns manufactured
19 housing which is located on land in a manufactured housing
20 community for which a ground rental fee is paid, or any owner or
21 manager of a manufactured housing community, may contact the
22 ombudsman to investigate his complaint.

23 (b) Complaint form.--The ombudsman shall prepare a
24 standardized complaint form to be used by an individual or group
25 of individuals filing a complaint. There shall be no charge to
26 file a complaint with the ombudsman. The form shall include, but
27 shall not be limited to:

28 (1) A list of the complaints.

29 (2) The notarized signature of the individual or
30 individuals filing the complaint.

1 (3) The address and telephone number of the individual
2 or individuals filing the complaint.

3 (4) The name, address and telephone number of all
4 parties involved in the complaint.

5 (c) Response.--On receipt of the complaint form, the
6 ombudsman shall send to the named respondent, by certified mail,
7 a copy of the complaint, along with a notice that a response is
8 required showing cause, if any, why the complaint should be
9 dismissed.

10 (d) Review.--After reviewing the complaint and response, the
11 ombudsman or his staff shall promptly investigate the complaint,
12 including complaints involving proposed rent increases, and try
13 to mediate the dispute. The ombudsman shall render a decision on
14 all complaints filed within 30 days of receipt of the complaint.

15 (e) Decision of ombudsman.--

16 (1) The ombudsman, after the investigation of a
17 complaint, may determine that there is no factual basis to
18 support the complaint and shall so notify all parties.

19 (2) If a complaint is substantiated, the ombudsman may
20 make a recommendation, with respect to resolving the dispute,
21 to which all parties may voluntarily agree. If the complaint
22 involves a determination of the reasonableness of a proposed
23 rent increase and the ombudsman determines the proposed
24 increase to be unreasonable pursuant to section 5(d), the
25 ombudsman's recommendation may include a suggested rental
26 increase that the ombudsman determines would be reasonable.

27 (3) In the absence of the voluntary acceptance of the
28 recommendations of the ombudsman by all parties to resolve a
29 dispute when a complaint is substantiated, the ombudsman
30 shall issue an order setting forth the appropriate actions to

1 be taken by all parties to the dispute. This order shall have
2 the effect of law, and the ombudsman may go to court to
3 enforce the order, provided the order is not overturned by
4 the board on appeal.

5 (f) Appeal to board.--If aggrieved by the decision of the
6 ombudsman, the individual or individuals filing the complaint,
7 or the respondent, may appeal the order of the ombudsman to the
8 board. In the case of a complaint involving a proposed rent
9 increase, the board shall hear the case within 30 days of
10 receipt of the petition for a hearing.

11 Section 7. Petition for hearing.

12 (a) Form.--The ombudsman shall prepare a standardized
13 petition form to be used by an individual or individuals who
14 wish to appeal an order of the ombudsman to the board.

15 (b) Fee.--A filing fee of \$200 shall accompany each petition
16 filed with the ombudsman for a hearing before the board. If the
17 board finds in favor of the original party or parties filing the
18 complaint, the respondent shall be responsible for the payment
19 of the required \$200 filing fee.

20 Section 8. Hearing procedure before board.

21 (a) General rule.--Upon receiving a petition for a hearing
22 and the accompanying filing fee, the chairman of the board shall
23 set a time and place for a hearing and shall give the parties
24 reasonable notice of the date, time and location of the hearing.
25 A notice of each hearing shall also be provided to the Office of
26 Attorney General.

27 (b) Proceedings.--All hearings shall be conducted under 2
28 Pa.C.S. Ch. 5 (relating to practice and procedure). Either party
29 to a hearing may present witnesses on his behalf, in person or
30 by deposition, on making a request to the board and designating

1 the person or persons, as well as records and papers, requested
2 to be subpoenaed, and may request that a written transcript of
3 the hearing be taken and made upon payment of the cost of the
4 transcript. Subpoenas may be enforced in Commonwealth Court,
5 which, after a hearing, may judge in contempt or make another
6 appropriate order. For the purpose of the hearing, the board has
7 the powers vested in the officers by section 502 of the act of
8 April 9, 1929 (P.L.177, No.175), known as The Administrative
9 Code of 1929, which secures the power to inspect, examine,
10 secure data or information or procure assistance from any
11 department, board or committee. The board may cause the
12 deposition of witnesses in or outside of this Commonwealth to be
13 taken as prescribed by law for depositions in civil cases.

14 (c) Inspection.--Either party or his authorized agent may
15 inspect any file that pertains to the hearing if such
16 authorization is filed in writing with the ombudsman.

17 (d) Decision.--The board shall render a decision based on
18 evidence given within seven calendar days of the hearing, and
19 the decision of the board shall be final and binding on all
20 parties unless appealed to the Commonwealth Court as provided
21 for by section 9. A copy of each decision shall be forwarded to
22 the Office of Attorney General.

23 Section 9. Appeal.

24 Within 20 days after service of notice of the decision of the
25 board, a person aggrieved by a decision of the board may apply
26 for an appeal in Commonwealth Court.

27 Section 10. Public access.

28 There shall be a toll-free telephone number established by
29 the ombudsman for public use regarding inquiries on the services
30 available from the ombudsman, including, but not limited to, the

1 procedures for filing a complaint and making an appeal to the
2 board.

3 Section 11. Resident notification.

4 It shall be the responsibility of every owner of a
5 manufactured housing community, within 30 days of the effective
6 date of this act, to provide each resident of the manufactured
7 housing community with a copy of this act and to maintain one
8 copy of this act at a convenient location within the community
9 for review by residents. In addition, all lessees in the
10 community shall be provided with a copy of this act by the
11 owners of the manufactured housing community at least 48 hours
12 before a lessee signs a lease.

13 Section 12. Restricted account.

14 There is hereby established within the State Treasury a
15 restricted account, into which shall be deposited all annual
16 manufactured housing community registration fees collected by
17 the Department of Community Affairs, any appropriation and all
18 fees paid to the board. The moneys in this account are
19 appropriated for the operation of the ombudsman and the board in
20 such amounts as the General Assembly may designate.

21 Section 13. Construction of act.

22 Nothing in this act shall be construed to contradict or
23 interfere with the rights of consumers as provided for by the
24 act of December 17, 1968 (P.L.1224, No.387), known as the Unfair
25 Trade Practices and Consumer Protection Law.

26 Section 14. Funding.

27 The funding of the operation of the Office of the
28 Manufactured Housing Ombudsman and the Manufactured Housing
29 Hearing Board provided for by this act shall be provided by the
30 annual filing fees required to accompany the annual registration

- 1 of manufactured housing communities in this Commonwealth.
- 2 Section 15. Effective date.
- 3 This act shall take effect in 30 days.