
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 617 Session of
1993

INTRODUCED BY KUKOVICH, PETRONE, BATTISTO, DeWEESE, TIGUE,
McCALL, BELFANTI, GIGLIOTTI, YANDRISEVITS, PISTELLA, GAMBLE,
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TRELLO, STABACK, WOZNIAK, MIHALICH, PLATTS, FREEMAN AND
D. W. SNYDER, MARCH 22, 1993

REFERRED TO COMMITTEE ON URBAN AFFAIRS, MARCH 22, 1993

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

6 Section 1. Short title.

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

9 Section 2. Legislative purpose.

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

24 Section 3. Definitions.

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

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

30 "Comparable manufactured housing community." A manufactured

1 housing community with similar facilities, services, amenities
2 and management.

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

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

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

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

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

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

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

28 Section 4. Manufactured Housing Hearing Board.

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

1 (b) Members.--The board shall consist of seven members. Two
2 members shall be members of the Pennsylvania Manufactured
3 Housing Association; two members shall be members of the
4 Pennsylvania Manufactured Home Owners of America, Inc.; one
5 member shall be the Attorney General or his or her designee; one
6 member shall be the Secretary of the Department of Community
7 Affairs or his or her designee; and one member shall be the
8 Secretary of the Department of Environmental Resources or his or
9 her designee. The Governor shall appoint two members of the
10 Pennsylvania Manufactured Housing Association and two members of
11 the Pennsylvania Manufactured Home Owners of America, Inc. from
12 a list of three names submitted by each organization to the
13 Governor.

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

16 (d) Terms.--A member of the board shall serve for a term of
17 five years or until a successor is appointed and qualified
18 within six months of the expiration of the original term. Board
19 members may be reappointed to one additional term.

20 (e) Compensation.--Board members shall receive a daily per
21 diem of \$60. In addition, all members shall be reimbursed for
22 actual and reasonable expenses for travel, lodging and meals
23 incurred in the performance of their official duties.

24 (f) Meetings.--The board shall meet every 60 days or as
25 often as is necessary to implement the provisions of this act,
26 and the meetings may be rotated between Pittsburgh,
27 Philadelphia, Scranton and Harrisburg as feasible to facilitate
28 the attendance of those having appeals pending before the board.

29 (g) Administrative decisions.--The board shall assist the
30 Manufactured Housing Ombudsman with respect to deciding the need

1 for and location of field offices, which may include, if space
2 is available, location within the current regional offices of
3 the Attorney General's office or State Human Relations
4 Commission.

5 Section 5. Manufactured Housing Ombudsman.

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

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

12 (c) Compensation.--The compensation of the ombudsman shall
13 be fixed by the board but in no case shall it exceed the average
14 annual compensation paid to all cabinet secretaries.

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

17 (1) (i) To investigate and resolve complaints and
18 disputes between residents and community owners related
19 to manufactured housing concerning the following:

20 (A) Disputes over the interpretation of
21 provisions contained in the act of November 24, 1976
22 (P.L.1176, No.261), known as the Mobile Home Park
23 Rights Act.

24 (B) Disputes over the approval of a prospective
25 purchaser of an existing manufactured home owned by a
26 resident.

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

30 (D) Environmental concerns, including, but not

1 limited to, the provision of safe drinking water and
2 proper sewage disposal.

3 (E) Interpretation of provisions of lease
4 agreements.

5 (F) The reasonableness of proposed rent
6 increases.

7 (G) The reasonableness of pending eviction
8 procedures.

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

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

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

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

15 (B) Actual cost data relative to improvements
16 made or to be made to the manufactured housing
17 community when it is used as a justification for the
18 proposed rent increase including improvements to
19 sewer and water facilities and services.

20 (C) Historical evidence of improvements made to
21 that manufactured housing community previously when
22 rents were increased.

23 (iv) In addition to other factors, the ombudsman may
24 determine a proposed rent increase to be unreasonable if
25 the proposed increase results in the rent exceeding
26 market rent or the rent that would result from market
27 forces when both parties have equal bargaining position.

28 (2) To initiate any legal proceeding before any Federal,
29 State or county court necessary to protect the rights of
30 manufactured housing residents or community owners and to

1 represent the residents and or community owners before the
2 court in any such proceeding.

3 (3) To initiate any proceeding before any Federal, State
4 or local agency necessary to protect the rights of
5 manufactured housing residents or community owners and to
6 represent the residents and/or community owners in any such
7 proceedings.

8 (4) (i) To disseminate necessary information to the
9 public concerning information they should review prior to
10 the purchase of manufactured housing or leasing space in
11 a manufactured community. This shall include, but shall
12 not be limited to, the preparation of a brief statement
13 titled "IMPORTANT INFORMATION FOR A PROSPECTIVE PURCHASER
14 OF MANUFACTURED HOUSING OR LESSEE IN MANUFACTURED HOUSING
15 COMMUNITY." Following the title shall appear a brief
16 summary of the key facts of which anyone contemplating
17 purchasing a manufactured home or leasing space in a
18 manufactured housing community should be aware. The
19 notice, including the title, shall be in ten-point
20 boldface print and signs and visual symbols shall be used
21 as appropriate to facilitate the understanding of the
22 information by readers. A copy of the statement shall be
23 provided by:

24 (A) Manufactured housing dealers or others
25 licensed in this Commonwealth under the act of
26 December 22, 1983 (P.L.306, No.84), known as the
27 Board of Vehicles Act, to a prospective purchaser of
28 a new manufactured home at least 48 hours before the
29 purchaser signs an agreement of sale.

30 (B) Anyone licensed under the Board of Vehicles

1 Act, or any real estate salesperson or broker
2 licensed under the act of February 19, 1980 (P.L.15,
3 No.9), known as the Real Estate Licensing and
4 Registration Act, to a prospective purchaser of a
5 pre-owned manufactured home at least 48 hours before
6 the purchaser signs an agreement of sale.

7 (C) Manufactured housing community owners or
8 managers, to a prospective lessee at least 48 hours
9 before the lessee signs a lease for space in a
10 manufactured housing community operated in this
11 Commonwealth.

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

23 (5) To educate the public concerning the powers and
24 duties of the ombudsman and the services available.

25 (e) Staff.--The ombudsman shall work closely and
26 cooperatively with the Office of Attorney General, and, in
27 addition to staff support from the Office of General Counsel,
28 the Human Relations Commission and other appropriate State
29 agencies, including the Office of Attorney General, the board
30 may appoint attorneys as assistants and such additional

1 clerical, technical and professional staff as may be appropriate
2 and may contract for such additional services as are necessary
3 to implement the provisions of this act. The compensation of
4 assistants and clerical, technical and professional staff shall
5 be set by the board. An assistant or other staff employee shall
6 not, while serving in such position, engage in any business,
7 vocation or other employment involving manufactured housing or
8 have other interests involving manufactured housing inconsistent
9 with his official responsibilities.

10 Section 6. Informal disposition before ombudsman.

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

16 (b) Complaint form.--The ombudsman shall prepare a
17 standardized complaint form to be used by an individual or group
18 of individuals filing a complaint. There shall be no charge to
19 file a complaint with the ombudsman. The form shall include, but
20 shall not be limited to:

21 (1) A list of the complaints.

22 (2) The notarized signature of the individual or
23 individuals filing the complaint.

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

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

28 (c) Response.--On receipt of the complaint form, the
29 ombudsman shall send to the named respondent, by certified mail,
30 a copy of the complaint, along with a notice that a response is

1 required showing cause, if any, why the complaint should be
2 dismissed.

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

8 (e) Decision of ombudsman.--

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

12 (2) If a complaint is substantiated, the ombudsman may
13 make a recommendation, with respect to resolving the dispute,
14 to which all parties may voluntarily agree. If the complaint
15 involves a determination of the reasonableness of a proposed
16 rent increase and the ombudsman determines the proposed
17 increase to be unreasonable pursuant to section 5(d), the
18 ombudsman's recommendation may include a suggested rental
19 increase that the ombudsman determines would be reasonable.

20 (3) In the absence of the voluntary acceptance of the
21 recommendations of the ombudsman by all parties to resolve a
22 dispute when a complaint is substantiated, the ombudsman
23 shall issue an order setting forth the appropriate actions to
24 be taken by all parties to the dispute. This order shall have
25 the effect of law, and the ombudsman may go to court to
26 enforce the order, provided the order is not overturned by
27 the board on appeal.

28 (f) Appeal to board.--If aggrieved by the decision of the
29 ombudsman, the individual or individuals filing the complaint,
30 or the respondent, may appeal the order of the ombudsman to the

1 board. In the case of a complaint involving a proposed rent
2 increase, the board shall hear the case within 30 days of
3 receipt of the petition for a hearing.

4 Section 7. Petition for hearing.

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

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

13 Section 8. Hearing procedure before board.

14 (a) General rule.--Upon receiving a petition for a hearing
15 and the accompanying filing fee, the chairman of the board shall
16 set a time and place for a hearing and shall give the parties
17 reasonable notice of the date, time and location of the hearing.
18 A notice of each hearing shall also be provided to the Office of
19 Attorney General.

20 (b) Proceedings.--All hearings shall be conducted under 2
21 Pa.C.S. Ch. 5 (relating to practice and procedure). Either party
22 to a hearing may present witnesses on his behalf, in person or
23 by deposition, on making a request to the board and designating
24 the person or persons, as well as records and papers, requested
25 to be subpoenaed, and may request that a written transcript of
26 the hearing be taken and made upon payment of the cost of the
27 transcript. Subpoenas may be enforced in Commonwealth Court,
28 which, after a hearing, may judge in contempt or make another
29 appropriate order. For the purpose of the hearing, the board has
30 the powers vested in the officers by section 502 of the act of

1 April 9, 1929 (P.L.177, No.175), known as The Administrative
2 Code of 1929, which secures the power to inspect, examine,
3 secure data or information or procure assistance from any
4 department, board or committee. The board may cause the
5 deposition of witnesses in or outside of this Commonwealth to be
6 taken as prescribed by law for depositions in civil cases.

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

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

16 Section 9. Appeal.

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

20 Section 10. Public access.

21 There shall be a toll-free telephone number established by
22 the ombudsman for public use regarding inquiries on the services
23 available from the ombudsman, including, but not limited to, the
24 procedures for filing a complaint and making an appeal to the
25 board.

26 Section 11. Resident notification.

27 It shall be the responsibility of every owner of a
28 manufactured housing community, within 30 days of the effective
29 date of this act, to provide each resident of the manufactured
30 housing community with a copy of this act and to maintain one

1 copy of this act at a convenient location within the community
2 for review by residents. In addition, all lessees in the
3 community shall be provided with a copy of this act by the
4 owners of the manufactured housing community at least 48 hours
5 before a lessee signs a lease.

6 Section 12. Restricted account.

7 There is hereby established within the State Treasury a
8 restricted account, into which shall be deposited all annual
9 manufactured housing community registration fees collected by
10 the Department of Community Affairs, any appropriation and all
11 fees paid to the board. The moneys in this account are
12 appropriated for the operation of the ombudsman and the board in
13 such amounts as the General Assembly may designate.

14 Section 13. Construction of act.

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

19 Section 14. Funding.

20 The funding of the operation of the Office of the
21 Manufactured Housing Ombudsman and the Manufactured Housing
22 Hearing Board provided for by this act shall be provided by the
23 annual filing fees required to accompany the annual registration
24 of manufactured housing communities in this Commonwealth.

25 Section 15. Effective date.

26 This act shall take effect in 30 days.