

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1337 Session of
2003

INTRODUCED BY GORDNER, CLYMER, CORRIGAN, CREIGHTON, DALLY,
FREEMAN, HARRIS, HERSHEY, JAMES, LAUGHLIN, LEACH, R. MILLER,
REICHLEY, RUBLEY, SEMMEL, STERN, TANGRETTI, THOMAS, WANSACZ
AND WASHINGTON, MAY 5, 2003

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MAY 5, 2003

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; and
5 establishing a restricted account.

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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 establishment of the Manufactured Housing Ombudsman will assist
21 in a 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 or cooling and
5 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 and Economic
24 Development of the 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 Community and Economic
7 Development or the secretary's designee; and one member shall be
8 the Secretary of Environmental Protection or the secretary's
9 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 ombudsman with respect to deciding the need for and location of

1 field offices, which may include, if space is available,
2 location within the current regional offices of the Office of
3 Attorney General or the Pennsylvania Human Relations Commission.
4 The ombudsman field offices shall maintain their separateness
5 from the Office of Attorney General and Pennsylvania Human
6 Relations Commission.

7 Section 5. Manufactured Housing Ombudsman.

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

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

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

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

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

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

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

29 (C) The reasonableness of rules and regulations
30 promulgated by manufactured housing community owners

1 pursuant to the Mobile Home Park Rights Act.

2 (D) Environmental concerns, including, but not
3 limited to, the provision of safe drinking water and
4 proper sewage disposal.

5 (E) Interpretation of provisions of lease
6 agreements.

7 (F) The reasonableness of proposed rent
8 increases.

9 (G) The reasonableness of pending eviction
10 procedures.

11 (ii) The decision of the ombudsman shall be final
12 and binding on all parties unless appealed to the board
13 as provided for in section 9. Once an investigation has
14 been initiated by the ombudsman concerning a complaint
15 filed, any rent increase, proposed rule or regulation or
16 eviction proceeding shall be stayed pending a final
17 decision by the ombudsman which shall occur within a 90-
18 day period. If a rent increase is determined to be
19 unreasonable by the ombudsman, which decision shall occur
20 within 90 days following receipt of the complaint, the
21 owner of the manufactured housing community shall refund
22 to each resident affected the increased amount paid which
23 was determined to be unreasonable, or credit the resident
24 with an equal amount of the rent due within 90 days.
25 Should the decision be appealed to the board, the board
26 shall make a final decision within 60 days after the
27 appeal has been received by the board. Copies of all
28 decisions of the ombudsman shall be forwarded to the
29 Office of Attorney General.

30 (iii) When making a determination as to the

1 reasonableness of a proposed rent increase, the ombudsman
2 may consider the following:

3 (A) Rents charged by comparable manufactured
4 housing communities within the same competitive
5 geographic area.

6 (B) Actual cost data relative to improvements
7 made or to be made to the manufactured housing
8 community when it is used as a justification for the
9 proposed rent increase including improvements to
10 sewer and water facilities and services.

11 (C) Historical evidence of improvements made to
12 that manufactured housing community previously when
13 rents were increased.

14 (D) Evidence of fixed operating expense
15 increases to include real estate taxes, utility
16 bills, insurance and other similar expenses.

17 (2) To initiate any legal proceeding before any Federal,
18 State or county court necessary to protect the rights of
19 manufactured housing residents or community owners and to
20 represent the residents, community owners or both before the
21 court in any such proceeding.

22 (3) To initiate any proceeding before any Federal, State
23 or local agency necessary to protect the rights of
24 manufactured housing residents or community owners and to
25 represent the residents, community owners or both in any such
26 proceeding.

27 (4) (i) To disseminate necessary information to the
28 public concerning information they should review prior to
29 the purchase of manufactured housing or leasing space in
30 a manufactured community. This shall include, but shall

1 not be limited to, the preparation of a brief statement
2 titled "IMPORTANT INFORMATION FOR A PROSPECTIVE PURCHASER
3 OF MANUFACTURED HOUSING OR LESSEE IN MANUFACTURED HOUSING
4 COMMUNITY." Following the title shall appear a brief
5 summary of the key facts of which anyone contemplating
6 purchasing a manufactured home or leasing space in a
7 manufactured housing community should be aware. The
8 notice, including the title, shall be in ten-point
9 boldface print and signs and visual symbols shall be used
10 as appropriate to facilitate the understanding of the
11 information by readers. A copy of the statement shall be
12 provided by:

13 (A) Manufactured housing dealers or others
14 licensed in this Commonwealth under the act of
15 December 22, 1983 (P.L.306, No.84), known as the
16 Board of Vehicles Act, to a prospective purchaser of
17 a new manufactured home at the time of purchase.

18 (B) Anyone licensed under the Board of Vehicles
19 Act, or any real estate salesperson or broker
20 licensed under the act of February 19, 1980 (P.L.15,
21 No.9), known as the Real Estate Licensing and
22 Registration Act, to a prospective purchaser of a
23 pre-owned manufactured home at the time the purchaser
24 signs an agreement of sale.

25 (C) Manufactured housing community owners or
26 managers, to a prospective lessee at least 48 hours
27 before the lessee signs a lease for space in a
28 manufactured housing community operated in this
29 Commonwealth.

30 (ii) The ombudsman shall, within 90 days of the

1 effective date of this act, forward a copy of the
2 statement under subparagraph (i) to anyone licensed to
3 sell manufactured housing in this Commonwealth, as well
4 as to all owners or managers of manufactured housing
5 communities, along with a copy of this act and a notice
6 of their responsibilities pursuant to this section.

7 Failure to receive a copy of this act and notification
8 from the ombudsman, as required by this section, shall
9 not relieve anyone of his responsibilities under this
10 section.

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

13 (e) Staff.--The ombudsman shall work closely and
14 cooperatively with the Office of Attorney General, and, in
15 addition to staff support from the Office of General Counsel,
16 the Human Relations Commission and other appropriate State
17 agencies, the board may appoint attorneys as assistants and such
18 additional clerical, technical and professional staff as may be
19 appropriate and may contract for such additional services as are
20 necessary to implement the provisions of this act. The
21 compensation of assistants and clerical, technical and
22 professional staff shall be set by the board. An assistant or
23 other staff employee shall not, while serving in such position,
24 engage in any business, vocation or other employment involving
25 manufactured housing or have other interests involving
26 manufactured housing inconsistent with his official
27 responsibilities.

28 Section 6. Informal disposition before ombudsman.

29 (a) General rule.--A person who rents or owns manufactured
30 housing which is located on land in a manufactured housing

1 community for which a ground rental fee is paid, or any owner or
2 manager of a manufactured housing community, may contact the
3 ombudsman to investigate his complaint.

4 (b) Complaint form.--The ombudsman shall prepare a
5 standardized complaint form to be used by an individual or group
6 of individuals filing a complaint. There shall be no charge to
7 file a complaint with the ombudsman. The form shall include, but
8 shall not be limited to:

9 (1) A list of the complaints.

10 (2) The notarized signature of the individual or
11 individuals filing the complaint.

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

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

16 (c) Response.--On receipt of the complaint form, the
17 ombudsman shall send to the named respondent, by certified mail,
18 a copy of the complaint, along with a notice that a response is
19 required showing cause, if any, why the complaint should be
20 dismissed.

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

26 (e) Decision of ombudsman.--

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

30 (2) If a complaint is substantiated, the ombudsman may

1 make a recommendation, with respect to resolving the dispute,
2 to which all parties may voluntarily agree.

3 (3) In the absence of the voluntary acceptance of the
4 recommendations of the ombudsman by all parties to resolve a
5 dispute when a complaint is substantiated, the ombudsman
6 shall issue an order setting forth the appropriate actions to
7 be taken by all parties to the dispute. This order shall have
8 the effect of law, and the ombudsman may go to court to
9 enforce the order, provided the order is not overturned by
10 the board on appeal.

11 (f) Appeal to board.--If aggrieved by the decision of the
12 ombudsman, the individual or individuals filing the complaint,
13 or the respondent, may appeal the order of the ombudsman to the
14 board. In the case of a complaint involving a proposed rent
15 increase, the board shall hear the case within 30 days of
16 receipt of the petition for a hearing.

17 Section 7. Petition for hearing.

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

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

26 Section 8. Hearing procedure before board.

27 (a) General rule.--Upon receiving a petition for a hearing
28 and the accompanying filing fee, the chairman of the board shall
29 set a time and place for a hearing and shall give the parties
30 reasonable notice of the date, time and location of the hearing.

1 A notice of each hearing shall also be provided to the Office of
2 Attorney General.

3 (b) Proceedings.--All hearings shall be conducted under 2
4 Pa.C.S. Ch. 5 (relating to practice and procedure). Either party
5 to a hearing may present witnesses on his behalf, in person or
6 by deposition, on making a request to the board and designating
7 the person or persons, as well as records and papers, requested
8 to be subpoenaed, and may request that a written transcript of
9 the hearing be taken and made upon payment of the cost of the
10 transcript. Subpoenas may be enforced in Commonwealth Court,
11 which, after a hearing, may judge in contempt or make another
12 appropriate order. For the purpose of the hearing, the board has
13 the powers vested in the officers by section 502 of the act of
14 April 9, 1929 (P.L.177, No.175), known as The Administrative
15 Code of 1929, which secures the power to inspect, examine,
16 secure data or information or procure assistance from any
17 department, board or committee. The board may cause the
18 deposition of witnesses in or outside of this Commonwealth to be
19 taken as prescribed by law for depositions in civil cases.

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

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

29 Section 9. Appeal.

30 Within 20 days after service of notice of the decision of the

1 board, a person aggrieved by a decision of the board may apply
2 for an appeal in Commonwealth Court.

3 Section 10. Public access.

4 There shall be a toll-free telephone number established by
5 the ombudsman for public use regarding inquiries on the services
6 available from the ombudsman, including, but not limited to, the
7 procedures for filing a complaint and making an appeal to the
8 board. This telephone number shall be included on all
9 information required to be given to the public under section
10 5(d)(4)(i).

11 Section 11. Resident notification.

12 It shall be the responsibility of every owner of a
13 manufactured housing community, within 30 days of the effective
14 date of this act, to provide each resident of the manufactured
15 housing community with a copy of this act and the information
16 required to be given under section 5(d)(4)(i) and to maintain
17 one copy of this act at a convenient location within the
18 community for review by residents. In addition, all lessees in
19 the community shall be provided with a copy of this act and the
20 information required to be given under section 5(d)(4)(i) by the
21 owners of the manufactured housing community at least 48 hours
22 before a lessee signs a lease. At the time of the signing of the
23 lease, the lessor shall provide signed notice that he or she has
24 given all of the information under this section which shall be
25 acknowledged in writing by the lessee, and a copy of this
26 written notification shall be given to the lessee by the lessor.

27 Section 12. Restricted account.

28 There is hereby established within the State Treasury a
29 restricted account, into which shall be deposited all annual
30 manufactured housing community registration fees collected by

1 the Department of Community and Economic Development, any
2 appropriation and all fees paid to the board. The moneys in this
3 account are appropriated for the operation of the ombudsman and
4 the board in such amounts as the General Assembly may designate.
5 These moneys may be used only for this purpose.

6 Section 13. Construction of act.

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

11 Section 14. Funding.

12 The funding of the operation of the Office of the
13 Manufactured Housing Ombudsman and the Manufactured Housing
14 Hearing Board provided for by this act shall be provided by the
15 annual filing fees required to accompany the annual registration
16 of manufactured housing communities in this Commonwealth.

17 Section 15. Effective date.

18 This act shall take effect in 30 days.