

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 851 Session of
1993

INTRODUCED BY D. R. WRIGHT, DeWEESE, VEON, ROONEY, DeLUCA,
BELFANTI, TRELLO, ARGALL AND PISTELLA, MARCH 22, 1993

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 22, 1993

AN ACT

1 Providing for dispute reconciliation in manufactured housing
2 communities; establishing the Manufactured Housing Community
3 Commission and providing for its powers and duties;
4 conferring powers and duties on the Department of Community
5 Affairs; imposing fees on manufacturing housing communities;
6 and making an appropriation.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Manufactured
11 Housing Community Commission Act.

12 Section 2. Legislative findings and purposes.

13 The General Assembly finds and declares as follows:

14 (1) The relationship between manufactured housing
15 communities and residents of the communities requires
16 conciliation and mediation.

17 (2) Because of the unique nature of manufactured housing
18 and because disputes between residents and communities arise,
19 it is necessary to create a manufactured housing community
20 commission and designate an executive director to attempt to

1 resolve such disputes.

2 Section 3. Definitions.

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

6 "Bureau." The Bureau of Consumer Protection in the Office of
7 Attorney General.

8 "Commission." The Manufactured Housing Community Commission
9 established in section 4.

10 "Department." The Department of Community Affairs of the
11 Commonwealth.

12 "Executive director." The executive director of the
13 Manufactured Housing Community Commission.

14 "Manufactured home." A structure, transportable in one or
15 more sections, which, meets all of the following:

16 (1) Is built on a permanent chassis.

17 (2) Is designed to be used as a dwelling, with or
18 without a permanent foundation, when connected to the
19 required utilities.

20 (3) Either:

21 (i) is, in the traveling mode, eight body feet or
22 more in width and 40 body feet or more in length and is,
23 when erected on site, is 320 or more square feet; or

24 (ii) has on file a certification required by the
25 United States Department of Housing and Urban Development
26 and complies with the act of November 17, 1982 (P.L.676,
27 No.192), known as the Manufactured Housing Construction
28 and Safety Standards Authorization Act.

29 The term includes the plumbing, heating, air conditioning and
30 electrical systems contained in the structure.

1 "Manufactured housing community." A site, lot, field or
2 tract of land upon which ten or more manufactured homes are or
3 are intended to be located, regardless of whether or not a
4 charge is made for the accommodation.

5 "Manufactured housing resident." An owner of a manufactured
6 home who leases or rents a manufactured housing site. The term
7 does not include a person who rents or leases a manufactured
8 home.

9 "Manufactured housing site." A plot of ground within a
10 manufactured housing community designed for the accommodation of
11 one manufactured home.

12 Section 4. Commission.

13 (a) Establishment.--There is created the Manufactured
14 Housing Community Commission as a departmental administrative
15 board in the department. The commission shall consist of ten
16 members, one of whom shall be the director of the bureau, and
17 one of whom shall be the Secretary of Community Affairs. The
18 remaining members must be residents of this Commonwealth for a
19 five-year period immediately prior to appointment. Four members
20 must be professional members who are owners, operators or
21 managers of manufactured housing communities and who have been
22 actively engaged in that business for a period of at least five
23 years immediately preceding the appointment. Four members must
24 be public members who are owners of manufactured homes and who
25 have been residents of manufactured housing communities for a
26 period of at least five years immediately preceding the
27 appointment. No two professional or public members may be from
28 the same community or from communities under common control. The
29 commission shall be appointed by the Governor subject to the
30 consent of a majority of the members elected to the Senate. One

1 public and one professional member shall be recommended by the
2 President pro tempore of the Senate, one professional and one
3 public member shall be recommended by the Minority Leader of the
4 Senate, one professional and one public member shall be
5 recommended by the Speaker of the House of Representatives and
6 one professional and one public member shall be recommended by
7 the Minority Leader of the House of Representatives.

8 (b) Term of office.--The professional and public members
9 shall serve four-year terms except as provided in subsection
10 (c).

11 (c) Initial appointments.--Within 90 days of the effective
12 date of this act, from the recommendations submitted under
13 subsection (a), the Governor shall nominate one professional and
14 one public member to serve four-year terms, one professional and
15 one public member to serve three-year terms, one professional
16 and one public member to serve two-year terms and one
17 professional and one public member to serve one-year terms.

18 (d) Continuation in office.--Each professional and public
19 member shall continue in office until a successor is appointed
20 and qualified but not longer than six months after the
21 expiration of the term. If a member dies, resigns or becomes
22 disqualified during the term of office, a successor shall be
23 appointed in the same way and with the same qualifications as
24 set forth in this section and shall hold office for the
25 unexpired portion of the term.

26 (e) Limit on terms.--No professional or public member shall
27 be eligible for appointment to serve more than two consecutive
28 four-year terms.

29 (f) Forfeiture of membership.--A professional or public
30 member who fails to attend three consecutive meetings shall

1 forfeit membership unless the chairperson, upon written request
2 from the member, finds that the member should be excused from a
3 meeting because of illness or the death of a family member.

4 (g) Compensation.--Each professional and public member shall
5 receive per diem compensation at the rate of \$60 when actually
6 attending to the work of the commission. Members shall also
7 receive reasonable travel, hotel and other necessary expenses
8 incurred in the performance of their duties in accordance with
9 management directives on travel and subsistence.

10 (h) Quorum.--A majority of the members of the commission
11 constitutes a quorum. A member may not be counted as part of a
12 quorum or vote on any issue unless the member is physically in
13 attendance at the meeting.

14 (i) Meeting.--The commission shall meet at least four times
15 a year in Harrisburg. It may meet more often either in
16 Harrisburg or at other locations in this Commonwealth.

17 (j) Operating procedures.--The commission shall meet within
18 30 days after the appointment of its initial members and set up
19 operating procedures and forms for carrying out the purposes of
20 the act. It shall be the responsibility of the commission to
21 circulate these forms and educate the public on the requirements
22 of this act.

23 (k) Election of officers.--The commission shall elect
24 annually from its membership a chairperson, a vice chairperson
25 and a secretary.

26 Section 5. Powers and duties of commission.

27 The commission has the following powers and duties:

28 (1) Appoint the executive director and supervise the
29 executive director's responsibilities.

30 (2) Ensure that manufactured housing communities defray

1 the expenses of the commission and biennially renew payment
2 of fees under section 10.

3 (3) Ensure that the executive director investigates,
4 complaints by the bureau, the department or any other person.

5 (4) Administer and enforce and regulations promulgated
6 under this act.

7 (5) Keep records of all proceedings in connection with
8 the resolution of disputes under this act.

9 (6) Promulgate regulations to implement this act.

10 (7) Adopt forms.

11 Section 6. Executive director.

12 (a) Establishment.--The executive director must be an
13 attorney admitted to the bar of the Supreme Court of
14 Pennsylvania. The executive director may not engage in any
15 business, vocation or other employment involving manufactured
16 housing; be a manufactured housing resident; have other
17 interests involving manufactured housing; be a representative of
18 a manufactured housing community or manufactured housing
19 resident; or have any other interest inconsistent with official
20 responsibilities.

21 (b) Appointment.--The position of executive director shall
22 be a full-time position. The executive director shall be
23 appointed by the commission under section 5(1).

24 (c) Compensation.--The compensation of the executive
25 director shall be fixed by the commission.

26 (d) Powers and duties.--The executive director has the power
27 and duty to investigate and resolve complaints and disputes
28 among manufactured housing residents and owners or operators of
29 manufactured housing communities concerning the following:

30 (1) Disputes over interpretation of the substantive

1 statutory provisions contained in the act of November 24,
2 1976 (P.L.1176, No.261), known as the Mobile Home Park Rights
3 Act.

4 (2) Disputes over the approval of a prospective
5 purchaser of an existing manufactured home owned by a
6 manufactured housing resident if the purchaser desires to
7 have the home remain in the community.

8 (3) The reasonableness of rules and regulations adopted
9 by the manufactured housing community under the Mobile Home
10 Park Rights Act.

11 (4) Disputes over whether or not manufactured housing
12 residents or manufactured housing communities are complying
13 with this act or the Mobile Home Park Rights Act.

14 (e) Staff.--The executive director shall work closely and
15 cooperatively with the bureau and the department. In addition to
16 staff support from one or both of these agencies, the commission
17 may appoint attorneys as assistants and additional clerical,
18 technical and professional staff as appropriate and may contract
19 for additional services necessary to implement this act. The
20 compensation of assistants and clerical, technical and
21 professional staff shall be set by the commission. An assistant
22 or other staff employee may not engage in any business, vocation
23 or other employment involving manufactured housing; be a
24 manufactured housing resident in a manufactured housing
25 community; or have other interests involving manufactured
26 housing inconsistent with official responsibilities.

27 Section 7. Disputes.

28 (a) Standing.--

29 (1) A manufactured housing community which is aggrieved
30 by an action of a manufactured housing resident alleged to be

1 in violation of this act or the act of November 24, 1976
2 (P.L.1176, No.261), known as the Mobile Home Park Rights Act,
3 or regulations promulgated under either act may file an
4 administrative complaint in accordance with this section.

5 (2) A manufactured housing resident who is aggrieved by
6 an action of a manufactured housing community or a
7 manufactured housing resident alleged to be in violation of
8 this act or the Mobile Home Park Rights Act, or regulations
9 promulgated under either act may file an administrative
10 complaint in accordance with this section.

11 (b) Informal resolution.--Prior to filing a complaint under
12 subsection (c), a prospective complainant must notify the
13 prospective respondent of the problem in writing. Proof of
14 receipt is required. If the problem is not resolved within 30
15 days of receipt of the notice, an action may proceed under
16 subsection (c).

17 (c) Complaint.--A complainant may file a complaint on a form
18 prescribed by the commission. The complaint must be accompanied
19 by a \$25 filing fee. The complaint shall contain all of the
20 following information:

21 (1) The action of the respondent which is the subject of
22 the complaint.

23 (2) The notarized signature of the complainant.

24 (3) The address and telephone number of the complainant.

25 (4) The name, address and telephone number of the
26 respondent.

27 (5) A copy of the notice under subsection (b), with
28 proof of receipt.

29 (d) Response.--On receipt of the complaint, the executive
30 director shall review it for completeness and to determine

1 whether or not the dispute is subject to this act. If it is
2 determined that the dispute is subject to this act, the
3 executive director shall send to the respondent, by certified
4 mail, return receipt requested, a copy of the complaint and a
5 notice that a response is required within 30 days showing cause,
6 if any, why the complaint should be dismissed. If the executive
7 director determines that the dispute is not subject to this act,
8 the executive director shall dismiss the complaint.

9 (e) Resolution.--After reviewing the complaint and the
10 response, the executive director shall within 30 days of receipt
11 of the response, mediate the dispute to the satisfaction of the
12 complainant and the respondent. If the dispute is not resolved,
13 the executive director shall make a recommendation to the
14 commission.

15 (f) Recommendation of executive director.--

16 (1) The executive director may determine that there is
17 no factual basis to support the complaint.

18 (2) If a complaint is substantiated, the executive
19 director may recommend to the commission as to how to resolve
20 the dispute. The executive director shall issue an order
21 setting forth the appropriate action to be taken.

22 (g) Decision by commission.--A decision by the executive
23 director under subsection (f) shall be reviewed by the
24 commission. The commission may, and upon motion of either party,
25 shall, order a hearing. This subsection is subject to 2 Pa.C.S.
26 Ch. 5 Subch. A (relating to practice and procedure of
27 Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial
28 review of Commonwealth agency action).

29 (h) Costs.--If the complainant prevails, the complainant may
30 recover the filing fee under subsection (c).

1 Section 8. Public access.

2 There shall be a toll-free telephone number established by
3 the commission for public use regarding inquiries on the
4 services available from the commission.

5 Section 9. Resident notification.

6 Any manufactured housing community, within 30 days of the
7 effective date of this section, shall make available to its
8 manufactured housing residents a copy of this act and shall
9 maintain a copy of this act at a convenient location within the
10 manufactured housing community. A new manufactured housing
11 resident shall be provided with a copy of this act by the
12 manufactured housing community at the time the residence begins.

13 Section 10. Fees.

14 (a) Imposition and increase.--All fees established under
15 this act shall be fixed by the commission by regulation. The
16 fees for each manufactured housing community shall be \$1 per
17 site, with a minimum fee of \$50 per manufactured housing
18 community and a maximum of \$300 per manufactured housing
19 community. If the revenues raised by fees imposed under this act
20 are not sufficient to meet expenditures over a two-year period,
21 the commission shall increase those fees so that the projected
22 revenues will meet or exceed projected expenditures.

23 (b) Additional increases.--If the department determines that
24 the fees established by the commission under subsection (a) are
25 inadequate to meet the minimum enforcement efforts required by
26 this act, then the department, after consultation with the
27 commission shall increase the fees by regulation in an amount to
28 insure that adequate revenues are raised to meet the required
29 enforcement effort.

30 (c) Enforcement of fees.--If a manufactured housing

1 community does not pay a fee under this section, the commission
2 shall send by certified mail an order to pay the fee within 30
3 days of the date of the order. Upon failure to respond to the
4 order, the commission shall order the manufactured housing
5 residents of that community to pay their rent directly to the
6 commission. Rents so paid shall be placed in a separate escrow
7 account. Within 30 days of the date when fees required by this
8 act are paid, the money in escrow shall be released and paid
9 over to the manufactured housing community.

10 Section 11. Appropriation.

11 The sum of \$500,000, or as much thereof as may be necessary,
12 is hereby appropriated to the Department of Community Affairs
13 for the payment of costs of the operation of the Manufactured
14 Housing Community Commission and for other general costs of the
15 commission relating to this act. This appropriation shall be
16 repaid by the commission to the General Fund within one year of
17 the effective date of this section.

18 Section 12. Effective date.

19 This act shall take effect as follows:

20 (1) Sections 7 through 10 of this act shall take effect
21 in 240 days.

22 (2) The remainder of this act shall take effect in 60
23 days.