

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2664 Session of
2006

INTRODUCED BY HANNA, CALTAGIRONE, CORRIGAN, GRUCELA AND THOMAS,
MAY 3, 2006

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 3, 2006

AN ACT

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

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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 establishment of the Manufactured Housing Ombudsman will assist
20 in a 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 or cooling and
4 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 and Economic
23 Development of the 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 seven members. Two

1 members shall be members of the Pennsylvania Manufactured
2 Housing Association; two members shall be members of the
3 Pennsylvania Manufactured Home Owners of America, Inc.; one
4 member shall be the Attorney General or his or her designee; one
5 member shall be the Secretary of Community and Economic
6 Development or the secretary's designee; and one member shall be
7 the Secretary of Environmental Protection or the secretary's
8 designee. The Governor shall appoint two members of the
9 Pennsylvania Manufactured Housing Association and two members of
10 the Pennsylvania Manufactured Home Owners of America, Inc., from
11 a list of three names submitted by each organization to the
12 Governor.

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

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

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

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

28 (g) Administrative decisions.--The board shall assist the
29 ombudsman with respect to deciding the need for and location of
30 field offices, which may include, if space is available,

1 location within the current regional offices of the Office of
2 Attorney General or the Pennsylvania Human Relations Commission.
3 The ombudsman field offices shall maintain their separateness
4 from the Office of Attorney General and the Pennsylvania Human
5 Relations Commission.

6 Section 5. Manufactured Housing Ombudsman.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (iii) When making a determination as to the
30 reasonableness of a proposed rent increase, the ombudsman

1 may consider the following:

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

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

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

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

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

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

26 (4) (i) To disseminate necessary information to the
27 public concerning information they should review prior to
28 the purchase of manufactured housing or leasing space in
29 a manufactured community. This shall include, but shall
30 not be limited to, the preparation of a brief statement

1 titled "IMPORTANT INFORMATION FOR A PROSPECTIVE PURCHASER
2 OF MANUFACTURED HOUSING OR LESSEE IN MANUFACTURED HOUSING
3 COMMUNITY." Following the title shall appear a brief
4 summary of the key facts of which anyone contemplating
5 purchasing a manufactured home or leasing space in a
6 manufactured housing community should be aware. The
7 notice, including the title, shall be in ten-point
8 boldface print and signs and visual symbols shall be used
9 as appropriate to facilitate the understanding of the
10 information by readers. A copy of the statement shall be
11 provided by:

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

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

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

29 (ii) The ombudsman shall, within 90 days of the
30 effective date of this act, forward a copy of the

1 statement under subparagraph (i) to anyone licensed to
2 sell manufactured housing in this Commonwealth, as well
3 as to all owners or managers of manufactured housing
4 communities, along with a copy of this act and a notice
5 of their responsibilities pursuant to this section.
6 Failure to receive a copy of this act and notification
7 from the ombudsman, as required by this section, shall
8 not relieve anyone of his responsibilities under this
9 section.

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

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

27 Section 6. Informal disposition before ombudsman.

28 (a) General rule.--A person who rents or owns manufactured
29 housing which is located on land in a manufactured housing
30 community for which a ground rental fee is paid, or any owner or

1 manager of a manufactured housing community, may contact the
2 ombudsman to investigate his complaint.

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

8 (1) A list of the complaints.

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

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

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

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

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

25 (e) Decision of ombudsman.--

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

29 (2) If a complaint is substantiated, the ombudsman may
30 make a recommendation, with respect to resolving the dispute,

1 to which all parties may voluntarily agree.

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

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

16 Section 7. Petition for hearing.

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

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

25 Section 8. Hearing procedure before board.

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

1 Attorney General.

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

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

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

28 Section 9. Appeal.

29 Within 20 days after service of notice of the decision of the
30 board, a person aggrieved by a decision of the board may apply

1 for an appeal in Commonwealth Court.

2 Section 10. Public access.

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

10 Section 11. Resident notification.

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

26 Section 12. Restricted account.

27 There is hereby established within the State Treasury a
28 restricted account, into which shall be deposited all annual
29 manufactured housing community registration fees collected by
30 the Department of Community and Economic Development, any

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

5 Section 13. Construction of act.

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

10 Section 14. Funding.

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

16 Section 15. Effective date.

17 This act shall take effect in 30 days.