



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5513 (Substitute H-3 as passed by the House)
Sponsor: Representative Andy Schor
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

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CONTENT

The bill would amend the Mobile Home Commission Act to do the following:

- **Rename the Mobile Home Commission as the Manufactured Housing Commission (consistent with a 1997 executive order).**
- **Expand the powers and duties of the Commission with regard to notification of local units of government of complaints and technical bulletins.**
- **Require an applicant for licensure of a mobile home park to provide financial assurance for corrective actions to be taken if the park were determined to be a distressed park; and otherwise expand the requirements for licensure.**
- **Require the Commission to promulgate rules providing standards and procedures to determine whether a mobile home park that was not in substantial compliance with park rules was a distressed park.**
- **Require the Department of Licensing and Regulatory Affairs (LARA) to conduct an annual physical inspection of mobile home parks, and submit a copy of the inspection report to each local unit in which a mobile home park was located.**
- **Require LARA to enter into a contract for inspection of mobile home parks with any county health department that chose to perform inspections, and to pay the reasonable costs of conducting those inspections.**
- **Increase the maximum civil fine the Commission may impose for a violation of the Act.**
- **Require LARA to notify local units of government, the mobile home park owner and operator, and the surety executing a financial assurance bond, if it determined that the owner or operator had violated the Act or rules by failing to maintain or repair park infrastructure or facilities.**
- **Allow LARA to enter a mobile home park and perform maintenance or repairs, if the owner, operator, or surety did not do so within 60 days after service of the notice, and to draw on the financial assurance for the expense of the work.**
- **Allow LARA or a local unit to bring an action to enforce regulations and to abate or enjoin a violation, if LARA had ordered a mobile home park owner or operator to correct a violation that imminently threatened the health or safety of park residents or the public and the owner or operator failed to comply.**
- **Allow the circuit court to grant a petition filed by LARA or a local health department to place a mobile home park under receivership, if it found that the health or safety of park residents was seriously threatened by conditions at the park, or would be seriously threatened if those conditions were not corrected.**
- **Allow a local health department to issue an order requiring a mobile home park to cease operations or prohibiting the presence of people at the park, if the condition of the park were an imminent danger to the health or lives of individuals.**

Powers of the Commission

The Act created the Mobile Home Commission to oversee the licensure and operation of mobile home parks. Executive Reorganization Order 1997-12 renamed the Commission the Manufactured Housing Commission. The bill would codify that name.

The Act allows the Commission to take certain actions. The bill also would allow the Commission to do the following:

- Prepare a detailed written explanation of the powers and duties of local governments with respect to mobile home parks, seasonal mobile home parks, and mobile homes, and post and maintain the document on the LARA website.
- Post and maintain all technical bulletins on the LARA website.
- Promptly notify each local government in which a mobile home park was located of the details of a complaint received by LARA about a condition at a mobile home park or seasonal mobile home park that imminently threatened the health or safety of the park's residents.

The bill also would allow the Commission to promptly notify a local government of the issuance, amendment, or rescission of a technical bulletin if LARA had knowledge that a mobile home park or seasonal mobile home park were located in that local unit of government, or an application had been filed for the licensure of a park proposed to be located in the local unit. The notice would have to be sent by first-class mail or electronic mail to the clerk and the chief executive officer of the local unit. It also would have to be sent to the local unit's enforcing agency, if the local unit had assumed responsibility for the administration and enforcement of the Single State Construction Code Act and the State Construction Code, or part of the Code, within its jurisdiction.

The bill would define "technical bulletin" as a document issued by LARA to promote uniform interpretation and enforcement of the Mobile Home Commission Act and rules promulgated under it. A rule promulgated or order issued under the Act would not be a technical bulletin.

Mobile Home Park License

The Act prohibits a person from operating a mobile home park or seasonal mobile home park without a license. The term of a license is three years.

Under the bill, LARA could issue a license only if all of the following requirements were met:

- The applicant submitted a complete license application.
- Certifications and recommendations of appropriate agencies and local governments were submitted to and approved by LARA.
- The applicant provided financial assurance, if the park were determined to be a distressed park under rules promulgated under the bill.
- The applicant paid the fee required by the Act.
- The park was approved as being in substantial compliance after its most recent inspection.

Promulgation of Rules

The bill would require the Commission to promulgate rules providing standards and procedures for it to determine whether a mobile home park or seasonal mobile home park that was not in substantial compliance with rules promulgated under Sections 5 and 6 of the Act (described below) was a distressed park. The standards and procedures would have to give the owner an opportunity for an evidentiary hearing and require the Commission to consider at least all of the following:

- The length of time the park had not been in substantial compliance with the rules promulgated under Sections 5 and 6.
- Whether the owner or operator was notified and had sufficient opportunity to bring the park into substantial compliance.
- Any imminent threat to the health or safety of the park's residents.
- Whether the park had been or was likely to be abandoned by the owner or operator.

The Commission also would have to promulgate rules requiring the owner of a distressed mobile home park or seasonal mobile home park to post financial assurance in the form of a bond, cash deposit, or other financial arrangement to ensure the repair and cleanup of the park, including the repair of substandard or noncomplying park-owned utility systems and the removal and disposal of abandoned mobile homes, scrap material, or other waste.

Within 180 days after the bill's effective date, the Commission would have to submit a report of its progress on rule promulgation to the standing committees of the Senate and House of Representatives with primary responsibility for legislation affecting mobile home parks.

(Section 5 of the Act requires LARA, after consultation with and considering comments from representatives of the manufactured housing industry and other interested parties, to promulgate the Mobile Home Code. That Code must consist of rules governing certain factors regarding the construction, density, and layout of mobile home parks as well as their business practices.

Section 6 requires the Department of Environmental Quality, after consultation with and considering comments from representatives of the manufactured housing industry and other interested parties, to promulgate rules for mobile home parks setting forth minimum standards for such things as water and sewage systems, drainage, garbage and rubbish disposal, insect and rodent control, and general operation, maintenance, and safety.)

Inspection of Mobile Home Parks

The Act requires the Department of Environmental Quality (DEQ) or its authorized representative to conduct a physical inspection of mobile home parks and seasonal mobile home parks in accordance with standards it established. The bill instead would require LARA or its authorized representative to conduct an annual physical inspection of parks in accordance with standards it established. The bill would require LARA to prepare a report documenting the findings of the inspection and submit a copy of the report to each local unit in which the mobile home park or seasonal mobile home park was located.

The bill also would require LARA to enter into a contract for inspection of mobile home parks and seasonal mobile home parks with any county health department that chose to perform inspections. The Department would have to pay reasonable costs to any county health department conducting inspections.

Except for purposes of issuing a license or renewing a license, the Act prohibits a local unit from making an inspection unless it has reason to believe that the Act, the Mobile Home Code promulgated under Section 5, or rules promulgated pursuant to the Act were violated. Under the bill, that prohibition would apply except as provided above for contracting with a local health department to perform inspections or under Section 7 of the Act. (Section 7 allows local units of government to adopt an ordinance providing for inspection of a mobile home for safety if it is being rented to a tenant by the home's owner.)

Sanctions for Violations

The Act provides for various penalties the Commission may impose if, after notice and a hearing, a person is determined to have violated the Act. One of those sanctions is a civil fine of up to \$10,000. The bill would raise the maximum amount of a civil fine to \$50,000.

Notice of Violation

Under the bill, if LARA determined that the owner or operator of a mobile home park or seasonal mobile home park had violated the Act or rules promulgated under it by failing to maintain or repair any park infrastructure or facilities, the Department would have to give notice of the determination by personal service or first-class mail to each of the following:

- The local units where the park was located.
- The owner.
- The operator.
- The surety executing a bond, if financial assurance in the form of a bond had been posted.

If the owner, operator, or surety did not perform the specified maintenance or repair within 60 days after service of the notice, LARA could enter the park and perform the maintenance or repair. The owner, operator, and any surety would be jointly and severally liable for all expenses incurred by the Department. The bill would require LARA to certify the claim to the owner, operator, and surety, listing in the claim the items of expense in performing the work. The Department also would have to draw on any financial assurance for the payment of the claim. When the specified maintenance or repair was completed, LARA would have to notify the local government where the park was located.

Failure to Comply with Correction Order; Court Action

Under the bill, if LARA ordered the owner or operator of a mobile home park or seasonal mobile home park to correct a violation that imminently threatened the health or safety of the park's residents or the public, and the owner or operator failed to comply with the order, the Department or the local unit could bring an action to enforce the applicable regulations and to abate or enjoin the violation.

If the violation were not corrected, and it imminently threatened the health or safety of the residents or the public, LARA or the local unit could file a motion for a preliminary injunction or other temporary relief appropriate to remove the threat while the action was pending.

The bill would require LARA or the local unit to serve a copy of the complaint and summons on each owner and lienholder of record, and any operator, of the park that could be identified with the exercise of reasonable diligence. The local unit also would have to file a notice of the action with the county register of deeds.

The court would have to make orders and determinations consistent with the objectives of the Act. The court could enjoin the maintenance of an unsafe, unhealthy, or unsanitary condition, or violation of the applicable regulations, and could order the defendant to perform maintenance and repairs or make other corrections including removal of a building or structure necessary to abate the condition. The court could authorize LARA or the local unit to perform maintenance or repairs or to remove a building or structure owned or operated by the owner or operator of the park. The court, however, could not authorize removal of a building or structure unless the cost of repair would be greater than its State equalized value.

If the expense of maintenance, repair, or removal were not otherwise provided for, the court could enter an order approving the expense and place a lien on the real property for the payment of the expense. The order could establish the lien as a senior lien, except as to tax and assessment liens and a mortgage of first priority recorded before all other liens of record. The order also could specify the time and manner for foreclosure of the lien if it were not satisfied. For the lien to be perfected, a copy of the order would have to be filed with the county register of deeds within 10 days after entry of the order.

Emergency Petition for Receivership

In accordance with rules promulgated under the bill, LARA or the local health department could file an emergency petition with the circuit court to place a mobile home park or seasonal mobile home park under the control of a receiver. The court could grant the petition if it found that the health or safety of park residents was seriously threatened by conditions existing when the petition was filed or would be seriously threatened if the conditions were not corrected.

If the court appointed a receiver, the receiver would have to be the local health department director, or his or her designee; the DEQ Director; the LARA Director; or another State agency or person designated by the LARA Director. The receiver would have to use the park's income and assets to maintain and operate the park and to attempt to correct the conditions that threatened the health or safety of park residents or would do so if not corrected.

If the receiver requested, LARA or the DEQ would have to provide available personnel to consult with the receiver on the fulfillment of his or her duties.

The receivership would be terminated when the receiver and the court certified that the conditions prompting the appointment of the receiver had been corrected or, if the park ceased operation, when the residents were safely placed in other housing, whichever occurred first.

Upon termination of the receivership, the receiver would have to render a complete accounting to the court.

Order to Cease Operations

If the condition of a mobile home park or seasonal mobile home park were an imminent danger to the health or lives of individuals, the local health department could issue an order under Section 2451 of the Public Health Code, including an order requiring the park to cease operation or prohibiting the presence of people at all or part of the park because of the condition of the park.

(Under Section 2451 of the Public Health Code, upon a determination that an imminent danger to the health or lives of individuals exists in the area served by the local health department, the local health officer must immediately inform the individuals affected by the imminent danger. The health officer also is required to issue an order that must to be delivered to a person authorized to avoid, correct, or remove the imminent danger or be posted at or near the site of the danger. The order must require immediate action necessary to avoid, correct, or remove the imminent danger. It also may specify actions to be taken or prohibit the presence of people in locations or under conditions where the imminent danger exists.)

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the Manufactured Housing Commission within the Department of Licensing and Regulatory Affairs as well as local units of government.

Under the bill, the Commission would have to promulgate rules, resulting in some new administrative costs. The rules could require owners of distressed mobile home parks to post a surety bond or cash deposit that could be drawn upon to pay for repairs to substandard utility systems and other costs. Surety posted by the owner of a distressed mobile home park would allow LARA to recoup some of its costs related to the actual work done to remedy a situation resulting from a violation of the Act, and the bill would allow a court to place a lien against the property for costs in excess of the surety. These two mechanisms appear to be sufficient to cover LARA's repair costs, but they do not appear to cover administrative and legal costs that would likely be associated with addressing these sorts of issues. Those costs would be borne by existing resources, and are unknown.

The bill also would allow LARA or a local health department to petition the circuit court to place a mobile home park under the control of a receiver if the court found that the health or safety of the residents was seriously threatened. A receiver could be the Director of LARA, the DEQ, the local health department, or another State agency. A receiver could use the park's income and assets to operate the park and correct the threat to the health or safety of the residents, but administrative costs related to acting as a receiver would be borne by the resources of the agency for which the receiver was employed.

The bill would increase the maximum civil fine for violations of the Act from \$10,000 to \$50,000. Revenue from these fines is credited to the Mobile Home Code Fund, which supports the program. According to an accounting query on the Michigan Administrative Information Network, an average of approximately \$21,700 was collected from these fines annually over the last 10 years. If it is assumed that the average fine would increase by a factor of five under the bill, given the increase in the maximum, average revenue from these fines would increase by \$86,800 each year.

The bill would require LARA to enter into contracts with county health departments for the performance annual inspections of mobile home parks under the Act, and to reimburse those health departments for their reasonable costs to perform the inspections. Statute currently requires the Department of Environmental Quality to perform these inspections, and the DEQ currently receives funds from LARA to do so. Allowing county health departments to perform these inspections and receive reimbursement would likely not significantly change the overall cost of the inspections.

Overall, the fiscal impact of the bill is indeterminate for LARA and local units of government. The bill would likely result in a small amount of new revenue for LARA from increased civil fines, but it also would create new responsibilities for LARA and potentially for county health departments. The fiscal impact of the bill would depend on how many distressed mobile home parks would require action from LARA, how many parks would be placed into receivership, and whether the administrative costs associated with those actions would be higher than the revenue generated by increased fines.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.