



# Ohio Legislative Service Commission

## Bill Analysis

Daniel M. DeSantis

### Sub. H.B. 186

128th General Assembly

(As Reported by H. Financial Institutions, Real Estate, and Securities)

**Reps.** Foley and Patten, Boyd, Brown, Domenick, Hagan, Heard, Luckie, Okey, Skindell, Stewart, Yuko

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## BILL SUMMARY

- Transfers, from the Department of Health and the Public Health Council to the Manufactured Homes Commission, regulatory authority related to manufactured home parks.
- Prohibits a park operator from prohibiting an owner of a unit in a manufactured home park from displaying a for sale sign on that owner's lot.
- Prohibits a park operator from prohibiting an owner or a tenant from displaying a political sign on that owner's or tenant's lot.
- Alters the method and type of relief a tenant or owner may obtain from a park operator's violation of certain duties.
- Establishes adjudication procedures for violations of the Manufactured Home Park Law.
- Requires a mortgagee to notify the Manufactured Homes Commission when initiating foreclosure action against a manufactured home park and requires the Commission to notify park residents.
- Requires a park operator to pay relocation expenses when a manufactured home park is converted or sold for another use.
- Requires the Manufactured Homes Commission to develop a list comprised of organizations that have an interest in the sale or purchase of parks and persons that assist in financing manufactured home parks, and to notify persons on the list when a park is offered for sale or at any other time in the Commission's discretion.

- Establishes continuing education requirements for manufactured home park operators.
- Establishes the Manufactured Homes Commission Regulatory Fund for the administration and enforcement of the Manufactured Home Park Law.
- Diverts certain fees from the General Operations Fund to the Occupational Licensing and Regulatory Fund for the administration and enforcement of the Manufactured Home Park Law.
- Requires the Director of Budget and Management to transfer cash from the General Operations Fund that previously was collected pursuant to the Manufactured Home Park Law into the Occupational Licensing and Regulatory Fund for the administration of the Manufactured Home Park Law.
- Repeals a provision in motor vehicle dealers law regarding a vehicle repair guarantee.
- Revises the application requirements for a new motor vehicle dealer's license and for a motor vehicle salesperson's license.
- Repeals the exception under current law that permits two or more motor vehicle dealers to sell manufactured or mobile homes in the same manufactured home park without having to agree to joint, several, and personal liability.
- Makes changes to motor vehicle dealers law to conform with Am. Sub. H.B. 1 (Biennial Operating Budget).
- Establishes special effective dates for the bill's provisions.

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## **CONTENT AND OPERATION**

### **Transfer of regulatory authority over manufactured home parks**

(R.C. 4781.26 to 4781.53 and numerous cross-reference changes)<sup>1</sup>

The bill transfers, from the Department of Health and the Public Health Council to the Manufactured Homes Commission, regulatory authority related to manufactured

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<sup>1</sup> Revised Code sections 3733.01 to 3733.20 under current law are renumbered within the range of 4781.26 to 4781.53 by the bill. R.C. 3733.11 is amended and R.C. 3733.111 is enacted, effective on the 91st day after the bill, if enacted, is filed with the Secretary of State. Both sections are then renumbered R.C. 4781.40 and 4781.53, respectively, effective July 1, 2011. The analysis, in addressing those sections, references them as R.C. 3733.11 and 3733.111.

home parks, including, for example, that the Manufactured Homes Commission: (1) adopt rules governing the review of plans, issuance of flood plain management permits, and issuance of licenses for manufactured home parks, as well as the location, layout, density, construction, drainage, sanitation, safety, and operation of those parks, and notices of flood events concerning, and flood protection at, those parks, (2) inspect the installation, blocking, tiedown, foundation, and base support systems of manufactured housing in a park, (3) license persons who operate a park, (4) inspect each park for compliance with the Manufactured Home Park Law, (5) approve any development in a park, (6) approve any park development in a 100-year flood plain, (7) receive notification of a flood event and notify the Director of Health,<sup>2</sup> (8) provide permits for the repair/alteration of homes damaged in a flood event, and (9) compel a county prosecuting attorney, city director of law, or the attorney general to prosecute to termination, or bring an action for injunction against a person, that has violated Manufactured Home Park Law.

The bill also provides that the Manufactured Homes Commission's expanded authority does not limit the authority of a board of health to enforce plumbing, sewage treatment, and building standards law.

The bill makes the transfer of authority effective July 1, 2011.

### **Display of signs in a manufactured home park**

(R.C. 3733.11(H)(6); Sections 3 through 6)

Current law prohibits a manufactured home park operator from doing certain things with respect to manufactured home owners renting space in the park, such as charging a fee not set forth in the rental agreement. If a park operator violates any of the prohibitions, the tenant or owner may recover actual damages resulting from the violation, and if the tenant or owner obtains a judgment, reasonable attorney's fees, or terminate the rental agreement.

The bill adds new prohibitions regarding signs. It prohibits a manufactured home park operator from (1) prohibiting the indoor or outdoor display of a for sale sign by an owner on that owner's lot, including a sign that indicates the owner is offering the property for sale by owner, and (2) prohibiting the indoor or outdoor display of a political sign by a tenant or owner on that tenant's or owner's lot, if the tenant or owner displaying the sign complies with all applicable laws and all applicable municipal and county ordinances and resolutions regulating the display of such a sign. The bill

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<sup>2</sup> Under the bill, the Board of Health will be responsible for causing a post-flood inspection to occur (R.C. 4781.33).

defines "political sign" as a sign that advertises, promotes, endorses, or opposes an issue that has been certified to appear on the ballot, or a candidate whose name has been certified to appear on the ballot, at the next general, special, or primary election.

The bill also revises the damage recovery provisions by permitting a tenant or owner to commence a civil action against the park operator for either or both of the following:

- (1) The greater of \$25 or the actual damages resulting from the violation and reasonable attorneys' fees, if the tenant or owner obtains a judgement;
- (2) Termination of the rental agreement.

The bill makes the changes effective on the 91st day after the bill, if enacted, is filed with the Secretary of State.

### **Investigation and adjudication regarding violations of manufactured home and mobile home laws**

(R.C. 4781.121; Section 3)

The bill authorizes the Manufactured Homes Commission to investigate any person who allegedly has violated the law governing the following: (1) licensure requirements for the installation of manufactured housing, (2) display or sale of manufactured or mobile homes,<sup>3</sup> (3) licensure to operate a manufactured home park, and (4) any rule adopted by the Manufactured Homes Commission.

The bill sets forth the following adjudication procedures for when, after investigation, the Commission determines that reasonable evidence exists that a person has committed a violation described above. First, within seven days after the Commission makes such a determination, the Commission must send a written notice to that person. The notice must conform with the Administrative Procedure Act (APA), except that it must specify that a hearing will be held and specify the date, time, and place of the hearing.

If the Commission, after a hearing conducted as provided under the APA, determines that a violation has occurred, the Commission, upon an affirmative vote of five of its members, may impose a fine not exceeding \$1,000 per violation per day. The Commission's determination is an order that the person may appeal pursuant to the APA.

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<sup>3</sup> The prohibitions relating to the display and sale of manufactured or mobile homes take effect on July 1, 2010 pursuant to Am. Sub. H.B. 1 of the 128th General Assembly (Biennial Operating Budget).

If the person who allegedly committed a violation fails to appear for a hearing, the Commission may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the Commission for a hearing.

If the Commission assesses a person a civil penalty for a violation and the person fails to pay that civil penalty within the time period prescribed by the Commission, the Commission must forward to the attorney general the name of the person and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to the civil penalty assessed, the person also will be required to pay any fee assessed by the attorney general for collection of the civil penalty. The bill stipulates that the authority provided to the Commission, and any fine imposed, will be in addition to, and not in lieu of, all penalties and other remedies provided in the Manufactured Home Park Law. Any fines collected also must be used solely to administer and enforce that law and the rules adopted under it.

The bill makes these provisions effective on the 91st day after the bill, if enacted, is filed with the Secretary of State.

### **Foreclosure action against a manufactured home park**

(R.C. 2323.05 and 3733.111(C); Sections 3 through 6)

The bill requires a mortgagee to provide the Manufactured Homes Commission with a written notice of filing a court action to initiate foreclosure against a manufactured home park. The mortgagee must provide this notice within ten days after the action was initiated with the court, and must provide the court with a copy of the notice. If the mortgagee fails to provide the notice to the Commission, or fails to provide the required copy to the court, the court must dismiss the foreclosure action without prejudice. The bill also requires the Commission to notify residents in the park of the foreclosure action within 30 days after receiving notice of the court filing.

The bill makes these provisions effective on the 91st day after the bill, if enacted, is filed with the Secretary of State.

### **Conversion of a manufactured home park**

(R.C. 3733.11(A)(3), 3733.111(B), and 4781.60(B); Sections 3 through 6)

Under current law, if a park operator sells a manufactured home park for a use other than as such a park, the operator must give each tenant and owner a written notification which must include notice of the sale and the date by which the tenant or owner must vacate. The bill requires this notification to also be provided for a

conversion of the park to another use other than as a manufactured home park. The bill also requires a park operator who converts or sells a manufactured home park for a use other than as a manufactured home park, to pay relocation expenses to owners of homes at an amount the Commission establishes by rule. This amount must be the greater of the actual cost of relocating a home or \$3,000 for a single-wide manufactured or mobile home or \$5,000 for a double-wide or larger manufactured or mobile home.

The bill makes these changes effective on the 91st day after the bill, if enacted, is filed with the Secretary of State.

### **Sale of a manufactured home park**

(R.C. 3733.111(A) and 4781.60(A); Sections 3 through 6)

The bill requires the Manufactured Homes Commission to develop a list comprised of organizations that have an interest in the sale or purchase of manufactured home parks and persons that assist in the financing of such parks. This list must include the Ohio Manufactured Homes Association, the Association of Manufactured Home Residents of Ohio, and any other entity that the Commission identifies as appropriate or that requests to be included. Within ten days after a park is offered for sale, the park operator must notify the Commission so it may notify persons interested in the sale of such parks as required by the bill, including persons on the Commission's list. The Commission may also contact persons on the list at other times per its discretion.

The bill makes these provisions effective on the 91st day after the bill, if enacted, is filed with the Secretary of State.

### **Continuing education**

(R.C. 4781.10 and 4781.27(D); Section 3)

The bill requires the Manufactured Homes Commission to establish by rule programs of continuing education for manufactured home park operators. The Commission must also approve by rule any courses offered through the continuing education programs. These courses must be developed by the Ohio Manufactured Homes Association in consultation with the Association of Manufactured Home Residents of Ohio, or any other entity the Commission designates by rule. The courses must be designed to fulfill the license renewal requirements of eight hours of continuing education. The Commission must designate the Ohio Manufactured Homes Association, or any other entity, as the course provider. Certified course completion meets the continuing education requirement for license renewal. The bill makes the

rulemaking requirement effective on the 91st day after the bill, if enacted, is filed with the Secretary of State.

The bill also prohibits the Commission from renewing a license to operate a manufactured home park unless the licensee has met the eight-hour continuing education requirement per year since the last renewal. The Commission cannot accept courses not approved by the Commission in order to meet the continuing education requirement. The bill makes the prohibition effective on July 1, 2011.

### **Manufactured Homes Commission Regulatory Fund**

(R.C. 4781.28 and 4781.54; Section 3)

The bill establishes in the state treasury the Manufactured Homes Commission Regulatory Fund and requires that the annual manufactured home park licensing fee be credited to that fund and be used for the administration and enforcement of the Manufactured Home Park Law and regulations adopted thereunder. The bill makes these provisions effective July 1, 2011.

### **Occupational Licensing and Regulatory Fund; transfer of funds**

(R.C. 3701.83, 4743.05, 4781.31, 4781.32, and 4781.34; Sections 3 and 10)

Current law establishes the General Operations Fund and also the Occupational Licensing and Regulatory Fund in the state treasury. The former fund is used for various purposes, including, for example, administering and enforcing the Manufactured Home Park Law; the latter fund is used to administer the regulatory provisions of various Revised Code chapters, including the chapters that currently contain the law governing manufactured homes. The bill diverts the deposit of the following fees from the General Operations Fund into the Occupational Licensing and Regulatory Fund and limits their use for administration and enforcement of the Manufactured Home Park Law: (1) fees for reviewing development plans for a manufactured home park and for inspecting plan compliance, (2) fees for the issuance of a permit for development of, or replacement of a mobile or manufactured home in, any portion of a manufactured home park located in a 100-year flood plain, (3) fees for the issuance of a permit for the alteration, change, or repair of a substantially damaged mobile or manufactured home located in a 100-year flood plain or the manufactured home park lot on which the home sits, and (4) fees for inspection for compliance with the permits described in (2) and (3). The bill makes these changes effective July 1, 2011.

The bill also requires the Director of Budget and Management, on or about July 1, 2011, to transfer cash from the General Operations Fund that was collected pursuant to the Manufactured Home Park Law into the Occupational Licensing and Regulatory

Fund. The bill requires all the transferred money to be used for administration of the Manufactured Home Park Law.

### **Vehicle repair guarantee repeal**

(R.C. 4517.12)

The bill repeals a provision in current law governing motor vehicle dealers that permits the Registrar of Motor Vehicles to require certain applicants for licensure to sell new motor vehicles to demonstrate that such applicants will provide each customer with a binding agreement ensuring that the customer has the right to have the vehicle repaired at a dealer who is licensed to sell the same line of vehicles.

The bill makes this change effective on the 91st day after the bill, if enacted, is filed with the Secretary of State, or July 1, 2010, whichever is later.

### **Motor vehicle dealers license**

(R.C. 4517.04)

The bill requires a person applying for a new motor vehicle dealer's license to apply biennially instead of annually for a license in each county where the person is doing business.

The bill makes this change effective on the 91st day after the bill, if enacted, is filed with the Secretary of State, or July 1, 2010, whichever is later.

### **Motor vehicle salesperson license**

(R.C. 4517.09)

The bill requires a person applying for a motor vehicle salesperson's license to apply biennially instead of annually for a license.

The bill makes this change effective on the 91st day after the bill, if enacted, is filed with the Secretary of State, or July 1, 2010, whichever is later.

### **Motor vehicle dealer joint liability**

(R.C. 4517.24)

The bill repeals the exception under current law that permits two or more motor vehicle dealers to sell manufactured or mobile homes in the same manufactured home park without having to agree to joint, several, and personal liability.

The bill makes this change effective on the 91st day after the bill, if enacted, is filed with the Secretary of State, or July 1, 2010, whichever is later.

### **Biennial budget bill conforming changes**

(R.C. 3733.11, 4517.01, 4517.04, 4517.09, 4517.10, 4517.12, 4517.13, 4517.14, 4517.23, 4517.44, and 4517.49; Sections 7 through 9)

The bill removes references to manufactured home brokers within the motor vehicle dealers law in order to conform with Am. Sub H.B. 1 of the 128th General Assembly, which transferred licensing of manufactured home dealers to the Manufactured Homes Commission.

The bill makes these changes, except the change made to R.C. 3733.11, effective on the 91st day after the bill, if enacted, is filed with the Secretary of State, or on July 1, 2010, whichever is later. R.C. 3733.11 is effective on the 91st day after the bill, if enacted, is filed with the Secretary of State.

These changes will become effective on the 91st day after the act is filed with the Secretary of State or July 1, 2010, whichever is later.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	05-19-09
Reported, H. Financial Institutions, Real Estate, & Securities	01-21-10

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