

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 746

(Senator Folden)

Judicial Proceedings

Environment and Transportation

Mobile and Manufactured Homes - Relocation Plans and Sales of Communities
(Manufactured Housing Modernization Act of 2023)

This bill establishes that an owner of a “manufactured housing community” (MHC) must comply with specified requirements when selling or buying a community, including providing notice of the terms of certain offers or contracts that have been conditionally accepted to each homeowner in the community and providing the homeowners with the opportunity to purchase the MHC. Among other provisions, the bill also (1) requires the Department of Housing and Community Development (DHCD) to maintain on its website a list of organizations and county housing agencies that are able to assist homeowners with financing for the purchase of an MHC and (2) expands certain requirements related to relocation assistance plans for mobile home park residents.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances, under the assumptions discussed below.

Local Effect: The bill is not anticipated to materially affect local government operations or finances, under the assumptions discussed below.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Mobile Home Parks – Relocation Plans

The bill alters statutory provisions that specify certain requirements when residents of a mobile home park are to be relocated due to a change in the land use of a park. Specifically, the bill alters the calculation for relocation assistance if a mobile home park is to be closed and establishes that such assistance is owed if a park with more than 10 sites is closed (under current law, this requirement is triggered when a park with more than 38 sites is closed). The bill requires the owner to pay each household relocation assistance that equals the amount of rent for the premises, excluding taxes and utilities, paid for the 12 months (rather than 10 months, as under current law) immediately preceding the date the resident vacates the premises. The bill makes a conforming change to provisions regarding a required relocation plan.

Sale of Manufactured Housing Communities – Select Definitions and Applicability

A “manufactured housing community” means any property leased or held out for lease to two or more owners of manufactured homes for residential use; a manufactured housing community includes a “park.”

A “homeowners organization” means an incorporated or unincorporated organization, including a cooperative housing corporation, that (1) represents the interests of the homeowners in an MHC; (2) is open to all homeowners residing in the MHC; (3) is controlled by the members of the organization; and (4) is comprised of homeowners who lease or rent at least 75% of lots in the MHC.

The bill’s requirements related to the sale of an MHC apply separately to each substantially different offer to sell or to purchase an MHC. However, the bill’s requirements do not apply to the potential sale of an MHC if:

- a mortgagee, grantee, or other secured party has foreclosed on the MHC and the mortgagee, grantee, or secured party is selling the MHC at a foreclosure sale or after purchasing the MHC at a foreclosure sale;
- the community owner is selling the MHC to (1) a family member of the community owner or (2) a trust whose beneficiaries are family members of the community owner;

- the community owner is a partnership, limited liability company, or similar business entity and the sale is to one or more of the partners or members of the business entity;
- the conveyance of an interest in the MHC is incidental to the financing of the MHC;
- the sale of the MHC is between joint tenants or tenants in common;
- the sale of the MHC is a result of the exercise of the power of eminent domain;
- the sale of the MHC involves a merger, recapitalization, or similar transaction where (1) at least one community owner prior to the transaction remains a community owner after the transaction and (2) the community owner files an affidavit, recorded in the land records in the county in which the property is located, affirming that the community owner will allow continued use of the land as an MHC for at least six months after the date the transaction is finalized; or
- the sale of the MHC involves a like-kind exchange or a sale of more than one home in the community to a single purchaser.

Sale Requirements

If an offer to purchase an MHC is tendered to a community owner, acceptance of the offer must be conditioned on the purchaser filing an affidavit, recorded in the land records of the appropriate county, affirming that (1) the purchaser will allow continued use of the land as an MHC for five years after the date the purchase is finalized and (2) rent for a lot on the property will not increase by more than 10% per year for the first three years after the date the purchase is finalized.

However, if the purchaser fails to file an affidavit in accordance with the provisions above, acceptance of the offer must be conditioned on the community owner (1) providing notice of the terms of the offer or contract to each homeowner in the community, DHCD, and the appropriate housing agency and (2) providing the homeowners with an opportunity to purchase the MHC, in accordance with the bill.

The notice by the community owner must be posted in a public area of the community and sent by registered or certified mail to the homeowners organization. The notice must include (1) the price and material terms and conditions of the offer that the community owner conditionally accepted for the sale of the MHC, as specified; (2) a specific statement related to the opportunity the homeowners hold to purchase the community, including that any offer must be submitted within 60 days of the mailing date of the notice and contain substantially similar material terms to the offer that the community owner has conditionally accepted; and (3) the list of organizations and county housing agencies that provide assistance for financing, as specified.

The price and terms and conditions stated in the notice to the homeowners must be universal and applicable to all potential buyers and not specific to the homeowners or their assignee. Within 10 days after the date on which the community owner provides notice, the community owner must make available to the homeowners organization the same information that the owner provided or would have provided to other prospective purchasers. The community owner is not liable to any party to a real estate transaction for a violation of specified provisions under the bill.

A homeowners organization may offer to purchase the MHC by (1) providing documentation to the community owner that at least 75% of the members of the homeowners organization who reside in the MHC, with one vote per home, have voted to purchase the community; (2) notifying the community owner of the intent to purchase the MHC; and (3) submitting to the community owner a proposed agreement to purchase the MHC that includes terms substantially similar to the terms included in the aforementioned sales notice. The homeowners organization must send the notice of intent to purchase and the proposed agreement by registered or certified mail.

If the homeowners organization submits a proposed agreement within the 60-day period (that meets the specified requirements) to purchase the MHC, the community owner must consider the offer from the homeowners organization in good faith. This includes a duty not to act to (1) scuttle the proposed agreement; (2) arbitrarily or capriciously refuse to proceed with negotiations; and (3) engage in misconduct or dishonesty in the negotiations. After the expiration of the 60-day period, the community owner may not be required to consider additional offers from the homeowners organization.

If the community owner and the homeowners organization enter into an agreement for the sale of the MHC, unless the parties agree to an alternative period of time, the homeowners organization must have no more than 105 days after the date of the agreement to obtain financing and close the purchase. However, if the homeowners organization does not obtain financing for the purchase or the parties fail to close on the purchase within the time period prescribed above, the community owner has satisfied the obligation.

For the purpose of continuing the use of the property as an MHC that will provide affordable housing, the homeowners organization is authorized to assign its rights under the bill to a local government, housing authority, nonprofit (with expertise related to housing), the State, or an agency of the State.

Compliance and Civil Remedies

If a community owner willfully fails to comply with the requirements of the bill, the community owner is liable to the homeowners organization in the amount of \$10,000.

A purchaser or community owner who files an affidavit in the land records regarding the continued use of the land as an MHC, as specified above, must – no more than 30 days after the date of the sale – provide notice of the affidavit to each homeowner by first-class mail and post a copy of the affidavit in a public area of the MHC. A purchaser who files an affidavit as required under the bill is liable to the homeowners organization in the amount of \$10,000 if the purchaser (1) closes the MHC within five years after the date the purchase is finalized or (2) increases the rent for a lot on the property by more than 10% per year in the first three years after the date the purchase is finalized.

Current Law: “Manufactured home” means a structure that is (1) transportable in one or more sections; (2) 8 body feet or more in width or 40 body feet or more in length in traveling mode, or is more than 320 square feet when erected on site; (3) built on a permanent chassis; and (4) designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

Under Title 8A of the Real Property Article (Mobile Home Parks) “park” means any property leased or held out for lease to two or more residents or prospective residents.

State/Local Fiscal Effect: Although DHCD and housing agencies are tasked with receiving required notices, the bill does not impose any other specific responsibilities on the agencies regarding those notices. For purposes of this fiscal and policy note, it is assumed that DHCD and housing agencies can establish a process to receive notices using existing resources, but are not required to take any further action (*e.g.*, enforcement/monitoring activities, etc.), beyond maintaining the notices. It is also assumed that DHCD can develop and maintain on its website a required list of organizations and county housing agencies available to assist homeowners with financing for the purchase of an MHC with existing resources.

Small Business Effect: Among other impacts, small business owners of MHCs that are not otherwise exempt are subject to more stringent requirements when selling an MHC, which may impact expenditures and delay revenues associated with the sale. Certain purchasers of MHCs and owners of mobile home parks are also subject to additional requirements and restrictions.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 23 (Delegate Stewart) - Environment and Transportation.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Housing and Community Development; Department of Legislative Services

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