

(Without Reference to File)**CONCURRENCE IN SENATE AMENDMENTS**

AB 861 (Bennett)

As Amended September 1, 2021

Majority vote

SUMMARY

Requires mobilehome park management to comply with any park rule or regulation which prohibits mobilehome owners from renting or subleasing unless management is renting or subleasing to an employee.

Senate Amendments

- 1) Specify the number of rentals that management may directly rent within the park for the purpose of housing onsite employees.
- 2) Exempt tenancies established prior to January 1, 2022, from this bill as long as a tenant listed on the rental agreement continues to occupy the mobilehome.
- 3) Provide that the requirement for management to comply with park rules or regulations on renting does not apply to a park owned and operated by a 501(c)(3) non-profit or a government-owned park with affordability restrictions. States that this exemption only applies to homes and sites restricted for use as affordable housing.

COMMENTS

The Applicability of Park Rules and Regulations to Management: Existing law states that the owner of a park, and any person employed by the park is subject to and must comply with all park rules and regulations. This bill provides park management must also follow park rules and regulations on renting and subleasing unless management is renting to an employee. In 2013, Attorney General (AG) Kamala Harris put forth a legal opinion after receiving a request from Assemblymember Das Williams on the applicability of mobilehome park rules and regulations. Specifically, Assemblymember Das Williams' request asked the AG the following question: "If the management of a mobilehome park has enacted rules and regulations generally prohibiting mobilehome owners from renting their mobilehomes, is park management bound by these same rules and regulations?" The conclusion of AG opinion was as follows:

"With the possible exception of rentals to park employees under appropriate circumstances that satisfy certain statutory requirements, if the management of a mobilehome park has enacted rules and regulations generally prohibiting mobilehome owners from renting their mobilehomes, then park management is also bound by these same rules and regulations."
(Attorney General Opinion Number 11-703).

In the AG's opinion, one narrow exception is provided for park owners to rent mobilehomes to employees of the park. Specifically, the opinion notes, "we acknowledge the view that, as a practical and economic matter, park owners must be able to rent their mobilehomes to park employees." With regards to the employee exemption, the opinion continues, "a genuine and demonstrated need for park management to rent its own mobilehomes to park employees may come within the exception provided in section 798.23(b)(2) for '[a]cts of a park owner or park

employee which are undertaken to fulfill a park owner's maintenance, management, and business operation responsibilities."

Overall the AG concluded that the statute amended by this bill, Civil Code Section 798.23, binds park management to follow enacted rules and regulations that prohibit renting in the park. The statute has not changed since the AG issued the opinion and the committee is not aware of any case law which contradicts the opinion. As such, it would initially appear that this bill is not necessary. However, mobilehome owners report inconsistency in the enforcement of park rules and regulations related to renting and subleasing.

The bill specifies three exceptions to the prohibition on management subleasing and renting units when mobilehome owners are also prohibited from renting or subleasing. First, there is an exemption in the case where management would be renting or subleasing to an employee. AB 861 allows two mobilehomes to be rented to employees and, for larger parks, management may rent one additional unit to an employee for every 200 mobilehomes in the park. In other words, a park with 199 units could have two employee rentals, a park with 200 – 399 units could have three employee rentals, and so on. The second exception is for tenancies which were in effect prior to January 1, 2022. The bill allows park-owned mobilehome rentals to continue as long as a tenant had a rental agreement in place prior to January 1, 2022. However, once the tenant moves out, the exception ends and management is prohibited from renting or subleasing if owners are prohibited from renting and subleasing. Finally, the third exemption is for mobilehomes with affordability requirements that are owned by a government entity or which are owned and operated by a 501(c)(3) non-profit.

According to the Author

"The MRL states that park management, employees, and residents are subject to the rules and regulations of the park, but this has often gone unenforced. Clarifying this section of the MRL will prevent an unfair double standard from arising, one where park management are able to rent and sublease their spaces while residents are not. It is important to me that park residents are protected and treated fairly because for a low-income park resident, losing housing is much more devastating than it is for traditional renters. For park residents, losing housing means paying high fees to relocate their home or potentially losing lifelong investments."

Arguments in Support

The Golden State Manufactured Homeowners League (GSMOL) writes, "the [MRL] allows park management to prevent homeowners from renting out their manufactured homes or subletting the space where their mobilehome is located. Although the law states that all park rules apply equally to owners and residents, some park owners felt that rules regarding renting and subleasing did not apply to owners...AB 861 would avoid an unfair double-standard by clarifying current MRL and codifying the Attorney General Opinion requiring park management to comply with all park rules relating to renting and subleasing manufactured homes and units without limiting their ability to rent or sublease to a park employee."

Arguments in Opposition

The Western Manufactured Housing Communities Association (WMA) writes in opposition to the bill, "Most residents (especially senior citizens) want to be ensured a certain quality of life and comfort that their neighbors know the rules and regulations and abide by them. Having residents adhere to rules and regulations helps ensure peace of mind and helps with home sales.

If a resident sublets a home, where is there stability for the park, and how can the parkowner ensure a promised quality of life for other residents in the park?"

FISCAL COMMENTS

None. This bill is keyed non-fiscal by Legislative Counsel.

VOTES:

ASM HOUSING AND COMMUNITY DEVELOPMENT: 6-2-0

YES: Chiu, Gabriel, Kalra, Maienschein, Quirk-Silva, Wicks

NO: Seyarto, Kiley

ASSEMBLY FLOOR: 41-20-17

YES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Calderon, Carrillo, Cervantes, Chau, Chiu, Friedman, Gabriel, Cristina Garcia, Gipson, Lorena Gonzalez, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Rendon

NO: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Flora, Frazier, Gallagher, Kiley, Lackey, Levine, Mathis, Nguyen, Petrie-Norris, Salas, Seyarto, Smith, Valladares, Voepel, Waldron

ABS, ABST OR NV: Arambula, Burke, Chen, Cooley, Cooper, Daly, Fong, Eduardo Garcia, Gray, Grayson, Mayes, Patterson, Ramos, Rodriguez, Blanca Rubio, Villapudua, Wood

UPDATED

VERSION: September 1, 2021

CONSULTANT: Sandra Nakagawa / H. & C.D. / (916) 319-2085

FN: 0001925