

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 661 (Joe Patterson)
Version: April 13, 2023
Hearing Date: June 4, 2024
Fiscal: No
Urgency: No
ID

SUBJECT

Utility services: electronic communication

DIGEST

This bill provides that mobilehome park management may provide affected mobilehome owners or residents a 72-hour notice required for any interruption of utilities not due to an emergency, as specified, by electronic communication with the consent of the mobilehome owner or resident.

EXECUTIVE SUMMARY

Mobilehomes and the mobilehome parks in which they often reside are an important source of affordable housing in California. Because mobilehomes are pre-fabricated and can be moved, mobilehome owners often own their mobilehome, but lease the lot on which it sits from the owner of a mobilehome park. Current law, the Mobilehome Residency Law (MRL), regulates the relationship between mobilehome park owners and park residents, and establishes various rights, responsibilities, and limits of both groups. Various sections of the MRL establish various responsibilities and limits on a mobilehome park owner when the park provides its mobilehome owners and residents with utilities services. One of these provisions requires that, when a utility service must be interrupted for two hours or more, for the maintenance, repair, or replacement of the utility system and not due to an emergency, the park must notify affected mobilehome owners and residents at least 72 hours in advance by posting written notice on the affected mobilehomes. This bill aims to allow mobilehome parks to provide this required notice by email, text, or automated telephone call, instead of by physical posting of the notice, upon voluntary, written consent of the mobilehome owner or resident.

AB 661 is sponsored by the Western Manufactured Homes Association, and the Committee has received no timely opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Creates the Mobilehome Residency Law (MRL) to regulate the relationship between mobilehome park management and park residents, and establishes various rights, responsibilities, and limits of both groups. (Civ. Code § 798 *et seq.*).
- 2) Requires mobilehome park management to provide 72 hours' advance written notice, by posting on the mobilehomes of all affected homeowners and residents, of an interruption in utility service of more than two hours that is required for the maintenance, repair, or replacement of facilities of utility systems over which the management has control within the park, if the interruption is not due to an emergency. (Civ. Code § 798.42.)
 - a) Defines an "emergency" as an interruption of utility service resulting from an accident or act of nature, or cessation of service caused by reason other than the management's regular or planned maintenance, repair, or replacement of utility facilities.
- 3) Specifies that mobilehome park management is only liable for actual damages to a mobilehome owner or resident arising out of management's violation of the notice requirement in (2), above. (Civ. Code § 798.42.)
- 4) Establishes the Mobilehome Residency Law Protection Program (MRLPP) within the Department of Housing and Community Development (HCD) to receive complaints from mobilehome park residents regarding violations of the MRL and refer certain, meritorious valid complaints to a Legal Service Provider or appropriate enforcement agency. (Health & Saf. Code § 18800 *et seq.*).

This bill:

- 1) Provides that, upon voluntary, written consent of the homeowner or resident, mobilehome park management may provide the above-described 72-hour notice by the form of electronic communication to which the homeowner or resident consents.
- 2) Specifies that, when a mobilehome owner or resident is not provided the 72-hour notice by electronic communication, mobilehome park management must notify the homeowner or resident by posting written notice on the mobilehome of the affected homeowner or resident.
- 3) Defines "electronic communication" as email, text, or an automated telephone call.

- 4) Defines “voluntary, written consent” as written consent obtained separately from, and not contained in, a lease or rental agreement, which can be revoked by the homeowner or resident in writing at any time.

COMMENTS

1. Author’s statement

According to the author:

AB 661 will offer a choice to residents of mobilehome parks to receive electronic notifications including emails, text messages, or automated phone calls regarding utility disruptions and emergency situations. This program is entirely voluntary, and residents who still want to receive paper notices will be able to do so.

Allowing park managers the ability to not physically post notices on every door, however, will save time and ensure residents are more promptly noticed about disruptions or emergencies in their community.

2. Mobilehomes represent an important source of affordable housing in California

There are an estimated 508,589 mobilehome units in California.¹ Mobilehomes are pre-fabricated homes that are designed to be able to be transported and moved between locations. Because mobilehomes are transportable, they are considered personal property instead of real property like traditionally-built homes, and are not tied to the land on which they sit. Thus, mobilehomes are unique among all residential options. However, while they are technically mobile, a significant amount of time, effort, and money is often required to actually move a mobilehome. Costs for moving a mobilehome range from a few thousand to tens of thousands of dollars. Mobilehomes are also unique because many mobilehome residents own their mobilehome, but lease the land upon which their home is located from a mobilehome park. The mobilehome sits on a lot within a park of mobilehomes and common space. The mobilehome park and the lots on which the mobilehomes sit are usually privately owned and managed by a mobilehome park company.

Under this relationship, while residents technically own their mobilehome, they pay rent to the park management, are subject to the rules of the mobilehome park set by the ownership of the park, and they often rely on the park for the provision of utilities. If they fall behind on their rent payments to the park for their mobilehome’s lot, or if they violate a rule of the park, they can be evicted from the park. Considering they may have paid considerable amounts of money to buy the mobilehome that they can no longer live in, they could lose the equity they’ve accumulated in their mobilehome upon

¹ U.S. Census Bureau, 2021 American Community Survey 1-Year Estimates (2021), available at <https://data.census.gov/>.

eviction by the park, either by having to sell the mobilehome quickly, or spending thousands of dollars to move their mobilehome elsewhere.

Mobilehome residents in California tend to be poorer and older than the average California renter, for which mobilehome ownership is an important option for affordable housing. In fact, the median price of a mobilehome in 2022 was \$82,600, making mobilehome ownership one of the most significant, un-subsidized sources of affordable housing.²

3. The Mobilehome Residency Law

In light of the unique nature of mobilehome parks and issues, the Legislature passed the Mobilehome Residency Law (MRL) in 1978 to regulate the relationship between mobilehome park management and park residents, and establish various rights, responsibilities and limits of both groups. (Civ. Code § 798 *et seq.*) Over time, the MRL has been amended to include additional protections for residents and limits on charges mobilehome parks can bill to residents. The MRL covers a variety of areas, including: permissible rental and lease contract terms; park rules and mandatory notices to residents; limits on fees and charges, as well as increases to them; and conditions and limits related to mobilehome park evictions. Provisions of the MRL relating to eviction require park management to give written notice to the resident, and provide for at least 60 days for the resident to either sell their mobilehome or remove it from the park. (Civ. Code § 798.55.) It also specifies that a park may evict a resident only for: failing to comply with a local or state law or regulation on mobilehomes within a reasonable time after the homeowner receives notice of noncompliance; conduct of the resident that amounts to a substantial annoyance of other homeowners or residents; conviction for certain crimes; failure to comply with a reasonable rule of the park; or for nonpayment of rent, utilities, or another reasonable incidental service charged by the park. (Civ. Code § 798.56.)

One of the other subjects addressed by the MRL are utilities. Mobilehome parks can provide utilities to their residents in a number of ways, such as by allowing the utility company to provide the utilities directly to the mobilehome, or by acting as a master-meter providing submetered service. In the master-meter arrangement, the mobilehome park contracts with the utility company and pays for the utilities, and then manages the distribution and metering of the utilities to residents and bills their residents separately for the service. The MRL places limitations and rules on how the park can provide master-meter services, and the types and size of charges they can charge residents for utilities services. (Civ. Code §§ 798.40-798.44.)

² U.S. Census Bureau, Manufactured Housing Survey (Jun. 2022), available at <https://www.census.gov/data/tables/time-series/econ/mhs/annual-data.html>.

Relevant to this bill, the MRL requires that the park management provide mobilehome residents notice of any interruption in a utility service of more than two hours for the maintenance, repair, or replacement of facilities of utility systems over which the park has control, if the interruption is not due to an emergency. (Civ. Code § 798.42.) That provision requires that the required notice be posted in writing affixed to the mobilehomes of all affected homeowners and residents at least 72 hours before the interruption. (*Id.*) The exception for an interruption due to an emergency is defined as an interruption of utility service resulting from an accident or act of nature, or cessation of service by other than the management's regular or planned maintenance, repair, or replacement of utility facilities. (*Id.*) It also specifies that management is only liable for actual damages sustained by a homeowner or resident for a violation of this notice requirement. (*Id.*)

4. AB 661 provides that a mobilehome park may provide mobilehome residents certain notices electronically

AB 661 makes amendments to the MRL at Civil Code Section 798.42 to allow mobilehome park management to provide the required 72-hour notice by electronic means upon consent of the homeowner or resident, and defines electronic communication for the purposes of such electronic notice as email, text, or automated telephone call. AB 661 further defines consent as voluntary, written consent that is obtained separately from, and not contained in, any lease or rental agreement for the homeowner or resident's mobilehome site. This definition ensures that the consent is indeed voluntary, made in writing, and is not simply a required signature within the homeowner or resident's rental agreement such that they have little option to withhold consent or awareness of the consent they are providing. In addition, the definition of consent within this bill ensures that a homeowner or resident can withdraw their consent at any time, so that they are not trapped into receiving electronic communications forever after their initial consent, if they change their mind or their circumstances change such that they would prefer physical notice. This consent requirement ensures both that the objective of this bill is achieved and that mobilehome owners and residents' choice is maintained.

If a mobilehome owner or resident does not provide consent, AB 661 still requires that notice be provided through the currently-required process of posting written notice on the mobilehome of the affected homeowner or resident. AB 661 does not change the exception for utilities interruptions due to an emergency, nor the previously-described limitation on liability to actual damages.

Thus, through the process allowed under AB 661, if a homeowner or resident consents, they may receive notice of a utility interruption by text, email, or automated phone call. This may well provide better notice in some circumstances, if the owner or resident is not home when the notice would otherwise be posted on their mobilehome, or does not check their door and therefore misses the notice. At the same time, some mobilehome

owners or residents may not have access to or be able to receive notices by text, email, or phone. They may also prefer to receive a physical notice on their home, or may not be familiar with text messaging or electronic mail. Accordingly, AB 661's provisions requiring a mobilehome owner or resident to consent to electronic communication for such notices is helpful for ensuring that residents who would be better served by or would prefer physical notice can still receive such notices.

5. AB 661 will be enforced through the courts

HCD is the agency that oversees a variety of areas of the MRL, including health and safety standards, the registration and titling of mobilehomes and parks, and the inspections of parks for health and safety issues. Under the Mobilehome Parks Act, HCD must annually inspect five percent of parks for compliance with health and safety requirements under the Health and Safety Code, and must accept and respond to health and safety complaints. (Cal. Health & Safety Code §§ 18200-18700.) HCD also houses the Mobilehome Ombudsman, who assists the public with questions or issues related to various aspects of mobilehome law.

However, neither HCD nor the ombudsman have enforcement authority for the MRL, and cannot provide legal advice or arbitrate or mediate park disputes. Instead, residents and mobilehome owners must go to court over a violation of the MRL. In 2018, the Mobilehome Residency Law Protection Program (MRLPP) was created to help mobilehome park residents better resolve issues and violations of the MRL (AB 3066, Stone, Ch. 744, Stats. 2018.) The MRLPP requires HCD to receive complaints from mobilehome park residents regarding violations of the MRL and refer certain, meritorious complaints to a Legal Service Provider or appropriate enforcement agency.

Thus, the MRL and the provisions amended by AB 661 are enforced by a mobilehome owner or resident through a civil cause of action. The only limitation placed on such a civil cause of action related to a violation of the notice provisions of Civil Code Section 798.42 is that mobilehome park management may only be liable to a mobilehome owner or resident for failing to provide the appropriate notice for actual damages that the homeowner or resident sustained as a result of the violation. This limitation would still be in place under AB 661.

6. Arguments in support

According to the Western Manufactured Housing Communities Association, which is the sponsor of AB 661:

Current law requires delivery of paper notices to residents of mobilehome parks 72 hours in advance of a planned interruption in utility service, which includes unplanned emergency events like the wind, floods, and rain events of this past winter. AB 661 will permit residents to voluntarily agree to receive these notices

by email, text messages or automated phone call. The practical effect of this is that park management will save time and paper informing residents about repairs that may require a utility disruption lasting more than two hours and will help residents prepare for any potential emergency situations associated with those disruptions.

Residents and homeowners in mobilehome parks who still want to receive paper notices will not be affected as they would continue receiving notices as they do under current law. This legislation simply allows residents and homeowners to voluntarily avail themselves of technology that saves the valuable time park management must spend physically placing paper notices on all homes in mobilehome parks. Again, homeowners and residents who wish to receive paper notices will still be able to do so under AB 661.

Utilities under the regulatory authority of the California Public Utilities Commission (CPUC) already inform customers about possible disruption under the Public Safety Power Shutoff (PSPS) program (by electronic communication), including unplanned emergency events, like floods, fire, rain or wind events. AB 661 will allow residents and homeowners in mobilehome parks to receive notices electronically in line with PSPS delivery methods currently used by investor-owned utilities in California by amending Section 798.42 of the Civil Code.

SUPPORT

Western Manufactured Housing Communities Association (sponsor)

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation: AB 318 (Addis, Ch. 736, Stats. 2023) amends Section 18806 of the Health and Safety Code relating to extending the Mobilehome Residency Law Protection Program within the Department of Housing and Community Development that resolves complaints from homeowners relating to the Mobilehome Residency Law. Extends the program to January 1, 2027, and makes various changes to the program's administration and complaint requirements.

PRIOR VOTES:

Assembly Floor (Ayes 70, Noes 0)

Assembly Housing and Community Development Committee (Ayes 8, Noes 0)
