

Good Afternoon,

LARA will not be able to attend committee tomorrow. We would like to submit a card for HB 6003, 6004, 6005, 6006, and 6008 that we are opposed as written, but working with the sponsors to address our concerns. We appreciate the feedback we have received so far from Rep. Cherry on the legislation and look forward to continuing to find solutions for our concerns.

For the record if any members need the information, our current concerns with the as introduced versions of the bills are below:

#### HB 6003 -

- The license to own a park is tied to the property – this bill creates a cyclical condition an applicant cannot meet – the property must be owned in order to obtain a license but he/she cannot own the property until a license is obtained. More clarity is needed on the process if the sponsor would like to avoid this conflict. Replacing this condition with providing criminal penalties for collecting rent without a license would provide a solution to this issue. Additionally, protections against evictions for nonpayment can be included. If the sponsor would like a prelicensure screening for applicants, that needs to be clarified in the language and fee provided for the process.
- IF ANY [MOBILE HOME] BE OCCUPIED IN WHOLE OR IN PART FOR HUMAN HABITATION IN VIOLATION OF [the licensing requirement], NO RENT SHALL BE RECOVERED BY THE OWNER OF SUCH PREMISES FOR SAID PERIOD, AND NO ACTION FOR POSSESSION OF SAID PREMISES FOR NONPAYMENT OF SUCH RENT SHALL BE MAINTAINED THEREFORE.
- LARA recommends implementing a one-year license cycle instead of a three-year cycle for the safety of residents. Many aspects of a park can, and do, deteriorate over three years. This is a way for the Department to maintain the standards park residents and the Mobile Home Commission expects from park owners.
- New language in the bill requiring the department to determine an applicant's integrity, reputation, business probity, financial ability and experience in operating a mobile home park is vague and outside the department's expertise. The Department is not typically in the position of judging a person's integrity or reputation and the staff who would process these applications do not have experience in "business probity" – the current language could prohibit any entity from entering the mobile park industry as they're unlikely to have any past experience/history to provide the Department to satisfy this high threshold. We would recommend specific criteria be added for the application process that can be uniformly applied to applications, including a requirement for an in state resident owner who is directly liable for violations of licensing provisions.

## HB 6004 -

- Language reauthorizing all administrative rules promulgated by the department or commission that have not been rescinded is incredibly problematic from an enforcement perspective. These rules are overly broad and outdated - they were last updated in 2008 and conservatively contain 35 provisions that conflict with the statute as well as referencing acts that have since been repealed (full list available upon request). They either directly conflict with express language within a statutory provision, or the rule vastly exceeds the scope of authority as granted in a rule. For example, there are rules which impose burdens far greater than the Act requires, yet there are some rules which lessen the responsibilities as stated in the Act.
- Efforts to rescind the rules have been unsuccessful as there is ongoing disagreement with the department and industry as to what is legal to enforce. Reauthorizing the rules will not solve the conflict provided elsewhere in the act or within other acts referenced in these rules.
- As background: The Attorney General's office has provided legal guidance to the Department helping to identify the problematic rules, based on their legal interpretation that because they exceed the scope of the Act, they lack statutory authority. As such, the Bureau has scaled back their enforcement of the ruleset to the rules the Attorney General's office found to be within the statutory framework of the Act.
- If this language, as provided in the proposed legislation, were to become effective, it will greatly expand the responsibilities placed on mobile home residents, park owners, park developers and individuals who work on, or in, mobile homes and parks.

## HB 6005 -

- New language in the bill provides the Commission would issue a "recommendation" to the department on licensure appeal cases. The department then shall either issue the license or deny based on the recommendation. The word 'recommendation' is not appropriate if the commission is given the authority to mandate an outcome to the Department. If 'recommendation' is going to be used, then the language should be changed to reflect the Department may issue a license based upon the commission's recommendation.
- New language in the bill automatically gives a license to an applicant appellant if the Commission fails to issue a "recommendation" (directive) within 120 days of receipt of appeal. There are times, particularly during the COVID-19 pandemic where quorum has been thwarted by members of the boards/commission due to unforeseen circumstances. As such, the Department recommends that language be included to address quorum problems. The bill can be amended to state "If the commission fails to issue a recommendation under subsection (1) within 120 days of the applicant's appeal, the department shall consider the commission's failure to issue the recommendation as a recommendation to issue the license unless the

commission meeting was unable to be held due to an inability for the majority of members to attend and would have failed to have a quorum” Without this provision, unsavory applicants will default into licensed park owners with no determination by the Commission.

- This bill requires the department to create a website which lists every mobile home park in the State. This mandate is unfunded and should be removed. Alternatively, the language should be clarified that the website list properly licensed mobile home parks, as mobile home parks can (and do) lose their licensing, such that the Department has no jurisdiction over them once unlicensed. Furthermore, mobile home parks occasionally form with no knowledge of the Department.
- This bill has language in it referencing 180 days after September 1, 2015. This language should be stricken from the bill.

#### **HB 6006 -**

- Language in this bill requires residents of mobile home parks be consulted with during the promulgation of rules. It would be best to avoid a barrier to promulgation if residents choose not to participate; we cannot force anyone to consult on rules. The Department recommends amending this language to state “including, but not limited to, organizations known by the Commission to represent residents of mobile home parks” as these entities have more face-to-face interactions with residents. As such, these organizations will have the infrastructure to contact, work with, and voice a collective response.
- This bill mandates the department employ 4 full time employees (FTE) for the purpose of administering the act. Fees from community licensure are estimated to be \$53,300 for FY2020 and not enough to support 1 FTE. LARA currently uses funding from mobile home titling fees to address the shortfall from licensure fees for the cost of operating, however this revenue is dependent on what is left over from Department of State after processing titles and varies year to year. If the industry would like to include a mandated minimum level of staffing, the Department strongly recommends identifying the funding source in statute with a reliable revenue stream that can support the staff.
- This bill requires the Department to report to the Commission quarterly on expenditures of all fees collected under the act. Given quorum issues identified previously prohibiting meetings at times, the department requests the report to be presented annually.
- This bill requires the department create and maintain a database of owners and operators of mobile home parks. This is duplicative to website requirements in HB 6005 and unfunded.
- New language in Section 43(2) reference “unlicensed owner or operator” but there are no provisions existing or proposed that allow the department authority to license an operator. Either the Act needs to be amended to address the licensure of an operator or this provision of the legislation needs to remove the reference to an operator. The department recommends amending the Act to establish a licensing process for the Operator, such that both an owner and an operator are licensed. This

allows for the Department to take licensing action against both the owner and the operator, since oftentimes the owner is not the operator and they each blame the other for violations. The owner will say the operator took actions (or failed to take actions) and, for that reason, the owner should not have administrative actions taken against him/her. But then the operator will allege they were directed by the owner to do (or not do) whatever the alleged administrative action might be against him/her. What would be beneficial is if both an owner and an operator were licensed, both with their own individualized criteria to be met and an owner couldn't operate a park (nor collect rent) until they had an operator tied to their owner's license. There currently are rules promulgated which have defined what it means to be an owner and an operator. The Department recommends that language be inserted into the Act.

#### **HB 6008 -**

- This legislation ties the Truth In Renting Act into the Mobile Home Commission Act. This language should be clear that the department does not have oversight of the Truth in Renting Act, and cannot enforce the Truth in Renting Act for residents who need to seek action. This is purely a civil matter which must be resolved by the courts.

Thank you for your time and I would like to reiterate how much we appreciate the feedback we have received to our concerns thus far. Please let me know if you have any questions I can help with.

Best,

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