



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-1269 Mobilehome Residents and Senior Protection Act. (2017-2018)

SHARE THIS:  

Date Published: 09/19/2017 09:00 PM

ENROLLED SEPTEMBER 19, 2017
PASSED IN SENATE SEPTEMBER 13, 2017
PASSED IN ASSEMBLY SEPTEMBER 15, 2017
AMENDED IN SENATE SEPTEMBER 07, 2017
AMENDED IN SENATE SEPTEMBER 01, 2017
AMENDED IN ASSEMBLY MAY 30, 2017
AMENDED IN ASSEMBLY MAY 01, 2017
AMENDED IN ASSEMBLY APRIL 17, 2017
AMENDED IN ASSEMBLY MARCH 30, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

NO. 1269

Introduced by Assembly Member Mark Stone

February 17, 2017

An act to amend, repeal, and add Sections 12980 and 12981 of, and to add and repeal Article 3 (commencing with Section 12989.50) of Chapter 7 of Part 2.8 of Division 3 of Title 2 of, the Government Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1269, Mark Stone. Mobilehome Residents and Senior Protection Act.

The California Fair Employment and Housing Act establishes the Department of Fair Employment and Housing, under the direction of an executive officer to, among other things, receive, investigate, conciliate, mediate, and prosecute complaints alleging practices made unlawful under the act. The act establishes procedures for the prevention and elimination of discrimination in housing made unlawful under its provisions, including authorizing any person claiming to be aggrieved by an alleged violation of specified provisions to file a verified complaint in writing with the department. The act requires the department to investigate an alleged violation and, in the case of failure to eliminate a violation that has occurred, or is about to occur, through conference, conciliation, mediation, or persuasion, requires the director to file a civil action in the name of the department on behalf of that person.

The Mobilehome Residency Law governs the terms and conditions of residency in mobilehome parks. That law, among other things, requires the rental agreement between the management of a mobilehome park and the homeowner to be in writing and to contain specified terms and provisions, requires the management to meet and consult with homeowners, either individually, collectively, or with representatives of a group of homeowners, on specified matters within 30 days of a written request to do so, and prohibits management from terminating or refusing to renew tenancy within a park, except for specified reasons and upon giving written notice to the homeowner.

This bill would, on and after July 1, 2020, until January 1, 2023, extend the application of the above-described enforcement procedures for the prevention and elimination of discrimination in housing under the California Fair Employment and Housing Act to apply to the prevention and elimination of actions made unlawful under the Mobilehome Residency Law against homeowners or residents of mobilehomes, as provided. The bill would prescribe requirements for an aggrieved home owner or resident to follow when filing a complaint in this regard and for the department in investigating these complaints. The bill would also authorize, on and after July 1, 2020, until January 1, 2023, the department to investigate potential violations of the Mobilehome Residency Law that are discovered during the course of an existing formal investigation, but for which the department has not received a formal complaint.

The bill would require the department, by no later than July 1, 2018, and by no later than July 1 of each subsequent year until January 1, 2023, to assess upon the management of a mobilehome park subject to the Mobilehome Residency Law and collect a registration fee of \$10 for each mobilehome lot located within the mobilehome park for the purpose of providing the complaint resolution process described in this bill. The bill would authorize management to pass this fee on to the homeowners and residents within the mobilehome park.

The bill, until January 1, 2023, would require all fees and fines collected pursuant to this bill to be deposited in the Mobilehome Residency Law Protection Fund, which this bill would establish in the State Treasury. The bill would make all moneys in the fund available to the department, upon appropriation by the Legislature, for costs of administering this bill.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) This act shall be known, and may be cited, as the Mobilehome Residents and Senior Protection Act.

(b) It is the intent of the Legislature in enacting this act to protect and safeguard the most vulnerable mobilehome homeowners and residents by affording them the enforcement and hearing procedures for housing discrimination, available under Article 2 (commencing with Section 12980) of Chapter 7 of Part 2.8 of Division 3 of Title 2 of the Government Code, for the enforcement of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code).

(c) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 2. Section 12980 of the Government Code is amended to read:

12980. This article governs the procedure for the prevention and elimination of discrimination in housing made unlawful pursuant to Article 2 (commencing with Section 12955) of Chapter 6 of this part, and, commencing on and after July 1, 2020, for the prevention and elimination of actions made unlawful under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code) against homeowners and residents, as defined in Sections 798.9 and 798.11 of the Civil Code, respectively, of mobilehomes.

(a) Any person claiming to be aggrieved by an alleged violation of Section 12955, 12955.1, or 12955.7, or, commencing on and after July 1, 2020, a homeowner or resident, as defined in Section 12989.50, claiming to be aggrieved by an alleged violation of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), may file with the department a verified complaint in writing that shall state the name and address of the person alleged to have committed the violation complained of, and that shall set forth the particulars of the alleged violation and contain any other information required by the department. With respect to the filing of a complaint pursuant to this subdivision, the following shall apply:

(1) The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the department shall terminate proceedings upon notification of the entry of final judgment unless the judgment is a dismissal entered at the complainant's request.

(2) (A) On and after July 1, 2020, for complaints based upon an alleged violation of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), an aggrieved homeowner or resident shall first file a complaint with the department prior to pursuing judicial relief under other applicable laws, unless the aggrieved

homeowner or resident believes in good faith that the claim requires immediate judicial relief so as to protect a tenancy interest or property right, in which case the aggrieved homeowner or resident may first pursue judicial relief under other applicable laws without filing a complaint with the department. If judicial relief is pursued to protect a tenancy interest or property right, the aggrieved homeowner or resident shall notify the department that a civil action has been filed with the court by providing the department with either a copy of the complaint filed with the court, along with the reason for immediate judicial relief, or a form developed by the department for this purpose. The failure of a homeowner or resident to file a complaint based upon an alleged violation of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code) shall not prevent the homeowner or resident from pursuing any and all available remedies, including judicial relief, under the law.

(B) On and after July 1, 2020, notwithstanding subparagraph (A), after a complaint is filed with the department and no less than 30 days have elapsed from this filing date, an aggrieved homeowner or resident who is unsatisfied with the department's investigation of the complaint or enforcement of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code) pursuant to this section may pursue immediate judicial relief under other applicable laws without a final action by the department regarding the complaint. The aggrieved homeowner or resident shall also notify the department that a civil action has been filed with the court by providing the department with either a copy of the complaint filed or a form developed by the department for this purpose.

(b) The Attorney General or the director may, in a like manner, make, sign, and file complaints citing practices that appear to violate the purpose of this part or any specific provisions of this part relating to housing discrimination, or violations of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code) that are subject to enforcement actions under this article.

No complaint may be filed after the expiration of one year from the date upon which the alleged violation occurred or terminated.

(c) The department may thereupon proceed upon the complaint in the same manner and with the same powers as provided in this part in the case of an unlawful practice, except that where this article provides greater rights and remedies to an aggrieved person, or mobilehome homeowner or resident, than Article 1 (commencing with Section 12960), this article shall prevail.

(d) Upon the filing of a complaint, the department shall serve notice upon the complainant of the time limits, rights of the parties, and choice of forums provided for under the law.

(e) The department shall commence proceedings with respect to a complaint within 30 days of filing of the complaint.

(f) An investigation of allegations contained in any complaint filed with the department shall be completed within 100 days after receipt of the complaint, unless it is impracticable to do so or if the investigation would cause the department to exceed the funds available within the Mobilehome Residency Law Protection Fund in a given year. If the investigation is not completed within 100 days, the complainant and respondent shall be notified, in writing, of the department's reasons for not doing so.

(g) Upon the conclusion of each investigation, the department shall prepare a final investigative report containing all of the following:

- (1) The names of any witnesses and the dates of any contacts with those witnesses.
- (2) A summary of the dates of any correspondence or other contacts with the aggrieved persons, or mobilehome homeowners or residents, or the respondent.
- (3) A summary of witness statements.
- (4) Answers to interrogatories.
- (5) A summary description of other pertinent records.

A final investigative report may be amended if additional evidence is later discovered.

(h) If a civil action is not brought by the department within 100 days after the filing of a complaint, or if the department earlier determines that no civil action will be brought, the department shall promptly notify the person, or mobilehome homeowner or resident, claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 100-day period, whichever date first occurs. The notice shall indicate that the person, or mobilehome homeowner or resident, claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within the time period specified in Section 12989.1. The notice shall also indicate, unless the department has determined that no civil action will be brought, that the person, or mobilehome homeowner or resident, claiming to be aggrieved has the option of continuing to seek redress for the alleged discrimination through the procedures of the department if the person does not desire to file a civil action. The superior court shall have jurisdiction of these

actions, and the aggrieved person, or mobilehome homeowner or resident, may file in this court. The action may be brought in any county in which the violation is alleged to have been committed, or in the county in which the records relevant to the alleged violation are maintained and administered, but if the defendant is not found within that county, the action may be brought within the county of the defendant's residence or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department. The remedy for failure to send a copy of a complaint is an order to do so. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney's fees.

(i) All agreements reached in settlement of any housing discrimination or mobilehome residency complaint filed pursuant to this section shall be made public, unless otherwise agreed by the complainant and respondent, and the department determines that the disclosure is not required to further the purposes of the act.

(j) All agreements reached in settlement of any housing discrimination or mobilehome residency complaint filed pursuant to this section shall be agreements between the respondent and complainant, and shall be subject to approval by the department.

(k) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 3. Section 12980 is added to the Government Code, to read:

12980. This article governs the procedure for the prevention and elimination of discrimination in housing made unlawful pursuant to Article 2 (commencing with Section 12955) of Chapter 6.

(a) Any person claiming to be aggrieved by an alleged violation of Section 12955, 12955.1, or 12955.7 may file with the department a verified complaint in writing that shall state the name and address of the person alleged to have committed the violation complained of, and that shall set forth the particulars of the alleged violation and contain any other information required by the department.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the department shall terminate proceedings upon notification of the entry of final judgment unless the judgment is a dismissal entered at the complainant's request.

(b) The Attorney General or the director may, in a like manner, make, sign, and file complaints citing practices that appear to violate the purpose of this part or any specific provisions of this part relating to housing discrimination.

No complaint may be filed after the expiration of one year from the date upon which the alleged violation occurred or terminated.

(c) The department may thereupon proceed upon the complaint in the same manner and with the same powers as provided in this part in the case of an unlawful practice, except that where the provisions of this article provide greater rights and remedies to an aggrieved person than the provisions of Article 1 (commencing with Section 12960), the provisions of this article shall prevail.

(d) Upon the filing of a complaint, the department shall serve notice upon the complainant of the time limits, rights of the parties, and choice of forums provided for under the law.

(e) The department shall commence proceedings with respect to a complaint within 30 days of filing of the complaint.

(f) An investigation of allegations contained in any complaint filed with the department shall be completed within 100 days after receipt of the complaint, unless it is impracticable to do so. If the investigation is not completed within 100 days, the complainant and respondent shall be notified, in writing, of the department's reasons for not doing so.

(g) Upon the conclusion of each investigation, the department shall prepare a final investigative report containing all of the following:

- (1) The names of any witnesses and the dates of any contacts with those witnesses.
- (2) A summary of the dates of any correspondence or other contacts with the aggrieved persons or the respondent.
- (3) A summary of witness statements.
- (4) Answers to interrogatories.
- (5) A summary description of other pertinent records.

A final investigative report may be amended if additional evidence is later discovered.

(h) If a civil action is not brought by the department within 100 days after the filing of a complaint, or if the department earlier determines that no civil action will be brought, the department shall promptly notify the person claiming to be aggrieved. This

notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 100-day period, whichever date first occurs. The notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within the time period specified in Section 12989.1. The notice shall also indicate, unless the department has determined that no civil action will be brought, that the person claiming to be aggrieved has the option of continuing to seek redress for the alleged discrimination through the procedures of the department if the person does not desire to file a civil action. The superior court shall have jurisdiction of these actions, and the aggrieved person may file in this court. The action may be brought in any county in which the violation is alleged to have been committed, or in the county in which the records relevant to the alleged violation are maintained and administered, but if the defendant is not found within that county, the action may be brought within the county of the defendant's residence or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department. The remedy for failure to send a copy of a complaint is an order to do so. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney's fees.

(i) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be made public, unless otherwise agreed by the complainant and respondent, and the department determines that the disclosure is not required to further the purposes of the act.

(j) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be agreements between the respondent and complainant, and shall be subject to approval by the department.

(k) This section shall become operative on January 1, 2023.

SEC. 4. Section 12981 of the Government Code is amended to read:

12981. (a) In the case of failure to eliminate a violation of Section 12955, 12955.1, or 12955.7, or a violation of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code) that is subject to this article, that has occurred, or is about to occur, through conference, conciliation, mediation, or persuasion, or in advance thereof if circumstances warrant, the director shall bring a civil action in the name of the department on behalf of the aggrieved person, or mobilehome homeowner or resident, as a real party in interest, notwithstanding Section 12971, in the same manner and with the same powers as provided in Section 12965, except that where the provisions of this article provide greater rights and remedies to an aggrieved person, or mobilehome homeowner or resident, than Section 12965, the provisions of this article shall prevail. Prior to filing a civil action, the department shall require all parties to participate in the department's mandatory dispute resolution division free of charge to the parties in an effort to resolve the dispute without litigation. A civil action alleging an unfair housing practice or violation of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code) shall be issued within 100 days after the filing of a complaint unless it is impracticable to do so. The civil action shall be filed in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to that practice are maintained and administered, or in the county in which the aggrieved person, or mobilehome homeowner or resident, would have resided in the housing accommodation. If the defendant is not found within that county, the action may be filed in the county of the defendant's residence or principal office. Any aggrieved person, or mobilehome homeowner or resident, may intervene as a matter of right in the proceeding, and the appeal or other judicial review of that proceeding.

(b) If the department determines that an allegation concerns the legality of any zoning or other land use law or ordinance, the department or the Attorney General shall take appropriate action with respect to the complaint according to the procedures established in this part for other complaints of housing discrimination.

(c) Within one year of the effective date of every final order or decision issued pursuant to this part, the department shall conduct a compliance review to determine whether the order or decision has been fully obeyed and implemented.

(d) Whenever the department has reasonable cause to believe that a respondent has breached a conciliation agreement signed by the department, the department shall initiate a civil action to enforce the agreement.

(e) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 5. Section 12981 is added to the Government Code, to read:

12981. (a) In the case of failure to eliminate a violation of Section 12955, 12955.1, or 12955.7 that has occurred, or is about to occur, through conference, conciliation, mediation, or persuasion, or in advance thereof if circumstances warrant, the director shall bring a civil action in the name of the department on behalf of the aggrieved person as a real party in interest, notwithstanding Section 12971, in the same manner and with the same powers as provided in Section 12965, except that where the provisions of this article provide greater rights and remedies to an aggrieved person than Section 12965, the provisions of this article shall prevail. Prior to filing a civil action, the department shall require all parties to participate in the department's

mandatory dispute resolution division free of charge to the parties in an effort to resolve the dispute without litigation. A civil action alleging an unfair housing practice shall be issued within 100 days after the filing of a complaint unless it is impracticable to do so. The civil action shall be filed in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to that practice are maintained and administered, or in the county in which the aggrieved person would have resided in the housing accommodation. If the defendant is not found within that county, the action may be filed in the county of the defendant's residence or principal office. Any aggrieved person may intervene as a matter of right in the proceeding, and the appeal or other judicial review of that proceeding.

(b) If the department determines that an allegation concerns the legality of any zoning or other land use law or ordinance, the department or the Attorney General shall take appropriate action with respect to the complaint according to the procedures established in this part for other complaints of housing discrimination.

(c) Within one year of the effective date of every final order or decision issued pursuant to this part, the department shall conduct a compliance review to determine whether the order or decision has been fully obeyed and implemented.

(d) Whenever the department has reasonable cause to believe that a respondent has breached a conciliation agreement signed by the department, the department shall initiate a civil action to enforce the agreement.

(e) This section shall become operative on January 1, 2023.

SEC. 6. Article 3 (commencing with Section 12989.50) is added to Chapter 7 of Part 2.8 of Division 3 of Title 2 of the Government Code, to read:

Article 3. Mobilehome Residents and Senior Protection

12989.50. As used in this article, and for the sole purpose of investigation or pursuit of conciliation or remedy arising from a complaint alleging a violation of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the following definitions shall apply:

(a) "Management" has the same meaning as specified in Section 798.2 of the Civil Code.

(b) "Mobilehome" has the same meaning as specified in Section 798.3 of the Civil Code.

(c) "Mobilehome park" has the same meaning as specified in Section 798.4 of the Civil Code.

(d) "Homeowner" has the same meaning as specified in Section 798.9 of the Civil Code.

(e) "Resident" has the same meaning as specified in Section 798.11 of the Civil Code.

12989.52. The department shall produce written materials for homeowners and residents summarizing the purpose of the Mobilehome Residents and Senior Protection Act (Assembly Bill 1269 of the 2017–18 Regular Session) and include information on how to file a complaint with the department and a toll-free telephone number and Internet Web site address that a resident can use to seek additional information and communicate complaints.

12989.54. Commencing on and after July 1, 2020, the department shall collect and make available on a publicly searchable Internet database, at a minimum, the following information:

(a) The number of complaints regarding violations of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code) filed with the department.

(b) The nature of the complaint, including the section of law that is the basis of the complaint.

(c) The outcome for each complaint.

12989.56. Commencing on and after July 1, 2020, the department may in its sole discretion investigate potential violations of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code) that are discovered during the course of an existing formal investigation, but for which the department has not received a formal complaint.

12989.58. The department may adopt any necessary procedural rules to administer complaints alleging violations of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code).

12989.60. (a) There is hereby established in the State Treasury the Mobilehome Residency Law Protection Fund. All moneys received by the department as a result of administering and enforcing the Mobilehome Residents and Senior Protection Act (Assembly Bill 1269 of the 2017–18 Regular Session), other than those due to a homeowner or resident, shall be deposited in the

Mobilehome Residency Law Protection Fund. All moneys in the fund shall be available to the department, upon appropriation by the Legislature, for the purpose of administering the Mobilehome Residents and Senior Protection Act (Assembly Bill 1269 of the 2017–18 Regular Session).

(b) (1) The department shall, by no later than July 1, 2018, and by no later than July 1 of each subsequent year, assess upon management and collect a registration fee of ten dollars (\$10) for each mobilehome lot that is subject to the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code) within a mobilehome park for the purpose of enforcement of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), as provided pursuant to the Mobilehome Residents and Senior Protection Act (Assembly Bill 1269 of the 2017–18 Regular Session).

(2) Management may pass on all or a portion of the amount of the per lot annual registration fee assessed under this subdivision to the homeowners and residents within the mobilehome park and may collect the amount or portion thereof when rent is due, except that management shall not pass on the fee in the form of an increase in rent. Management shall provide a written description of the purpose of the charge to homeowners and residents, which shall include both a description of the amount of the annual fee assessed and collected for enforcement of the Mobilehome Residents and Senior Protection Act, along with contact information for the Department of Fair Employment and Housing for purposes of obtaining information relating to enforcement of the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code).

(c) The department may file a civil action to enforce payment of the registration fee assessed pursuant to subdivision (b) in the superior court for the county in which the relevant mobilehome park is located. If the department prevails in an action filed pursuant to this subdivision, the court shall award costs, including reasonable attorney's fees, for the enforcement proceeding, to the department. Notwithstanding Section 12907, costs and attorney's fees awarded pursuant to this section shall be deposited in the Mobilehome Residency Law Protection Fund.

12989.61. This article shall remain in effect only until January 1, 2023, and as of that date is repealed.