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AB-3066 Mobilehome Residency Law Protection Act. (2017-2018)

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Assembly Bill No. 3066

CHAPTER 774

An act to amend Sections 18021.7 and 18502 of, and to add and repeal Part 2.2 (commencing with Section 18800) of Division 13 of, the Health and Safety Code, relating to mobilehomes.

[Approved by Governor September 26, 2018. Filed with Secretary of State September 26, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3066, Mark Stone. Mobilehome Residency Law Protection Act.

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 enact the Mobilehome Residency Law Protection Act. Beginning July 1, 2020, the bill would establish the Mobilehome Residency Law Protection Program within the Department of Housing and Community Development, pursuant to which the bill would require the department to provide assistance in resolving and coordinating the resolution of complaints from homeowners relating to the Mobilehome Residency Law, as provided. The bill would require the department to refer matters within its jurisdiction to its Division of Codes and Standards and authorize it to refer matters not within its jurisdiction to the appropriate enforcement agency. The bill would require the department to select complaints for evaluation under the program, as provided. The bill would require the department to contract with one or more qualified and experienced nonprofit legal services providers and, if a complaint submitted to the program is not resolved during a 25-day period for negotiation between management and the complaining party, the bill would require the referral of complaints selected for evaluation to an appropriate enforcement agency or one of those nonprofit legal services providers, as provided. The bill would require management to provide specified information to the department within 15 business days from the postmark date or electronic transmission of a request for that information and require the imposition of a noncompliance citation of \$250 for each failure to comply.

Beginning January 1, 2019, the bill would require the department to assess upon, and collect from, the management of a mobilehome park subject to the Mobilehome Residency Law an annual registration fee of \$10 for each permitted mobilehome lot located within the mobilehome park, to be paid at the time of payment of the annual operating fee imposed under the Mobilehome Parks Act. The bill would authorize management to pass this fee on to the homeowners within the mobilehome park. The bill would require that all moneys collected pursuant to its provisions be deposited into the Mobilehome Dispute Resolution Fund, which this bill would establish, and make those moneys available, upon appropriation by the Legislature, for purposes of implementing the Mobilehome Residency Law Protection Act, as provided.

The bill, on January 1, 2023, would require the department to submit a written report to the Legislature outlining data collected from the program and make that report available on its Internet Web site. The bill would require that the data collected include specified information. The bill would also require the department to additionally report certain information to a task force convened pursuant to specified law to provide input to the department on the conduct and operation of a certain mobilehome park maintenance inspection program.

The bill would repeal the Mobilehome Residency Law Protection Act as of January 1, 2024.

This bill would incorporate additional changes to Section 18502 of the Health and Safety Code proposed by SB 46 to be operative only if this bill and SB 46 are enacted and this bill is enacted last.

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

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

SECTION 1. Section 18021.7 of the Health and Safety Code is amended to read:

18021.7. (a) (1) In addition to other remedies provided in this part, the Director of Housing and Community Development or his or her designee may issue a citation that assesses a civil penalty payable to the department to any licensee who violates subdivision (d) of Section 18020, Section 18021.5, 18026, 18029.6, or 18030, subdivision (b) of Section 18032, Section 18035, 18035.1, 18035.2, 18035.3, 18036, 18039, 18045, 18045.5, 18045.6, 18046, or 18058, subdivision (a) of Section 18059, subdivision (b) of Section 18059.5, subdivision (c) of Section 18060, subdivision (c) of Section 18060.5, Section 18061, subdivision (d), (i), or (j) of Section 18061.5, subdivision (a) or (b) of Section 18062, subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 18062.2, subdivision (c) of Section 18063, Section 18080.5, or paragraph (2) of subdivision (f) of Section 18802.

(2) A violation of subdivision (d) of Section 18060.5 is also cause for citation if both the dealer and the manufacturer receive written notice of a warranty complaint from the complainant, from the department, or another source of information, and, at a minimum, the 90-day period provided for correction of substantial defects pursuant to Section 1797.7 of the Civil Code has expired.

(3) Each citation and related civil penalty assessment shall be issued no later than one year after discovery of the violation.

(4) A violation of paragraph (2) of subdivision (f) of Section 18802 shall result in a civil penalty in the amount of two hundred fifty dollars (\$250) for each violation.

(b) (1) Except as provided in paragraph (2), the amount of any civil penalty assessed pursuant to subdivision (a) shall be one hundred dollars (\$100) for each violation, but shall be increased to two hundred fifty dollars (\$250) for each subsequent violation of the same prohibition for which a citation for the subsequent violation is issued within one year of the citation for the previous violation. The violation or violations giving cause for the citation shall be corrected if applicable, and payment of the civil penalty shall be remitted to the department within 45 days of the date of issuance of the citation. Civil penalties received by the department pursuant to this section shall be deposited in the Mobilehome-Manufactured Home Revolving Fund.

(2) (A) For violations of subdivision (d) of Section 18020, or Section 18026, the department shall assess the civil penalties in a range between two hundred fifty dollars (\$250) and two thousand dollars (\$2,000). When determining the amount of the assessed civil penalty, the department shall take into consideration whether one or more of the following or similar circumstances apply:

(i) The citation includes multiple violations.

(ii) The cited person has a history of violations of the same or similar provisions of this division and the regulations promulgated under this division.

(iii) In the judgment of the department, the person has exhibited bad faith or a conflict of interest.

(iv) In the judgment of the department, the violation is serious or harmful.

(v) The citation involves a violation perpetrated against a senior citizen, veteran, or person with disabilities.

(B) If a citation lists more than one violation and each of the violations relates to the same manufacturing facility or client, the total penalty assessment in each citation shall not exceed ten thousand dollars (\$10,000).

(C) If a citation lists more than one violation, the amount of assessed civil penalty shall be stated separately for each section violated.

(c) Any person or entity served a citation pursuant to this section may petition for, and shall be granted, an informal hearing before the director or his or her designee. The petition shall be a written request briefly stating the grounds for the request. Any petition to be considered shall be received by the department within 30 days of the date of issuance of the citation.

(d) Upon receipt of a timely and complying petition, the department shall suspend enforcement of the citation and set a time and place for the informal hearing and shall give the licensee written notice thereof. The hearing shall commence no later than 30 days following receipt of the petition or at another time scheduled by the department pursuant to a request by the licensee or department if good and sufficient cause exists. If the licensee fails to appear at the time and place scheduled for the hearing, the department may notify the licensee in writing that the petition is dismissed and that compliance with terms of the citation shall occur within 10 days after receipt of the notification.

(e) The department shall notify the petitioner in writing of its decision and the reasons therefor within 30 days following conclusion of the informal hearing held pursuant to this section. If the decision upholds the citation, in whole or in part, the licensee shall comply with the citation in accordance with the decision within 30 days after the decision is mailed by the department.

(f) Nothing in this section shall be construed to preclude remedies available under other provisions of law.

SEC. 2. Section 18502 of the Health and Safety Code, as amended by Section 4 of Chapter 314 of the Statutes of 2010, is amended to read:

18502. Fees as applicable shall be submitted for permits, as follows:

(a) Fees for a permit to conduct any construction subject to this part as determined by the schedule of fees adopted by the department.

(b) Plan checking fees equal to one-half of the construction, plumbing, mechanical, and electrical permit fees, except that the minimum fee shall be ten dollars (\$10).

(c) (1) An annual operating permit fee of one hundred forty dollars (\$140) and an additional seven dollars (\$7) per lot.

(2) (A) An additional annual fee of four dollars (\$4) per lot shall be paid to the department or the local enforcement agency, as appropriate, at the time of payment of the annual operating fee. All revenues derived from this fee shall be used exclusively for the inspection of mobilehome parks and mobilehomes to determine compliance with the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)) and any regulations adopted pursuant to the act.

(B) The Legislature hereby finds and declares that the health and safety of mobilehome park occupants are matters of public interest and concern and that the fee paid pursuant to subparagraph (A) shall be used exclusively for the inspection of mobilehome parks and mobilehomes to ensure that the living conditions of mobilehome park occupants meet the health and safety standards of this part and the regulations adopted pursuant thereto. Therefore, notwithstanding any other law or local ordinance, rule, regulation, or initiative measure to the contrary, the holder of the permit to operate the mobilehome park shall be entitled to directly charge one-half of the per lot additional annual fee specified herein to each homeowner, as defined in Section 798.9 of the Civil Code. In that event, the holder of the permit to operate the mobilehome park shall be entitled to directly charge each homeowner for one-half of the per lot additional annual fee at the next billing for the rent and other charges immediately following the payment of the additional fee to the department or local enforcement agency.

(3) The additional annual fee authorized by subdivision (b) of Section 18804 shall be paid to the department at the time of payment of the annual operating fee to the department or local enforcement agency, as appropriate.

(d) Change in name fee or transfer of ownership or possession fee of ten dollars (\$10).

(e) Duplicate permit fee or amended permit fee of ten dollars (\$10).

(f) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 2.5. Section 18502 of the Health and Safety Code, as amended by Section 4 of Chapter 314 of the Statutes of 2010, is amended to read:

18502. Fees as applicable shall be submitted for permits, as follows:

(a) Fees for a permit to conduct any construction subject to this part as determined by the schedule of fees adopted by the department.

(b) Plan checking fees equal to one-half of the construction, plumbing, mechanical, and electrical permit fees, except that the minimum fee shall be ten dollars (\$10).

(c) (1) An annual operating permit fee of one hundred forty dollars (\$140) and an additional seven dollars (\$7) per lot.

(2) (A) An additional annual fee of four dollars (\$4) per lot shall be paid to the department or the local enforcement agency, as appropriate, at the time of payment of the annual operating fee. All revenues derived from this fee shall be used exclusively for the inspection of mobilehome parks and mobilehomes to determine compliance with the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)) and any regulations adopted pursuant to the act.

(B) The Legislature hereby finds and declares that the health and safety of mobilehome park occupants are matters of public interest and concern and that the fee paid pursuant to subparagraph (A) shall be used exclusively for the inspection of mobilehome parks and mobilehomes to ensure that the living conditions of mobilehome park occupants meet the health and safety standards of this part and the regulations adopted pursuant thereto. Therefore, notwithstanding any other law or local ordinance, rule, regulation, or initiative measure to the contrary, the holder of the permit to operate the mobilehome park shall be entitled to directly charge one-half of the per lot additional annual fee specified herein to each homeowner, as defined in Section 798.9 of the Civil Code. In that event, the holder of the permit to operate the mobilehome park shall be entitled to directly charge each homeowner for one-half of the per lot additional annual fee at the next billing for the rent and other charges immediately following the payment of the additional fee to the department or local enforcement agency.

(3) The additional annual fee authorized by subdivision (b) of Section 18804 shall be paid to the department at the time of payment of the annual operating fee to the department or local enforcement agency, as appropriate.

(d) Change in name fee or transfer of ownership or possession fee of ten dollars (\$10).

(e) Duplicate permit fee or amended permit fee of ten dollars (\$10).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3. Part 2.2 (commencing with Section 18800) is added to Division 13 of the Health and Safety Code, to read:

PART 2.2. Mobilehome Residency Law Protection Program

18800. (a) This part shall be known, and may be cited, as the Mobilehome Residency Law Protection Act.

(b) It is the intent of the Legislature in enacting this part to protect and safeguard the most vulnerable mobilehome homeowners by affording them an additional avenue to enforce 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).

18801. As used in this part, 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) "Department" means the Department of Housing and Community Development.

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

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

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

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

(f) "Mobilehome Residency Law" means the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code).

(g) "Program" means the Mobilehome Residency Law Protection Program established pursuant to this part.

(h) "Rental agreement" has the same meaning as specified in Section 798.8 of the Civil Code.

18802. (a) The Mobilehome Residency Law Protection Program is hereby established within the department.

(b) Except as provided in subdivision (c), the department shall provide assistance in taking complaints, and helping to resolve and coordinate the resolution of those complaints, from homeowners relating to the Mobilehome Residency Law.

(c) The department shall not arbitrate, mediate, negotiate, or provide legal advice in connection with mobilehome park rent disputes, lease or rental agreements, or disputes arising from lease or rental agreements, but may provide information on these issues to the complaining party, management, or other responsible party.

(d) (1) The department shall refer any alleged violations of law or regulations within the department's jurisdiction to the Division of Codes and Standards within the department.

(2) The department may refer any alleged violations of law or regulations that are not within the jurisdiction of the department, including, but not limited to, rent disputes, criminal activity, or alleged discrimination, to the appropriate enforcement agency.

(e) (1) Upon receipt of a complaint, the department shall send the complaining party a letter confirming receipt and referencing those provisions of the Mobilehome Residency Law, if applicable, that may pertain to the complaint. If the department refers the complaint to an appropriate enforcement agency, pursuant to paragraph (2) of subdivision (d), the letter shall communicate that referral.

(2) A letter issued pursuant to this subdivision shall be in the same medium as the complaint to which the letter is in response.

(f) (1) The department shall use good faith efforts to select the most severe, deleterious, and materially and economically impactful alleged violations of the Mobilehome Residency Law. The department shall select a sample of these complaints that satisfy geographic representation of the state for evaluation.

(2) In evaluating a complaint, the department may request a copy of the lease, park rules, or any other relevant written documents applicable to a complaint from management. Management shall provide the information requested pursuant to this paragraph within 15 business days from the postmark date or the electronic transmission of the request. The department shall establish a mechanism for management to provide the documents electronically. Failure to comply with this requirement shall result in a noncompliance citation of two hundred fifty dollars (\$250) for each failure to comply. The department shall not provide the documents it receives pursuant to this paragraph to any person or entity other than the nonprofit legal services provider, an appropriate enforcement agency, or the complainant.

(g) If the department selects a complaint for referral to and evaluation by a nonprofit legal services provider pursuant to Section 18803, it shall send a notice to the complaining party and the management or mobilehome park owner. The notice shall advise the parties that they are required to negotiate the matter in good faith to resolve the matter in 25 days. If after 25 days either party responds to a department inquiry that the matter is not resolved, the department may refer the complaint to an appropriate enforcement agency or a nonprofit legal services provider. The department may combine this notice with the letter described in paragraph (e).

(h) The department may aggregate multiple complaints submitted to the program into a single investigation. Multiple complaints may be aggregated within a single mobilehome park, or within multiple mobilehome parks where there is either:

(1) A common mobilehome park owner or mobilehome park owner entity, or common principals, partners, shareholders, members, or legal ownership amongst the multiple mobilehome parks.

(2) A common third-party or off-site management entity which manages the multiple mobilehome parks.

(i) Participation in the administrative procedures authorized by this part shall not be deemed to be grounds to authorize a delay in the prosecution of an unlawful detainer action. However, this section shall not be construed as preventing a court from exercising any power to delay based upon any other grounds.

(j) This section shall become operative on July 1, 2020.

18803. (a) In administering the program, the department shall contract with one or more qualified and experienced nonprofit legal services providers and refer complaints selected for evaluation pursuant to subdivision (f) of Section 18802, and which are not resolved pursuant to subdivision (g) of Section 18802, to those nonprofit legal services providers for possible enforcement action.

(b) The department shall only contract with a nonprofit legal services provider that meets all of the following requirements:

(1) The nonprofit legal services provider has experience in handling complaints, disputes, or matters arising from the provisions of the Mobilehome Residency Law or matters related to general landlord-tenant law.

(2) The nonprofit legal services provider has experience in representing individuals in dispute resolution processes, state court proceedings, and appeals.

(3) The nonprofit legal services provider has sufficient staff and financial ability to provide for legal services to homeowners.

(c) A nonprofit legal services provider contracted with pursuant to this section shall maintain adequate legal malpractice insurance and shall agree to indemnify and hold harmless the state from any claims arising from the legal services provided pursuant to this part.

(d) (1) A nonprofit legal services provider contracted with pursuant to this section shall have the sole authority to determine which referred complaints will be addressed or pursued, based on the resources provided to it pursuant to the contract with the department.

(2) The nonprofit legal services provider shall inform the department of any complaints not handled due to a shortage of resources.

(e) A nonprofit legal services provider contracted with pursuant to this section shall not charge any fees to a homeowner for any services performed in connection with a complaint referred to it by the department.

(f) This section shall become operative on July 1, 2020.

18804. (a) There is hereby established in the State Treasury the Mobilehome Dispute Resolution Fund. The fund shall receive all moneys derived pursuant to this part. Moneys in the fund shall be available, upon appropriation by the Legislature, for purposes of implementing this part.

(b) (1) Beginning January 1, 2019, and each subsequent year thereafter, the department shall assess upon, and collect from, the management of a mobilehome park subject to the Mobilehome Residency Law an annual registration fee of ten dollars (\$10) for each permitted mobilehome lot within the mobilehome park. The department shall collect the registration fee at the same time as the annual operating permit fee imposed under the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)).

(2) The Legislature finds and declares that the purpose of the fee imposed by this section is to cover the costs of the department incident to the investigation of mobilehome parks for purposes of enforcing the Mobilehome Residency Law.

(c) Notwithstanding any other law or local ordinance, rule, regulation, or initiative measure to the contrary, within 90 days from payment of the registration fee to the department, management may pass on all or a portion of the amount of the annual registration fee assessed under this section to the homeowners within the mobilehome park and may collect the amount or portion thereof from the homeowner with the rent payment and other charges due, except that management shall not aggregate or include the fee in the rent nor shall the amount exceed ten dollars (\$10) per mobilehome space annually. The annual registration fee shall appear as a separate line item in the bill and shall be accompanied by a clear written description of the purpose of the charge to homeowners, along with contact information for the department.

18805. (a) On January 1, 2023, the department shall submit a written report to the Legislature outlining data collected from the program and make that report available on its Internet Web site. The data collected shall include, but not be limited to, all of the following:

(1) The amount of registration fees collected pursuant to Section 18804 and the amount expended on the program.

(2) The total number of complaint allegations received, the total number of complaint allegations processed, and the total number of complaint allegations referred to another enforcement agency or to a nonprofit legal services provider.

(3) The type of complaint allegations received.

(4) To the extent possible, the outcome of each complaint received by the program.

(5) Activities completed by a nonprofit legal services provider contracted with pursuant to the program.

(6) The most common complaint allegations.

(7) Recommendations for any statutory or administrative changes to the program.

(b) The report required to be submitted to the Legislature by this section shall be submitted in compliance with Section 9795 of the Government Code.

(c) The department shall additionally report the information required pursuant to paragraphs (1) to (3), inclusive, of subdivision (a) to the task force convened pursuant to Section 18400.3.

18806. This part shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 18502 of the Health and Safety Code, as amended by Section 4 of Chapter 314 of the Statutes of 2010, proposed by both this bill and Senate Bill 46. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 18502 of the Health and Safety Code, as amended by Section 4 of Chapter 314 of the Statutes of 2010, and (3) this bill is enacted after Senate Bill 46, in which case Section 2 of this bill shall not become operative.