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HOUSE BILL 1767

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Quall, Carlson, Basich, Kremen, Mitchell, McMahan, Costa and Schoesler

Read first time 02/08/95. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to alternative dispute resolution for purchasers of  
2 manufactured homes; adding a new chapter to Title 59 RCW; and providing  
3 an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that the purchase of  
6 a manufactured home is a sizeable investment for most families. The  
7 legislature also finds that consumer remedies for purchases of  
8 manufactured homes lack clarity, are time consuming, and are often  
9 inadequate. Therefore, the legislature declares that it is the purpose  
10 of this chapter to strengthen consumer warranties, to create a fund  
11 from which consumers may be compensated for established deficiencies in  
12 the purchased product, and to set up the mechanics for establishing  
13 procedures by which claims can be made against the fund, acted upon,  
14 and resolved without the consumer resorting to the courts or other  
15 governmental agencies for relief. The procedures and fund established  
16 in this chapter shall be deemed a system of alternative dispute  
17 resolution for public benefit without public cost.

1        NEW SECTION.    **Sec. 2.**    Unless the context clearly requires  
2 otherwise, the definitions in this section apply throughout this  
3 chapter.

4        (1) "Advisory committee" means the citizens' advisory committee  
5 established under section 4 of this act.

6        (2) "Association" means the Washington manufactured housing  
7 recovery fund association created in section 4 of this act.

8        (3) "Board" means the Washington manufactured housing recovery fund  
9 board created in section 4 of this act.

10       (4) "Consumer" means a person who has purchased a manufactured home  
11 at retail from an authorized dealer that both is licensed to do  
12 business and conducts business in the state of Washington.

13       (5) "Dealer" means a person or entity who is licensed and  
14 authorized to sell manufactured homes/mobile homes, is bonded, and is  
15 engaged in that activity. The term is interchangeable with the term  
16 "retailer."

17       (6) "Fund" means the Washington manufactured housing recovery fund.

18       (7) "Manufactured home" means a single-family dwelling built in  
19 accordance with the department of housing and urban development  
20 manufactured home construction and safety standards act, which is a  
21 national, preemptive building code.

22       (8) "Manufacturer" means an enterprise, wherever located, building  
23 manufactured homes and licensed to ship them into or within the state  
24 of Washington for sale to the public.

25       (9) "Mobile home" means a factory-built dwelling constructed prior  
26 to June 15, 1976, to standards other than the department of housing and  
27 urban development manufactured home construction and safety standards  
28 act.

29       NEW SECTION.    **Sec. 3.**    (1) There shall be established a fund to be  
30 known as the Washington manufactured housing recovery fund, which shall  
31 be created and maintained by payments from manufacturers predicated on  
32 home shipments made to or sales made in the state of Washington. The  
33 payments shall be deposited in one or more banks selected by the board.  
34 The fund shall be administered by the board, shall be separately  
35 maintained and accounted for, and shall be used for no other purpose  
36 than as directed by the board for the purposes enumerated and  
37 reasonably implied in this chapter.

1 (2) After the effective date of this act, each manufacturer shall  
2 remit to the board for deposit in the fund the sum of twenty-five  
3 dollars per manufactured home shipped to or offered for sale in the  
4 state of Washington. The fund shall be maintained at or above three  
5 hundred fifty thousand dollars after once reaching this threshold.

6 (3) The fund and contributions called for in this section shall be  
7 due and received by the board within sixty days after the month being  
8 reported on for shipments. Manufacturers who fail to contribute or  
9 report in a timely manner shall accrue interest on any delinquent  
10 amounts at the statutory rate. The board may pursue such collection  
11 efforts, including litigation, as may seem appropriate and shall be  
12 entitled to also recover reasonable attorneys' fees and costs for such  
13 efforts.

14 NEW SECTION. **Sec. 4.** (1) A nonprofit, unincorporated, legal  
15 entity to be known as the Washington manufactured housing recovery fund  
16 association is created. Each manufacturer doing business in this state  
17 and contributing to the fund shall be a member of the association. The  
18 association is not a subdivision of state government and is not subject  
19 to the open meeting laws. The association need not hold meetings.

20 (2) A seven-member board of directors shall be created and shall be  
21 composed of four members selected from and designated by the  
22 association, together with three dealers selected by and from the  
23 manufactured home dealers doing business in the state. The dealer  
24 members shall be designated by the state trade association representing  
25 the majority of manufactured housing dealers. The board shall adopt  
26 its own rules and regulations for the management of the fund, the  
27 administration and settlement of claims made against the fund, and all  
28 such matters as shall be necessary to carry out the beneficial purposes  
29 of this chapter.

30 (3) The board of directors may designate from among its membership  
31 an executive committee of not less than three members who shall be  
32 authorized to act for and on behalf of the board of directors between  
33 its scheduled meetings. The executive committee shall have such powers  
34 as the board delegates.

35 (4) The board shall establish a citizens' advisory committee for  
36 the purpose of assisting and advising the board in matters of policy  
37 and procedure. This advisory committee shall be of whatever size the  
38 board determines and shall be composed of persons active in or familiar

1 with the manufactured housing industry, and particularly with persons  
2 who own and reside in manufactured homes. The advisory committee shall  
3 meet at the pleasure of the board without compensation for serving, but  
4 may receive expenses in connection with attendance at meetings. The  
5 board shall establish such requirements for the advisory committee as  
6 are appropriate and necessary, and may establish panels of three  
7 members from the advisory committee to hear disputes arising out of the  
8 purchase and sale of manufactured homes and recommend final decisions  
9 to the board.

10 NEW SECTION. **Sec. 5.** The board shall have the following powers  
11 and duties:

12 (1) To establish reporting requirements, to define the procedures  
13 for and the nature of claims to be submitted and acted upon, and to  
14 establish a date not later than July 1, 1996, on which the board will  
15 begin accepting consumer claims;

16 (2) After the date established by the board under subsection (1) of  
17 this section, to receive and resolve all consumer claims directed to it  
18 for breach of warranty either by the manufacturer or a dealer in  
19 delivering or installing the home;

20 (3) To collect contributions to the fund and to change the amount  
21 of contributions for the purpose of reducing, increasing, canceling,  
22 suspending, or otherwise adjusting the fund and the amount in the fund  
23 based on experience in carrying out the purposes of this chapter;

24 (4) To subrogate against any member manufacturer or any dealer who,  
25 in the opinion of the board, has caused the fund to sustain loss or  
26 expense that should have been paid by the party being subrogated  
27 against. In such an action the court shall allow the prevailing party  
28 its costs and attorney's fees;

29 (5) To remove or suspend any member of the board. Such removal or  
30 suspension shall be for cause and shall require a two-thirds  
31 affirmative vote of the total members of the board;

32 (6) To hire staff and establish an office for the fund, including  
33 the hiring of an administrator for the fund to carry out the purpose of  
34 the association on a day-to-day basis, to investigate claims, to  
35 interface between the claimant and the manufacturer or dealer, to  
36 resolve claims expeditiously by negotiation or compromise, to refer  
37 those claims that cannot be resolved to prompt hearing, to report

1 regularly to the board, and to support the board to achieve the  
2 beneficial purposes of this chapter;

3 (7) To hire or retain a hearing examiner, either on a full-time or  
4 part-time basis, to hear and judge disputes and recommend final  
5 decisions to the board;

6 (8) To establish procedures for reviewing proposed final decisions  
7 made by the hearing examiner or a panel of the citizens' advisory  
8 committee. Decisions of the board shall be final and appealable into  
9 the courts only on the grounds that the decision is arbitrary and  
10 capricious or contrary to law; and

11 (9) To make all reasonable efforts to publicize the existence of  
12 the fund and the procedures established for making claims. Such  
13 information shall be available, at a minimum, from all member  
14 manufacturers and dealers.

15 NEW SECTION. **Sec. 6.** The fund shall be exempt from payment of all  
16 fees and taxes levied by this state or any of its subdivisions, except  
17 taxes levied on real or personal property.

18 NEW SECTION. **Sec. 7.** Any consumer who makes a claim that is  
19 satisfied by payment from the fund thereby waives any and all other  
20 claims or rights on the same subject against the manufacturer, the  
21 dealer, the fund, or their agents. No claimant shall have any direct  
22 right of action against the fund, the advisory committee, the staff, or  
23 the board created in this chapter.

24 NEW SECTION. **Sec. 8.** (1) It is the purpose of this chapter to  
25 provide remedies for breach of warranties and physical defects, damage,  
26 and shortcomings in the physical manufactured home. Personal injury  
27 claims or alleged consequential damages shall not be considered.

28 (2) The maximum allowable recovery from the fund is the retail  
29 purchase price of the home involved.

30 NEW SECTION. **Sec. 9.** Membership in good standing in the recovery  
31 fund created in this chapter shall be a condition of a manufacturer's  
32 license to do business in the state of Washington.

33 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act shall  
34 constitute a new chapter in Title 59 RCW.

1        NEW SECTION.    **Sec. 11.**    This act shall take effect September 1,  
2 1995.

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