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State of Nevada
Department of Business and Industry
Manufactured Housing Division

Assistance for Low-Income Owners of Mobile Homes

**Report on the Administration of the Rent Subsidy Program,
A.B. 451, 1991 Nev. Stats. Ch. 689, p. 2270, NRS 118B.213 et. seq.**

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Introduction

A.B. 460 and A.B. 451

During its 1991 session the Nevada Legislature considered several bills relating to mobile homes and mobile home parks. Perhaps the most controversial of these bills was A.B. 460 which, as originally drafted, would have established a commission to review requests for rent increases filed by owners of mobile home parks. One of the principal reasons cited for the need for this legislation was the fact that many persons living in mobile home parks are on fixed incomes and cannot afford to move their mobile home if the park owner raises the rent beyond their means. Called "rent control" by some and "rent justification" by others, the bill produced vigorous debate from proponents and opponents alike.

During consideration of this bill, one of the opponents of A.B. 460 suggested as an alternative response to the problem of high rents in mobile home parks that a special fund be created to provide direct assistance to certain owners in paying their lot or space rent. See, Minutes of the Nevada State Legislature, Assembly Committee on Commerce, April 24, 1991, Page 9. Although originally adopted as an amendment to A.B. 460, another mobile home bill, A.B. 451, was eventually amended to create this special fund and was passed by both houses of the legislature towards the end of the 1991 session. Passage of A.B. 451 was seen by some as a compromise between proponents and opponents of direct regulation of rents in mobile home parks.

Basic Provisions of the Rent Subsidy Legislation

The provisions of the rent subsidy legislation set forth in A.B. 451 (the "Act") have been codified in NRS 118B.213 to 118B.218, inclusive, reproduced in Appendix A of this Report. They establish a rent supplement program for certain low-income persons (the "Program"). Park owners are required to pay an annual fee of \$12 per occupied space. The money is deposited in a fund entitled the Mobile Home Lot Rent Trust Fund ("Trust Fund" or "fund"). The Manufactured Housing Division ("Division") is responsible for administering the fund. Park owners must contribute to the fund until it reaches \$1 million at which point the payments cease. If the fund drops below \$750,000, then payments resume.

To be eligible for rental supplements, the applicant must have resided in a mobile home park in this state for at least 1 year immediately preceding the application, own the mobile home which is subject to the tenancy, have a monthly income which is at or below \$750 or the federally designated poverty level, whichever is greater¹, be a tenant in the park where the person is seeking assistance, and maintain continuous tenancy in the park

¹ Because \$750 has been greater than the federally designated poverty level, this amount has been used exclusively during administration of the program.

during the assistance. The Division determines the eligibility and the amount paid to each person. Persons whose eligibility changes must notify the Division.

A.B. 451 provided for park owners to begin paying into the Trust Fund on July 1, 1992 and for distribution of rent supplements to begin on July 1, 1993. The Division adopted temporary regulations implementing the Act on April 28, 1993 and June 30, 1993 and made them permanent on December 27, 1993. The legislative history of A.B. 451 does not indicate that the Rent Subsidy Program was modeled after similar legislation from any other state and further research has failed to disclose a similar program in any other state. Nor does the legislative history indicate that the amount set for funding of the Trust Fund was based upon any study of the actual demand that would be expected based on the eligibility criteria established by the legislature.

Early Experience With the Program

The Division's early experience with the program, gained during the process of adopting regulations, evaluating the initial applications for assistance and distributing rent assistance for some 18 months, suggests that the legislature under-estimated the need for rental assistance in mobile home parks. The fees paid into the Trust Fund for payment of assistance are inadequate to meet the present and future demand from all persons eligible to receive it. In addition, a number of issues have arisen regarding administration of the program that are believed to require legislative resolution. The purpose of this report is to describe the Division's experience in administering the rent subsidy program and to recommend legislation that will address and resolve some of the problems encountered.

Adoption of Regulations

Initial Proposal

To obtain the average household income for each applicant, the Division's initial draft of proposed regulations included the total annual income of all persons occupying the mobile home, divided by the number of such persons and then divided by 12. Since the Act does not permit consideration of an applicant's assets, the Division believed this was the best way to disqualify applicants in a position to receive assistance from other income-producing occupants of the home. The Division discussed this proposal with the deputy attorney general assigned to the Division who, while expressing some doubts about its authority to incorporate this restriction, believed that a consideration of the applicant's true ability to pay the rent was consistent with the purpose of the Act.

The mobile homeowner's lack of financial resources to move his or her mobile home to a less expensive park in the face of rising park rents was in large part the impetus

for rent justification in mobile home parks and later, the rent subsidy program. The Division therefore interpreted the requirement that an applicant for rent assistance have been a tenant in a mobile home park during the previous year in NRS 118B.215 (3) (a) as requiring the applicant to have resided in the *same* park during that year. The Division believed the legislature could not have intended to provide rent assistance to a person who could afford to voluntarily move his or her home within the preceding year.

NRS 118B.215(5) provides a formula for the Division to determine the "maximum" amount of assistance to be distributed to an eligible applicant. Since the statutory formula is very specific and the Act provides no guidance as to whether or how the Division should determine a lesser amount or reduce the amount of a subsidy previously approved, the Division initially concluded that the legislature's use of the word "maximum" was intended to specify just that — the maximum amount of assistance — not to authorize the Division to distribute some lesser amount. The Division therefore adopted in its regulations a policy of "first come, first served" based upon availability of funds, using the formula in the statute.

At the time it initially adopted its regulations, the Division did not know that the level of funding would prove to be inadequate. As that became apparent, and a waiting list of eligible applicants began to develop, the Division examined all its options to address the problem. Despite some doubts as to its statutory authority, the Division, in June of 1994, proposed to adopt a regulation that will authorize the Administrator to distribute an equal percentage of an applicant's base rent, not to exceed \$100, to all persons who qualify. Although this will result in a reduction in the amount of assistance provided to some applicants, it will eliminate the inequitable "first-come, first-served" basis of providing assistance and the waiting list of applicants eligible but unable to receive assistance because of inadequate funding. Hearings on the proposed regulation will be scheduled in the near future. It should be noted that any method of reducing the amount of assistance will present practical difficulties given the funding mechanism and eligibility criteria.²

² Factors that complicate a proration or other method of reducing assistance include:

- the Trust Fund is funded by annual assessments on mobile home lots with no provision for reassessment should the fund be depleted;
- the number of persons who may qualify continually changes due to lack of prior notice of the program, changes in income, general population increases and other factors, making it difficult to determine the amount by which assistance would have to be reduced to provide some level of assistance to all who qualify;
- the amount of assistance approved applicants may receive will change as park rents change; and
- the amount of money required to administer the Program will increase if the Division staff has to continually reassess the amount of assistance to provide to each participant;

Public Comments

Hearings on the proposed regulations were held in Las Vegas and Carson City on April 5, 1993, attended by a total of 34 people. On June 28, 1993, additional hearings were held in Las Vegas and Carson City, attended by a total of 6 people. The Division received and considered oral and written comments on the proposed regulations.

During the hearings, it was suggested that the Division consider an applicant's "assets" in determining eligibility for assistance. Others requested that the \$750.00 requirement for eligibility be raised to a higher amount and that travel trailers be included in homes eligible for assistance. The persons making these comments were advised that these recommendations would require changes in the statute.

Changes Made to Regulations and Program at Legislative Counsel's Request

During its review of the proposed regulations, the Legislative Counsel required the Division to amend the language that would have permitted the Division to consider the income of other occupants of the home. The deputy legislative counsel assisting the Division with the regulations interpreted the use of the word "person" in NRS 118B.215(3) as including only that person listed as registered owner on the certificate of title to the mobile home. If the applicant is listed as the registered owner and occupies the home, the Division has no authority to request information regarding other occupants and their income.

After it had denied the applications of individuals who had voluntarily moved into a park within the preceding year, the deputy attorney general assigned to the Division received a phone call from an assistant legislative counsel taking issue with those decisions. Based upon the interpretation of the assistant legislative counsel and advice from the deputy attorney general, the Division reversed its decisions and began qualifying persons who had voluntarily moved into a park provided they had lived in *any* mobile home park in the state during the preceding year.

Administration of the Trust Fund

Processing of Applications

All mobile home parks in the state were notified on April 30, 1993 that the applications for the Program would be available on May 1, 1993. In addition, Division representatives personally presented the Program at meetings of the Coalition of Manufactured Mobile Home Owners of Nevada, the Mobile Home Owners League of the Silver State, and the Mobile Home Park Owners Association. Through these meetings,

over 300 applications were made available to park tenants during the month of May, 1993.

On May 27, 1993, a second notice was sent to mobile home parks requesting that they post the notice for the Program. Based on a scattered statewide response, it appears that a limited number of parks may have posted the requested notice. However, several parks within Clark County were very active in notifying their tenants of the program. The Division did not issue a press release announcing the Program or otherwise advertise the availability of rent assistance.

The Division processes applications for assistance as follows:

1. A 6 page application is requested from the Division and completed by the applicant/tenant. Each applicant is requested to provide:
 - Proof of income for the prior twelve (12) month period;
 - Proof of ownership of the mobile home ;
 - Tenancy certification from the mobile home park manager;
2. Upon receipt of the application, the application is logged and reviewed for completeness and required documents;
3. The application is then reviewed by the Lot Rent Subsidy Program Officer. The Program Officer is responsible for a detailed review of the application and verification of income, ownership, and tenancy. When applications are incomplete, the applicant is notified by mail to provide the corrected information and the application is given a pending status;
4. Completed applications are given immediate approval, the applicant is notified by mail of his or her approval and, where funding is unavailable, are placed on a waiting list in order of approval date.

The current method of processing of applications appears to be adequate.

A statistical application history of the total number of the persons applying, eligible and ineligible, by county, is attached in Appendix C of this Report. Appendix D includes a monthly mobile home recipient subsidy payment history, by county. Graphs depicting the total amount of lot fees and penalties collected by county, eligibility determination on all applications received, and total subsidy payments made by county are attached in Appendix E, F and G, respectively. The information contained in these exhibits is current as of June 30, 1994.

The Demand for Assistance Exceeds the Amount Available in the Trust Fund

Pursuant to NRS 118B.215, the Division began collecting fees for the Trust Fund on July 1, 1992 to develop a revenue basis to begin making rental assistance payments on July 1, 1993. As of July 1, 1993, the Division had collected and deposited in the Trust Fund approximately \$344,029 in fees and penalties. Within 90 days it became apparent that the funding was inadequate to meet the demand of eligible applicants.

In early September of 1993, applicants were advised that there were insufficient funds to meet current and future demands from the Program and that their approved applications would be placed on a waiting list pending receipt of additional funds. As the number of recipients changes from month to month due to eligibility changes and other factors, new approved applicants are moved from the waiting list to active status. Currently, 45% of eligible applicants are on the waiting list. Applications in a "wait status" are reflected in Appendix C and G. Current subsidy payments range from a statewide low of \$40.00 to a high of \$250.00.

Based on the data accumulated thus far from eligible applicants, the table below reflects the amount of money allotted for individuals currently receiving subsidy and the amount needed to satisfy eligible applicants currently on the waiting list.

FISCAL 1994

Current YTD Subsidy Payments (1993-1994):	\$258,035.44
Total Funding Needed for Current Recipients:	\$258,035.44
(Actual Budgeted Amount: \$ 282,830.00)	

Cost of Funding all Current and Wait List Applicants for Fiscal 1994:	\$ 353,089.91
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FISCAL 1995

Carryover Monthly Subsidy Amount:	\$ 24,113.74
12 Month Subsidy Allowance:	\$ 289,364.88

With the current eligibility base of 330 participants,
the estimated subsidy funding needed for Fiscal
year 1995 would be:

\$ 508,435.68

(This amount does not include allowances for
rent increases, changes in recipient eligibility, or
any additional qualifying applicants.)

Issues Not Adequately Addressed in the Enabling Legislation

It is apparent that the legislature did not anticipate that the level of funding for the Trust Fund would be inadequate. Although a funding level in the range of \$750,000 to \$1 million may prove to be sufficient, this amount could not be collected in a single year and, based on current demand and the law, will never be reached. Since it placed a \$1 million cap on the amount collected and provided no means of assessing park owners if necessary to meet demand, the legislature obviously believed the demand would not exceed the levels of funding provided. Given the lack of objective evidence of that need, no one could have predicted with 100% accuracy the demand for assistance and the amount of trust funds required to meet that demand prior to implementation of the Program. Nevertheless, it is clear that the level of funding provided missed the mark by a wide margin.

The Act also lacks realistic eligibility requirements and limits on individual subsidy amount. Pursuant to NRS 118B.215 (3), the only income requirement is that the applicant's monthly income be at or below \$750.00, or the federally designated poverty level, whichever is greater. The Act does not permit consideration of the applicant's assets, income from other occupants of the mobile home, or the size of the applicant's family unit. For example, an applicant could have \$100,000.00 in the bank, four working adults in the household and no children to support, and so long as the applicant's income did not exceed \$750.00 per month, he or she would qualify for assistance under the Program. The lack of reasonable eligibility requirements allows individuals to qualify who do not necessarily need assistance in paying their lot rent and frustrates the purpose of the Program by reducing the amount of money available for those persons truly in need of assistance.

The criteria established by NRS 118B.215(5) for the allotment of funds to any applicant only provide a single formula to determine the amount of assistance to be provided. Pursuant to NRS 118B.215(5), the maximum amount which may be distributed to an applicant to supplement his monthly rent is an amount equal to the difference between \$150.00 and the amount of rent charged for the lot, but in no case more than the average monthly rent charged per mobile home lot, by lot size, in the county in which the mobile home is located. This eliminates all tenants in parks whose lot rent is less than

\$150.00. In addition, tenants living in more expensive parks receive a proportionately greater share of the fund than tenants who live in less expensive parks. Statewide lot rents range from a low of \$75.00 to a high of \$467.00 and, of the 450 parks in the Nevada, 122 have a lot rent lower than \$150.00. The Division has received complaints by both tenants and mobile home park owners whose lot rents are below the \$150.00 level regarding this inequity in the Program. Under this formula, subsidy payments could range from \$1.00 to \$318.00. This provision makes it impossible to determine in advance the amount of funding required to subsidize the number of applicants who would qualify for assistance.

Although the adoption of a regulation authorizing the Administrator to distribute some level of assistance to all persons who qualify will help eliminate the current waiting list of eligible applicants, this approach should be seen as only an interim solution to the problems addressed in this report. The Legislature should abandon the fixed, statutory formula for determining levels of assistance and authorize the administrator, through the adoption of regulations, to adjust the formula based upon actual experience with the program that will provide the highest level of assistance to all eligible persons within the limits of the trust fund.

Recommendations

Revise the Criteria for Determining Eligibility

1. Establish maximum asset levels for applicants;
2. Set parameters for "household" income to better reflect the applicant's "household" financial status;
3. Redefine the 1 year tenancy requirement to mean the applicant's current mobile home park unless a move between parks within the state is necessitated by financial hardship. If an applicant can afford to move his or her mobile home into another park, he or she can avoid the effects of rent increases by moving to a less expensive park.

Revise the Funding Mechanism and Formula for Determining Assistance

1. Eliminate the mandatory \$150.00 deductible and authorize the administrator to adopt regulations establishing a formula providing for a level of assistance that is based on the amount of rent and the number of qualified applicants. This will allow all low income mobile home owners who meet eligibility requirements to apply and receive assistance and will allow for more accurate projections of funds needed to provide assistance to eligible applicants.

2. Increase the \$12.00 per occupied space fee currently assessed from mobile home park owners;

Provide Greater Enforcement Mechanisms

NRS 118B.218 states:

A person who receives assistance pursuant to NRS 118B.215, shall notify the administrator of any change in his eligibility pursuant to that Section within 10 days after the change. A person who violates this Section is ineligible for assistance from the Trust Fund for low income owners of mobile homes.

This is the only provision in the Act for enforcement of eligibility conditions by the Division. The Act does not provide any guidelines or enforcement powers for:

1. Denying approval or termination of benefits based on a falsified application;
2. Terminating one's benefits if no longer eligible;
3. Administrative or judicial review of decisions denying or terminating benefits;
4. Recovering benefits paid as the result of fraud or a determination of ineligibility;
5. Imposing fines or criminal sanctions for persons found to have defrauded the Trust Fund;

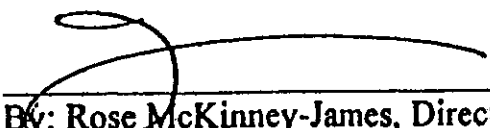
These issues should be addressed in any future amendments to the Act.

Conclusion

There was little or no information available other than anecdotal accounts as to the need for rent assistance in mobile home parks in this state at the time the Act was passed. It was therefore difficult to project the number of persons who would qualify for assistance and the level of funding required to meet the demand for assistance at the level and under the eligibility criteria established by the legislature. Because it limited the Division's discretion in certain areas and failed to address certain issues at all, the Act did not permit the Division to adequately respond once it became apparent that the amount of money in the Trust Fund was insufficient to meet the present and future demand for

assistance. The Division believes that if the Act is amended as recommended herein, its goal of providing rent assistance to all who truly need it will be achieved.

STATE OF NEVADA
Department of Business and Industry
Manufactured Housing Division



By: Rose McKinney-James, Director,
Department of Business and Industry
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