

Amendment No. 444

Assembly Amendment to Assembly Bill No. 304

(BDR 10-1119)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

SJA/MSM



Date: 4/21/2007

A.B. No. 304—Makes various changes to provisions relating to manufactured home parks. (BDR 10-1119)



ASSEMBLY BILL NO. 304—COMMITTEE ON COMMERCE AND LABOR

MARCH 14, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions relating to manufactured home parks. (BDR 10-1119)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to manufactured home parks; revising the provisions relating to the review of rental agreements and other residency documents; revising the provisions relating to certain repairs to a manufactured home; making changes pertaining to rules and regulations of a manufactured home park; revising the provisions relating to meetings between a landlord and tenants under certain circumstances; requiring a landlord to pay certain costs associated with the conversion of a manufactured home park; increasing the amount of the limitation on the lien of a landlord; prohibiting local governing bodies from restricting the installation of certain manufactured homes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes provisions relating to rental agreements and other residency documents. (NRS 118B.040) **Section 1** of this bill removes the requirement that a landlord must allow a tenant to review such documents for 72 hours during which time a landlord is not prevented from accepting another tenant for the same residency. Instead, **section 1** requires a landlord to give a prospective tenant a copy of the rental agreement ~~and~~, **a copy of the rules and regulations of the manufactured home park**, any existing notices of the sale, closure or conversion of the manufactured home park ~~at the time the tenant makes an application for tenancy,~~ **and any other residency documents before requiring or accepting any application fee.**

Existing law sets forth requirements relating to the repair of a manufactured home and prohibits a landlord from allowing a third party to make such repairs under certain circumstances. (NRS 118B.097) **Section 2** of this bill ~~adds a nonexclusive list of repairs that affect life, health or safety,~~ **replaces a prohibition on allowing a third party to make repairs that affect life, health or safety with a list of specific repairs that a landlord may not allow a third party to make.** **Section 2** also prohibits landlords from employing certain persons to make such repairs.

Section 3 of this bill revises the provisions relating to a landlord's adoption of rules and regulations concerning a manufactured home park and provides that a properly adopted or amended rule or regulation supersedes any inconsistent prior rule or regulation. (NRS 118B.100) **Section 3** also requires a landlord to provide a copy of such rules and regulations to a tenant at the time the tenant enters into a rental agreement.

Existing law establishes provisions relating to meetings between a landlord and representative groups of tenants to hear complaints and suggestions regarding a manufactured home park. (NRS 118B.110) **Section 4** of this bill **provides for a natural person designated by the owner to meet with tenants for such purposes. Section 4 also prohibits a manager [who resides at the park] from meeting with tenants for such purposes unless the manager [is also the landlord], the landlord and the owner are all the same natural person.**

Existing law requires a landlord to pay to a tenant the fair market value of a manufactured home under certain circumstances during the conversion of a manufacture home park. (NRS 118B.183) **Section 5** of this bill requires a landlord to pay costs associated with determining the market value of such manufactured homes and the reasonable cost of removing and disposing of such homes.

Section 6 of this bill increases the limitation on the amount of a lien that a landlord may hold for the total amount due and unpaid for rentals and utilities from \$2,000 to \$5,000.

Existing law allows local governing bodies to adopt certain ordinances and regulations relating to manufactured homes. (NRS 278.0209, 278.02095, 489.288) **Sections 7-9** of this bill prohibit local governing bodies from restricting the installation of manufactured homes based on their date of manufacture.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 118B.040 is hereby amended to read as follows:

118B.040 1. ~~[An approved applicant for residency may request 72 hours to review the proposed rental agreement or lease, the rules and regulations of the manufactured home park and other residency documents. Upon receiving such a request, the landlord shall allow the approved applicant to review the documents for 72 hours. This review period does not, however, prevent the landlord from accepting another tenant for the space or residency while the 72 hours is pending.]~~

Before requiring or accepting payment of any application fee, a landlord shall give to a prospective tenant who may rent or lease manufactured home lot:

(a) A copy of the rental agreement or lease;

(b) A copy of the rules and regulations governing the manufactured home park;

(c) Any notices of the sale, closure or conversion of the manufactured home park that must be provided to tenants pursuant to the provisions of this chapter; and

(d) Any other residency documents.

2. A rental agreement or lease between a landlord and ~~[prospective]~~ tenant to rent or lease any manufactured home lot must be in writing. ~~[The landlord shall give the prospective tenant] [a] [at the time the prospective tenant makes an application for tenancy]~~

~~**(a) A copy of the agreement or lease] [at the time the tenant signs it.]**~~

3. ~~**It and**~~

~~**(b) Any notices of the sale, closure or conversion of the manufactured home park that must be provided to tenants pursuant to the provisions of this chapter.**~~

~~**2.**~~ A rental agreement or lease must contain, but is not limited to, provisions relating to:

(a) The duration of the agreement.

(b) The amount of rent, the manner and time of its payment and the amount of any charges for late payment and dishonored checks.

(c) Restrictions on occupancy by children or pets.

(d) Services and utilities included with the rental of a lot and the responsibility of maintaining or paying for them, including the charge, if any, for cleaning the lots.

(e) Deposits which may be required and the conditions for their refund.

(f) Maintenance which the tenant is required to perform and any appurtenances he is required to provide.

(g) The name and address of the owner of the manufactured home park and his authorized agent.

(h) Any restrictions on subletting.

(i) Any recreational facilities and other amenities provided to the tenant and any deposits or fees required for their use.

(j) Any restriction of the park to older persons pursuant to federal law.

(k) The dimensions of the manufactured home lot of the tenant.

(l) A summary of the provisions of NRS 202.470.

(m) Information regarding the procedure pursuant to which a tenant may report to the appropriate authorities:

(1) A nuisance.

(2) A violation of a building, safety or health code or regulation.

(n) Information regarding the right of the tenant to engage in the display of the flag of the United States, as set forth in NRS 118B.143.

(o) The amount to be charged each month to the tenant to reimburse the landlord for the cost of a capital improvement to the manufactured home park. Such an amount must be stated separately and include the length of time the charge will be collected and the total amount to be recovered by the landlord from all tenants in the manufactured home park.

Sec. 2. NRS 118B.097 is hereby amended to read as follows:

118B.097 If a repair to a manufactured home may affect ~~life, health or safety, including, without limitation, any repair to~~ the structural, electrical, plumbing, drainage, roofing, mechanical or solid fuel burning systems of the home, or ~~any other repair that requires a permit to be issued by a local jurisdiction~~ before the repair may be made, ~~and~~ the repair may be performed legally only by a person who is qualified by licensure ~~for certification~~ to perform such a repair ~~if~~, and:

1. A person shall not perform the repair unless he has such qualifications; and

2. A tenant or a landlord, or his agent or employee, shall not ~~allow~~ employ a third party to perform the repair if he knows or, in light of all the surrounding facts and circumstances, reasonably should know that the third party does not have such qualifications.

Sec. 3. NRS 118B.100 is hereby amended to read as follows:

118B.100 1. The landlord may adopt rules or regulations concerning the tenant's use and occupancy of the manufactured home lot and the grounds, areas and facilities of the manufactured home park held out for the use of tenants generally.

2. All such rules or regulations must be:

(a) Reasonably related to the purpose for which they are adopted;

(b) Sufficiently explicit in their prohibition, direction or limitation to inform the tenant of what he must do or not do for compliance;

(c) Adopted in good faith and not for the purpose of evading any obligation of the landlord arising under the law;

(d) Consistent with the provisions of this chapter and a general plan of operation, construction or improvement, and must not arbitrarily restrict conduct or require any capital improvement by the tenant which is not specified in the rental agreement or unreasonably require a change in any capital improvement made by

the tenant and previously approved by the landlord unless the landlord can show that it is in the best interest of the other tenants; and

(e) Uniformly enforced against all tenants in the park, including the managers. Any rule or regulation which is not so uniformly enforced may not be enforced against any tenant.

3. No rule or regulation may be used to impose any additional charge for occupancy of a manufactured home lot or modify the terms of a rental agreement.

4. Except as otherwise provided in subsection 5, a rule or regulation is enforceable against the tenant only if he has notice of it at the time he enters into the rental agreement. A rule or regulation adopted or amended after the tenant enters into the rental agreement is not enforceable unless the tenant consents to it in writing or is given 60 days' notice of it in writing. The landlord may not adopt or amend a rule or regulation of the park unless a meeting of the tenants is held to discuss the proposal and the landlord provides each tenant with notice of the proposal and the date, time and place of the meeting not less than 60 days before the meeting. The notice must include a copy of the proposed adoption or amendment of the rule or regulation. A notice in a periodic publication of the park does not constitute notice for the purposes of this subsection.

5. A rule or regulation pertaining to recreational facilities in the manufactured home park must be in writing to be enforceable.

~~6. If a rule or regulation is adopted or amended in compliance with the provisions of this section, the adopted or amended rule or regulation supersedes any previously existing rule or regulation that conflicts with the adopted or amended rule or regulation. Only one version of any rules and regulations or any architectural standards may be in effect at any given time.~~

7. The landlord shall provide the tenant with a copy of the existing rules and regulations at the time the tenant enters into the rental agreement.

8. As used in this section, "capital improvement" means an addition or betterment made to a manufactured home located on a lot in a manufactured home park which is leased by the landlord that:

(a) Consists of more than the repair or replacement of an existing facility;

(b) Is required by federal law to be amortized over its useful life for the purposes of income tax; and

(c) Has a useful life of 5 years or more.

Sec. 4. NRS 118B.110 is hereby amended to read as follows:

118B.110 1. The landlord *or a person designated pursuant to subsection 3* shall meet with a representative group of tenants occupying the park, chosen by the tenants, to hear any complaints or suggestions which concern a matter relevant to the park within 45 days after he receives a written request to do so which has been signed by persons occupying at least 25 percent of the lots in the park. The 25 percent must be calculated on the basis of one signature per occupied lot. The meeting must be held at a time and place which is convenient to the landlord *or person designated pursuant to subsection 3 and to* the tenants. The representative group of tenants must consist of no more than five persons.

2. At least 10 days before any meeting is held pursuant to this section, the landlord or his agent shall post a notice of the meeting in a conspicuous place in a common area of the park.

~~3. If Except as otherwise provided in subsection 4, if the landlord is:~~
~~(a) Sole proprietorship, the owner or an authorized agent or representative designated by the owner who has working knowledge of the operations of the park and authority to make decisions shall meet with the tenants;~~

~~(b) Partnership, a partner who has working knowledge of the operations of the park and authority to make decisions shall meet with the tenants;~~

~~(c) Corporation, an officer designated by the corporation]~~ not a natural person, the owner may designate an authorized agent or representative who has working knowledge of the operations of the park and who has authority to make decisions ~~[shall meet with the tenants.]~~ concerning matters relevant to the park to meet with the tenants pursuant to this subsection.

4. ~~A manager [who resides at the park must not be designated to]~~ may not meet with the tenants pursuant to this section unless the manager [is the landlord], the landlord and the owner are all the same natural person.

5. If an attorney for the landlord attends a meeting held pursuant to this section, the landlord shall not prohibit the group of tenants from being represented by an attorney at that meeting.

~~[5.]~~ 6. If the landlord of a manufactured home park is a cooperative association or a corporation for public benefit, the landlord shall provide a notice of the meeting to the Administrator and the Administrator or his representative shall attend the meeting.

~~[6.]~~ 7. As used in this section:

(a) "Cooperative association" means an association formed pursuant to the provisions of NRS 81.170 to 81.270, inclusive.

(b) "Corporation for public benefit" has the meaning ascribed to it in NRS 82.021.

Sec. 5. NRS 118B.183 is hereby amended to read as follows:

118B.183 1. A landlord may convert an existing manufactured home park to any other use of the land if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord pays the amount described in subsection 3 or 4, in accordance with the choice of the tenant; and

(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, written notice is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.

3. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location within 50 miles from the manufactured home park; or

(b) If the new location is more than 50 miles from the manufactured home park, the cost of moving the manufactured home for the first 50 miles,

including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

4. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged, or there is no manufactured home park within 50 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home less the reasonable cost of removing and disposing of the manufactured home.

5. A landlord shall not increase the rent of any tenant:

(a) For 180 days before filing an application for a change in land use, permit or variance affecting the manufactured home park; or

(b) At any time after filing an application for a change in land use, permit or variance affecting the manufactured home park unless:

(1) The landlord withdraws the application or the appropriate local zoning board, planning commission or governing body denies the application; and

(2) The landlord continues to operate the manufactured home park after the withdrawal or denial.

6. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:

(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or

(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.

7. *The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 6.*

8. The provisions of this section do not apply to a corporate cooperative park.

Sec. 6. NRS 108.290 is hereby amended to read as follows:

108.290 1. If property that is the subject of a lien which is acquired as provided in NRS 108.270 to 108.360, inclusive, is the subject of a secured transaction in accordance with the laws of this State, the lien:

(a) In the case of a lien acquired pursuant to NRS 108.315, is a first lien.

(b) In the case of a lien on a motor vehicle for charges for towing, storing and any related administrative fees:

(1) For the first 30 days of the lien:

(I) If the amount of the lien does not exceed \$1,000, is a first lien.

(II) If the amount of the lien exceeds \$1,000, is a second lien.

(2) After the first 30 days of the lien:

(I) If the amount of the lien does not exceed \$2,500, is a first lien.

(II) If the amount of the lien exceeds \$2,500, is a second lien.

(c) In all other cases, if the amount of the lien:

(1) Does not exceed \$1,000, is a first lien.

(2) Exceeds \$1,000, is a second lien.

2. The lien of a landlord may not exceed ~~[\$2,000]~~ **\$5,000** or the total amount due and unpaid for rentals and utilities, whichever is the lesser.

Sec. 7. NRS 278.0209 is hereby amended to read as follows:

278.0209 1. In any ordinance relating to the zoning of land adopted or amended by a governing body, the definition of "single-family residence" must include factory-built housing that has been built in compliance with the standards for single-family residential dwellings of the Uniform Building Code most recently adopted by the International Conference of Building Officials.

2. An ordinance of the governing body may require factory-built housing to comply with standards for safety which exceed the standards prescribed in subsection 1 if a single-family residential dwelling on the same lot is also required to comply with those standards.

3. The governing body shall adopt the same standards for development for the factory-built housing and the lot on which it is placed as those to which a

conventional single-family residential dwelling on the same lot would be subject, including, but not limited to:

- (a) Requirements for the setback of buildings.
- (b) Side and rear-yard requirements.
- (c) Standards for enclosures, access and the parking of vehicles.
- (d) Aesthetic requirements.
- (e) Requirements for minimum square footage.
- (f) Requirements for design, style and structure.

4. The governing body may prohibit the installation of factory-built housing in a specified area if ~~the~~:

~~—(a) More than 5 years have elapsed between the date of manufacture of factory-built housing and the date of the application for the issuance of a permit to install factory-built housing in the affected area; or~~

~~—(b) The~~ ~~the~~ area contains a building, structure or other object having a special character or special historical interest or value.

5. As used in this section, “factory-built housing” has the meaning ascribed to it in NRS 461.080.

6. The provisions of this section do not abrogate a recorded restrictive covenant.

Sec. 8. NRS 278.02095 is hereby amended to read as follows:

278.02095 1. Except as otherwise provided in this section, in an ordinance relating to the zoning of land adopted or amended by a governing body, the definition of “single-family residence” must include a manufactured home.

2. Notwithstanding the provisions of subsection 1, a governing body shall adopt standards for the placement of a manufactured home that will not be affixed to a lot within a mobile home park which require that:

(a) The manufactured home:

(1) Be permanently affixed to a residential lot;

(2) ~~Be manufactured within the 5 years immediately preceding the date on which it is affixed to the residential lot;~~

~~(3) Have exterior siding and roofing which is similar in color, material and appearance to the exterior siding and roofing primarily used on other single-family residential dwellings in the immediate vicinity of the manufactured home, as established by the governing body;~~

~~(4) Consist of more than one section; and~~

~~(5) Consist of at least 1,200 square feet of living area unless the governing body, by administrative variance or other expedited procedure established by the governing body, approves a lesser amount of square footage based on the size or configuration of the lot or the square footage of single-family residential dwellings in the immediate vicinity of the manufactured home; and~~

(b) If the manufactured home has an elevated foundation, the foundation is masked architecturally in a manner determined by the governing body.

➤ The governing body of a local government in a county whose population is less than 40,000 may adopt standards that are less restrictive than the standards set forth in this subsection.

3. Standards adopted by a governing body pursuant to subsection 2 must be objective and documented clearly and must not be adopted to discourage or impede the construction or provision of affordable housing, including, without limitation, the use of manufactured homes for affordable housing.

4. Before a building department issues a permit to place a manufactured home on a lot pursuant to this section, other than a new manufactured home, the owner must surrender the certificate of ownership to the Manufactured Housing Division of the Department of Business and Industry. The Division shall provide proof of

1 such a surrender to the owner who must submit that proof to the building
2 department.

3 5. The provisions of this section do not abrogate a recorded restrictive
4 covenant prohibiting manufactured homes nor do the provisions apply within the
5 boundaries of a historic district established pursuant to NRS 384.005 or 384.100.
6 An application to place a manufactured home on a residential lot pursuant to this
7 section constitutes an attestation by the owner of the lot that the placement
8 complies with all covenants, conditions and restrictions placed on the lot and that
9 the lot is not located within a historic district.

10 6. As used in this section:

11 (a) "Manufactured home" has the meaning ascribed to it in NRS 489.113.

12 (b) "New manufactured home" has the meaning ascribed to it in NRS 489.125.

13 **Sec. 9.** NRS 489.288 is hereby amended to read as follows:

14 489.288 Except as otherwise provided in NRS 278.02095:

15 1. A local governing body may adopt ordinances and regulations which,
16 except for ordinances and regulations regarding any prerequisites to the
17 classification of a manufactured home or mobile home as real property pursuant to
18 NRS 361.244, are no more stringent than the provisions of this chapter, the
19 regulations adopted pursuant to this chapter and applicable federal statutes and
20 regulations. Compliance with an ordinance or regulation of a local governing body
21 does not excuse any person from compliance with this chapter and the regulations
22 adopted pursuant to this chapter.

23 2. *A local governing body shall not prohibit the installation of a*
24 *manufactured home based on its date of manufacture if the manufactured home*
25 *otherwise complies with the provisions of this chapter and the regulations*
26 *adopted pursuant to this chapter governing health and safety.*

27 3. The provisions of this chapter and the regulations adopted pursuant to this
28 chapter supersede and preempt any ordinance or regulation of a local governing
29 body that is more stringent than those provisions, except for an ordinance or
30 regulation regarding any prerequisites to the classification of a manufactured home
31 or mobile home as real property pursuant to NRS 361.244.

32 **Sec. 10.** The amendatory provisions of section 6 of this act do not apply to a
33 lien that attaches before October 1, 2007.