

Amendment No. 293

Assembly Amendment to Assembly Bill No. 270 (BDR 10-1143)

Proposed by: Assembly Committee on Commerce and Labor

Amends: Summary: No Title: Yes 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

RAE/JRS



Date: 4/8/2015

A.B. No. 270—Revises provisions relating to manufactured homes. (BDR 10-1143)



ASSEMBLY BILL NO. 270—COMMITTEE
ON COMMERCE AND LABOR

MARCH 12, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to manufactured homes.
(BDR 10-1143)FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to ~~manufactured homes;~~ *real estate*; revising the manner in which the fair market value of certain manufactured homes is determined; revising the definition of “dealer” for certain purposes to exclude a manufactured home park or an owner or agent of a manufactured home park; *revising provisions relating to the issuance of limited lien resale licenses and permits authorizing a landlord or manager to sell a used mobile home; revising the circumstances under which a natural person who only offers or negotiates the terms of a residential mortgage loan is exempt from certain provisions governing mortgage brokers and mortgage agents;* and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines a “dealer” of a manufactured home to include a person who sells, leases or rents a manufactured home or mobile home and requires a dealer to hold a license issued by the Manufactured Housing Division of the Department of Business and Industry. (NRS 489.076, 489.311) **Section 2** of this bill amends the definition of “dealer” to exclude a manufactured home park or its owner or agent while renting or leasing manufactured or mobile homes located within *and owned by* the park.

Existing law also requires that if a manufactured home park converts to a park for older residents only, or a park for older residents converts to an unrestricted residency park, certain tenants who are unable to remove their manufactured or mobile homes must be reimbursed for the fair market value of their property, as determined by a licensed dealer or an appraiser. (NRS 118B.130) **Section 1** of this bill deletes the requirement that the fair market value of the property be assessed by a dealer or appraiser and requires the landlord to determine the fair market value using certain published guidelines. *Section 1 also allows a tenant who has received such a determination to request a second determination conducted by a certified appraiser or licensed dealer at the landlord’s expense.*

Existing law requires the Division to adopt regulations for the issuance of limited lien resale licenses or permits authorizing a landlord or manager to sell a used mobile home located within a mobile home park that was obtained through a lien sale. (NRS 489.336) Section 2.3 of this bill adds to this provision a mobile home that the landlord or manager obtained through a voluntary surrender by the owner.

Existing law sets forth the requirements for a person to engage in activities as a mortgage broker or mortgage agent, including the requirements for licensure. (Chapter 645B of NRS) Existing law also sets forth an exemption from those requirements for a natural person who only offers or negotiates the terms of a residential mortgage loan: (1) with or on behalf of an immediate family member; or (2) which is secured by a certain type of dwelling. (NRS 645B.015) Section 2.7 of this bill expands the exemption for such a natural person when: (1) the residential mortgage loan is for a manufactured home; (2) the residential mortgage loan is financed by the seller; and (3) the seller has not engaged in a certain number of those loans.

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

Section 1. NRS 118B.130 is hereby amended to read as follows:

118B.130 1. A landlord may not change:

(a) An existing park to a park for older persons pursuant to federal law unless the tenants who do not meet those restrictions and may lawfully be evicted are moved to other parks at the expense of the landlord; or

(b) The restriction of a park for older persons pursuant to federal law unless the tenants are given the option of remaining in their spaces or moving to other parks at the expense of the landlord.

2. A tenant who elects to move pursuant to a provision of subsection 1 shall give the landlord notice in writing of the tenant's election to move within 75 days after receiving notice of the change in restrictions in the park.

3. At the time of providing notice of the change in restrictions in the park, the landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 150 miles that have reported having vacant spaces.

4. If a landlord is required to move a tenant to another park pursuant to subsection 1, the landlord shall pay:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within 150 miles from the manufactured home park; or

(b) If the new location is more than 150 miles from the manufactured home park, the cost of moving the manufactured home for the first 150 miles, including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his or her manufactured home and its appurtenances in the new lot or park.

5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his or her manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.

6. 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 150 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.

7. A landlord of a park in which restrictions have been or are being changed shall give written notice of the change to each:

- (a) Tenant of the park who does not meet the new restrictions; and
- (b) Prospective tenant before the commencement of the tenancy.

8. For the purposes of this section, the fair market value of a manufactured home must be determined ~~as follows:~~

~~—(a) A dealer licensed pursuant to chapter 489 of NRS who is a certified appraiser and who is selected jointly by the landlord or his or her agent and the tenant shall make the determination.~~

~~—(b) If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers available for the purposes of paragraph (a), a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his or her agent and the tenant shall make the determination.~~

~~—(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his or her agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his or her agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS or a certified appraiser who shall make the determination.} by the landlord pursuant to NRS 118B.1837.~~

9. Within 30 days after receiving a determination of fair market value from a landlord pursuant to subsection 8, a tenant may request that the Administrator appoint a certified appraiser or a dealer licensed pursuant to chapter 489 of NRS to make a determination of fair market value. The Administrator shall cause such a determination to be made within 30 days after receipt of the request and that determination is binding on the landlord and tenant.

10. The landlord shall pay the costs associated with determining the fair market value of a manufactured home pursuant to subsections 8 and 9 and the cost of removing and disposing of a manufactured home pursuant to subsection 6.

Sec. 2. NRS 489.076 is hereby amended to read as follows:

489.076 1. "Dealer" means any person who:

(a) For compensation, money or any other thing of value, sells, exchanges, buys or offers for sale, negotiates or attempts to negotiate a sale or exchange of an interest in a manufactured home, mobile home, manufactured building or commercial coach or factory-built housing subject to the requirements of this chapter, or induces or attempts to induce any person to buy or exchange an interest in a manufactured home, mobile home, manufactured building or commercial coach or factory-built housing;

(b) For compensation, money or any other thing of value, leases or rents, offers for lease or rental, negotiates or attempts to negotiate the lease or rental of an interest in a manufactured home, mobile home, manufactured building or commercial coach or factory-built housing subject to the requirements of this chapter, or induces or attempts to induce any person to lease or rent an interest in a manufactured home, mobile home, manufactured building or commercial coach or factory-built housing;

(c) Receives or expects to receive a commission, money, brokerage fees, profit or any other thing of value from either the seller or purchaser of any manufactured home, mobile home, manufactured building, commercial coach or factory-built housing;

(d) Is engaged wholly or in part in the business of:

(1) Selling, renting or leasing manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing;

(2) Buying or taking manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing in trade for the purpose of resale, selling or offering them for sale or consignment to be sold;

(3) Buying or taking manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing in trade to rent, lease or offer them for rent or lease; or

(4) Otherwise dealing in manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing; or

(e) Acts as a reposessor or liquidator concerning manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing,

whether or not they are owned by such persons.

2. The term does not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the order of any court;

(b) Public officers while performing their official duties;

(c) Banks, savings and loan associations, credit unions, thrift companies or other financial institutions proceeding as reposseors or liquidators of their own security;

(d) A person who rents or leases his or her manufactured home, mobile home, manufactured building, commercial coach or factory-built housing;

(e) An owner selling his or her private residence; ~~for~~

(f) A real estate broker, real estate broker-salesperson or real estate salesperson who is licensed pursuant to chapter 645 of NRS and who, for another and for compensation or with the intention or expectation of receiving compensation, sells, exchanges, options, purchases, rents or leases, or negotiates or offers, attempts or agrees to negotiate the sale, exchange, option, purchase, rental or lease of, or lists or solicits prospective purchasers, lessees or renters of, used manufactured homes or used mobile homes in connection with the sale of a fee simple interest in real property and the used manufactured home or used mobile home is situated on the real property sold ~~for~~; or

(g) A manufactured home park, as defined in NRS 118B.017, or an owner or agent of a manufactured home park while leasing or renting, offering for lease or rental or negotiating or attempting to negotiate the lease or rental of a manufactured home or mobile home which is located within the manufactured home park ~~for~~ and titled in the name of the manufactured home park or an entity that is owned, operated or controlled by the owner of the manufactured home park.

Sec. 2.3. NRS 489.336 is hereby amended to read as follows:

489.336 1. The Division shall adopt regulations for the issuance of limited lien resale licenses and permits authorizing a landlord or manager to sell a used mobile home if:

(a) The mobile home is located in a mobile home park that the landlord or manager owns, leases or manages; and

(b) The landlord or manager purchased the mobile home at a sale to enforce a lien pursuant to NRS 108.270 to 108.367, inclusive ~~for~~, or acquired the mobile home through a voluntary surrender by the owner of the mobile home.

2. The regulations must specify the requirements for the issuance of a license or permit, including, without limitation, any educational requirements.

3. A person who is issued a license or permit pursuant to the regulations may sell a used mobile home in accordance with the license or permit.

4. As used in this section:

- 1 (a) "Landlord" has the meaning ascribed to it in NRS 118B.014.
2 (b) "Manager" has the meaning ascribed to it in NRS 118B.0145.
3 (c) "Mobile home park" has the meaning ascribed to "manufactured home
4 park" in NRS 118B.017.

5 **Sec. 2.7. NRS 645B.015 is hereby amended to read as follows:**

6 645B.015 Except as otherwise provided in NRS 645B.016, the Secure and
7 Fair Enforcement for Mortgage Licensing Act of 2008, 12 U.S.C. §§ 5101 et seq.,
8 and any regulations adopted pursuant thereto and other applicable law, the
9 provisions of this chapter do not apply to:

10 1. Any person doing business under the laws of this State, any other state or
11 the United States relating to banks, savings banks, trust companies, savings and
12 loan associations, industrial loan companies, credit unions, thrift companies or
13 insurance companies, including, without limitation, a subsidiary or a holding
14 company of such a bank, company, association or union.

15 2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the
16 business conducted in this State is not subject to supervision by the regulatory
17 authority of the other jurisdiction, in which case licensing pursuant to this chapter is
18 required.

19 3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is
20 made directly from money in the plan by the plan's trustee.

21 4. An attorney at law rendering services in the performance of his or her
22 duties as an attorney at law.

23 5. A real estate broker rendering services in the performance of his or her
24 duties as a real estate broker.

25 6. Any person doing any act under an order of any court.

26 7. Any one natural person, or husband and wife, who provides money for
27 investment in commercial loans secured by a lien on real property, on his or her
28 own account, unless such a person makes a loan secured by a lien on real property
29 using his or her own money and assigns all or a part of his or her interest in the loan
30 to another person, other than his or her spouse or child, within 3 years after the date
31 on which the loan is made or the deed of trust is recorded, whichever occurs later.

32 8. A natural person who only offers or negotiates terms of a residential
33 mortgage loan:

34 (a) With or on behalf of an immediate family member of the person; ~~for~~

35 (b) Secured by a dwelling that served as the person's residence ~~for~~; or

36 (c) If:

37 (1) The residential mortgage loan is for a manufactured home, as
38 defined in NRS 118B.015;

39 (2) The residential mortgage loan is financed by the seller; and

40 (3) The seller has not engaged in more than five such loans in this State
41 during the immediately preceding 12 consecutive months.

42 9. Agencies of the United States and of this State and its political
43 subdivisions, including the Public Employees' Retirement System.

44 10. A seller of real property who offers credit secured by a mortgage of the
45 property sold.

46 11. A nonprofit agency or organization:

47 (a) Which provides self-help housing for a borrower who has provided part of
48 the labor to construct the dwelling securing the borrower's loan;

49 (b) Which does not charge or collect origination fees in connection with the
50 origination of residential mortgage loans;

51 (c) Which only makes residential mortgage loans at an interest rate of 0 percent
52 per annum;

1 (d) Whose volunteers, if any, do not receive compensation for their services in
2 the construction of a dwelling;

3 (e) Which does not profit from the sale of a dwelling to a borrower; and

4 (f) Which maintains tax-exempt status under section 501(c)(3) of the Internal
5 Revenue Code of 1986, 26 U.S.C. § 501(c)(3).

6 12. A housing counseling agency approved by the United States Department
7 of Housing and Urban Development.

8 **Sec. 3.** This act becomes effective on July 1, 2015.