

MINUTES OF THE JUDICIARY COMMITTEE
February 14, 1983

The meeting of the House Judiciary Committee was called to order in room 224A of the capitol building, Helena, Montana by Vice-chairman Kelly Addy at 8:06 a.m. All members were present with the exception of Chairman Brown, Representative Bergene and Representative Hannah, who were all excused. Brenda Desmond, Staff Attorney for the Legislative Council, was also present.

HOUSE BILL 666

REPRESENTATIVE HAMMOND, District 24, Alberton, stated that this bill provides for a drastic change in the number of days in which the notice period for termination of a mobile home space rental agreement upon failure to pay rent when due, increasing this from three days to twenty days. He explained that under current law, if you own a mobile home and you rent a space from someone, if you don't meet that rent payment, you have three days to get off; if you can't afford to make that rent payment, it seems to him that it is pretty impossible to meet the cost of anywhere between \$150.00 to \$600.00 to move that mobile home; in other words, it seems to him if you own that trailer, that is your home; and it might be very difficult to get that money to move your home.

VIRGINIA JELLISON, Project Director for Low Income Group and Home Treatment (LIGHT), Missoula, said that they are an advocacy organization and for the past year and a half, they have been actively involved in dealing with mobile home issue for over a year. She indicated, as a result of this, they became aware of a need for an extension of eviction time for mobile home owners.

STEFANIE FORSTER, representing LIGHT and mobile home owners of Missoula, presented a fact sheet to the committee. See EXHIBIT A. She cited three examples of people who were having difficulty with paying their mobile home rent.

There were no further proponents.

CHARLES GRAVELY, representing the Montana Mobile Home Parks Association, which is in the process of being formed, testified that they were in opposition to this bill, because it works a tremendous detriment to the landlord as well as the tenant. He explained that he knows of very few parks that, when the rent is not paid when due, that give out a three-day notice; generally there are several days before that notice goes out; the notice must specify that the rent must be paid or the premises vacated; if the tenant fails to vacate or pay the rent within that time period, the time period then from the receipt of the notice is three days; if they do not pay or move out, then there can be filed, but need not be unless the landlord is in fear of moving them, an unlawful detainer action, generally in justice court; the answer on the complaint is not due for at least six days; following that six days, a trial must be held, which must be held within ten days; if the landlord prevails, then you must have a law enforcement officer or a constable move them out and it takes several days for that to occur. He continued that during this entire time period, and in the complaint, it must be specified that the landlord can sue for three times the amount of rent that is due him, plus attorney's fees, plus court costs; if the landlord prevails, the court awards that as a matter of course; so if this bill should pass, you are extending the treble damages; and if you use the standard procedure that is followed, you can get an award without attorney's fees and court costs which amounts to two months rent; and it is an unfair burden, he felt, to put upon the tenants.

MONTANA WATTS, President of the Montana Mobile Home Parks Owners Association, Chapter 3, Yellowstone County, offered testimony in opposition to this bill. See EXHIBIT B.

CHIP WATTS, representing the Glentana Mobiles, Inc., of Billings and Laurel, said that generally if they give someone a three-day notice, it is because they have been late four or five times over the past six months and they won't come talk to them, so they figure that maybe this will wake them up and they will come and tell us ahead of time or find another place to live.

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PAUL JORDAN, representing the Montana Landlords Association, Great Falls, gave a statement in opposition to this bill. See EXHIBIT B-1.

JOHN JOHNSTON, Helena, owner of Montana Motor Homes, Inc. and Leisure Village Mobile Home Park, testified that the tenant already knows that he is delinquent, whether it is three days, or fourteen days or fifty days as far as his rent is concerned; and it would behoove him to make some shortcuts here and there in his budget in order for him to provide a house where he can get in out of the Montana weather.

MR. GRAVELY passed out to the committee a copy of a letter from GEORGE W. SWORDS II, Executive Director of the Montana Manufactured Housing Association. See EXHIBIT C.

There were no further opponents.

REPRESENTATIVE HAMMOND said that currently the landlord-tenant laws apply to trailer rental spaces; he felt that the owner of a mobile home is different from a person who rents an apartment or rents a home, due to the fact that that is that person's home; they are living in a mobile home because that is what they can afford to buy; he has to agree that the greater percentage of landlords are excellent landlords; and there is a problem among a very small minority of landlords, but he thinks that people that own their mobile homes are not being protected.

REPRESENTATIVE JAN BROWN asked if a person doesn't have the rent to pay for their space, where would they go; if they don't have the rent to pay in one place, then they probably would not have it to pay in another place; and she wondered where do they move their trailer to.

MS. JELLISON replied that it takes some time to figure that out; that is why they are concerned about getting an extension of time; the length of time it takes to figure out what to do and how you might be able to come up with the money to be able to move your home when you are in a financial bind is not going to be resolved in a very short period of time; it will take some time to do so. She continued that if a person has lost his job

and they are getting an eviction notice because of this, the ability to go to the bank and borrow money is not that great, because they do not have the ability to pay it back. They usually find a family resource, she stated, or borrow from friends.

REPRESENTATIVE CURTISS asked if most of these people have a contract or some kind of an agreement, so that they would, in effect, know what would happen if they are delinquent in their rent. MR. GRAVELY replied yes, the park operators he represents all have written contracts that were entered into with the tenant prior to the tenant ever arriving in the park; the obligations are well spelled out; the time periods are spelled out for the payment of the rent; and what occurs in the event the rents are delinquent.

There were no further questions and the hearing on this bill was closed.

HOUSE BILL 684

REPRESENTATIVE RAMIREZ, District 64, Billings, stated that this was introduced to correct a mistake that was made in the 1979 Legislative Session, wherein HB 608 was introduced, which made a minimum mandatory penalty or sentence for certain drug related offenses; and an error was made in enrolling it. He indicated that the sale of certain drugs has a minimum mandatory sentence right now of two years; however, this provision provides that there be a minimum mandatory sentence of ten years if it is the second offense of that nature; presently, you will see the penalty of a minimum mandatory sentence of five years; for a third or subsequent conviction, this would raise the minimum mandatory sentence to twenty years. He explained how this mistake came about and how it was enrolled incorrectly.

There were no proponents and no opponents.

REPRESENTATIVE JENSEN asked what he thought would happen if none of these drugs were illegal. REPRESENTATIVE RAMIREZ answered that he felt they were in a situation where the drugs are so addictive and so habit forming

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that if they were more widely available for use, that more people would become addicted to them. He said that it is so easy to become addicted to these drugs, that he can't envision any circumstance where he would agree that they should become legalized.

REPRESENTATIVE ADDY asked how much time are they talking about before a person is eligible for parole in a ten-year minimum sentence. REPRESENTATIVE RAMIREZ pointed out the language that is already in the law - if it is a sale to a minor, they are ineligible for a parole or for participation in a supervised release program. He thought if they were a nondangerous offender, they are eligible for a parole after 1/4 of their sentence is served, so that would be 2 1/2 years less good time; so he would imagine about two years.

There were no further questions and the hearing on this bill was closed.

HOUSE JOINT RESOLUTION 19

REPRESENTATIVE ASAY, District 50, Forsyth, stated that the purpose of this bill is to reestablish the select committee on Indian affairs, which started out four years ago to be a liason between the Indian reservations and the legislature in the state of Montana; and he felt that it was beneficial in addressing certain problems.

REPRESENTATIVE KENNERLY, District 14, Babb, testified that he rose in support of this resolution, although he had some personal feelings on the way the past select committees have acted; they never really came down directly to the tribes on the reservations; they go to outside groups; there may be one or two tribes together in an organization and the other tribes won't join; and he thought to make this committee work and really get down to the facts of the matter, that they should deal directly with the tribes, go out on the reservations, sit down at the tribal councils and try to help solve some of these problems. He asserted that he supports the concept of continuing this select committee.

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There were no further proponents and no opponents.

REPRESENTATIVE ASAY commented that mistakes were made and action was not taken; they did get to the point of going to the reservations and he agrees that they need to do more of that rather than just meeting with representative groups and each reservation does not see eye-to-eye on their problems.

REPRESENTATIVE IVERSON asked if they had a specific project in mind this time. REPRESENTATIVE ASAY replied that he can't say there is a specific project.

REPRESENTATIVE IVERSON informed the committee that he served on this committee between 1979 and 1981; and came back with legislation and addressed the question of Indian jurisdiction; and, at that time, when they came back to reestablish it, the Inter-tribal Policy Board was in support of it as was the Department of Indian Affairs. He noted that no one was here today and he wondered if there was some significance to that. REPRESENTATIVE ASAY responded that he doesn't put any particular significance to it, and he thought that they weren't here because of the fact that it was just left hanging in the last interim.

REPRESENTATIVE IVERSON asked if he was speaking of the Inter-tribal Policy Board when he mentioned outside groups that didn't necessarily represent the tribes. REPRESENTATIVE ASAY answered that he meant all of the diverse groups that are comprised of the Indian groups - they have the on-reservation and the off-reservation - and these groups didn't all have the same viewpoint.

REPRESENTATIVE CURTISS asked what had been accomplished by this committee before. REPRESENTATIVE ASAY replied that most of the accomplishments were probably done in the interim between 1979 to 1981; in the last interim, they did have a few meetings; but unfortunately because of the personality conflicts, they didn't get down to any conclusions.

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REPRESENTATIVE IVERSON informed the committee that in the 1979 to 1981 interim, they met like five times with the Inter-tribal Policy Board in Billings; drafted a couple of pieces of legislation dealing with cross-deputization and Indian legal jurisdiction; then they took those bills to the reservations and had public hearings on each reservation on the bills; did a redraft after that and brought it back and passed it. He indicated that he could not speak for what happened during the last interim.

REPRESENTATIVE EUDAILY asked if this passes, would this be a mandatory thing or will this be on the list like the study resolutions. REPRESENTATIVE ASAY responded that he believed that this would make it, if not mandatory, pretty much so; and it would establish the intent that they want the committee.

REPRESENTATIVE IVERSON clarified that it would be mandatory and selections would not be made by the legislative council, but would be made by the speaker and the president of the Senate.

There were no further questions and the hearing on this bill was closed.

EXECUTIVE SESSION

HOUSE BILL 666

REPRESENTATIVE KEYSER moved that this bill DO NOT PASS. REPRESENTATIVE SEIFERT seconded the motion.

REPRESENTATIVE KEYSER indicated that he felt the landlord-tenant act was good; while there may be a problem with 1 per cent, or maybe even less, they may be putting a real undue hardship on the landlord as well as the tenant that they don't intend to do trying to correct a problem they have. He contended that the time frame does run up to a month and if they increase the three-day notice to a twenty-day notice, they could be adding a month's time on top of what they can go through now.

REPRESENTATIVE JENSEN cited a case wherein a mobile home was pulled out into the street by the mobile home lot owner; he wondered if there was a law that required that they store that mobile home if it is moved off the lot or can they just pull it off onto the street. He said that, in this case, it was vandalized and someone started a fire in it and burned it up.

REPRESENTATIVE KEYSER advised that under the present landlord-tenant act, that tenant has all the rights and they are spelled out 1, 2 and 3 there; plus the fact that that judgment goes against that tenant triple; that doesn't change, what they are doing is just putting twenty days on top of the whole process. He commented that he didn't know if they were doing either one of them a big favor if they pass this.

REPRESENTATIVE FARRIS said that she must have a suspicious mind, because whenever the Mobile Home Park Owners' Association comes in and starts worrying about the tenants, she does not feel that their concern is very fairly based; and she does not see how one day less than three weeks is going to hurt anybody in this situation at all.

REPRESENTATIVE SEIFERT mentioned that in the summer time, around Flathead Lake during the cherry season, transits will come there; they move into the trailer parks; and he can see where twenty days or three weeks would be way too long, because by the time they get done picking their cherries, they can stay another three weeks, pull out and have the whole summer with free rent. He said they do it anyhow without this law.

REPRESENTATIVE CURTISS asked how long has it been since there has been any modification made to the landlord-tenant act. She thought that last time there was some major modifications and everyone seemed happy with it - landlords and tenants both; and she wondered if this just seemed to be localized in one area; they do not seem to have any statewide requests for passing this legislation - it just seems to come out of one place.

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A vote was taken on the motion to DO NOT PASS. The motion failed with 9 voting no and 6 voting yes. See ROLL CALL VOTE.

REPRESENTATIVE IVERSON made a motion that the vote be reversed. The motion passed unanimously.

HOUSE BILL 684

REPRESENTATIVE RAMIREZ moved that this bill DO PASS. The motion was seconded by REPRESENTATIVE KEYSER.

REPRESENTATIVE ADDY explained that he was going to vote against this bill because it is a mandatory minimum bill.

REPRESENTATIVE KEYSER indicated that this was the bill that was passed by the legislature and this was the intent of that legislature and this was an error that was left off. He also pointed out that that 1979 legislature was controlled by the Democrats.

REPRESENTATIVE JENSEN stated that he opposed this bill for the same reason that Representative Addy does.

The motion passed with 11 voting aye and 4 voting no. See ROLL CALL VOTE.

HOUSE JOINT RESOLUTION 19

REPRESENTATIVE IVERSON moved that this bill DO PASS. REPRESENTATIVE JENSEN seconded the motion.

REPRESENTATIVE SEIFERT advised the committee that he has served on this committee since it originated six or eight years ago; maybe it hasn't accomplished as much as it has set out to; they have had a budget of \$10,000.00 to \$12,000.00 for the biennium every time he served on it; the year before last, they spent about \$7,000.00, which was the most they ever spent; last year, they spent very little of the budget and it goes back into the general fund; but he does think that this committee

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did open up some avenues of approach to get some lines of communication with the different tribal people; there were two good pieces of legislation coming out of the committee the interim before last, which are being utilized in some instances. He explained that what happened last biennium was that communications did break down, mainly because early in the interim Merle Lucas, who worked with the Inter-tribal Policy Board, was fired, quit, or something; they hired another young fellow through the governor's office; the chairman of the committee, at that time, did not get along too well with him or the governor; they had a real contest at a hearing and communications broke down and, therefore, there was not all that much accomplished during this last interim. He advised that he did contact the tribal leadership from two different communities and asked them about this resolution - if it was worth pursuing and they definitely think it is and he does too, because he thinks that if they can get the communication working a little better, there are a lot of problems that can be resolved right here within the state without taking them clear to congress.

The motion carried unanimously.

VICE-CHAIRMAN ADDY informed the committee that tomorrow they will have a joint hearing with State Administration Committee on HB 705, but they will meet here first for roll call and then go to the hearing with their copy of the bill.

There was no further business and the meeting was adjourned at 9:30 a.m.



DAVE BROWN, Chairman



Alice Omang, Secretary

ROLL CALL VOTE ----- HOUSE JUDICIARY COMMITTEE

	Date: 2/14 No: HB 666 Do Not Pass	Date: 2/14 No: HB 684 Do Pass	Date: No:	Date: No:	Date: No:	Date: No:
BROWN, Dave	—	—				
ADDY, Kelly	no	no				
BERGENE, Toni	no	yes				
BROWN, Jan	no	yes				
CURTISS, Aubyn	yes	yes				
DAILY, Fritz	—	—				
DARKO, Paula	no	yes				
EUDAILY, Ralph	yes	yes				
FARRIS, Carol	no	no				
HANNAH, Tom	—	—				
IVERSON, Dennis	yes	yes				
JENSEN, James	no	no				
KENNERLY, Roland	no	yes				
KEYSER, Kerry	yes	yes				
RAMIREZ, Jack	yes	yes				
SCHYE, Ted	no	yes				
SEIFERT, Carl	yes	yes				
SPAETH, Gary	—	—				
VELEBER, Dennis	no	no				
	9-no 6-yes	11-yes 4-no				

FACT SHEET - HB#666

Exhibit H.
HB 660
2/14/83

1. According to the 1980 Census, there are 37,246 mobile homes in the State of Montana (12% of total dwellings in the state). Of these approximately 29,200 are occupied by the owner (versus rentals).
 - a. Urban: Missoula County has 29,845 year-round dwellings of which 3,269 are Mobile Homes. This is 11% of the Dwellings.
 - b. Rural: Richland County (which includes Sidney and Glendive) has 871 Mobile Homes. This is approximately 23% of the single-family dwellings in this county.
2. Contacting three Mobile Home Movers revealed that costs of moving range from \$150 to \$650 within the city and start at \$600 when moving outside of the immediate area. The prices escalate rapidly with distance and optional services. (Assuming Missoula has comparable rates to the rest of Montana.)
3. Income data is difficult to obtain for Mobile Home Owners as they are included with all 'home owners'. Preliminary information from the 1980 Census indicates that mobile home owners have a lower median income than other home owners. "...mobile homes constitute a substantial part of the low- and moderate-cost housing supply in the United States. They do meet a definite need for cheaper housing for those who cannot afford more expensive housing...." (C. Gibson, Policy Alternatives for Mobile Homes, 1972: 12)
4. Owner-occupied Mobile Homes constitute 82% of the Mobile Homes in the State of Montana. Rented Mobile Homes constitute approximately 18%. In other words, 4/5 of those living in Mobile Homes own them.

Sources: 1980 Census, STF 1, 100% Data, Population and Housing. Research and Information Systems Division, Montana Department of Administration.

Census of Population and Housing, 1980, Summary Tape File 3A, Table Set 9. Census and Economic Information Center, Capitol Station, Helena, MT

Census of Population and Housing, 1980, Summary Tape File 3A, Questions 51-66, "Income in 1979" and "Poverty Status". Census and Economic Information Center, Helena, MT. Obtained from Missoula County Planning Offices. Microfiche.

MONTANA MOBILE HOME PARK OWNERS ASSOC.
STATE HEADQUARTERS - CHAPTER 3
P.O. BOX 31055
BILLINGS, MONTANA 59107
February 14, 1983

Exhibit B
HB 666
2/14/83

TO: MR. CHAIRMAN
JUDICIARY COMMITTEE
ROOM #224-A

SUBJECT: HB 666

It is our opinion that House Bill 666 extending a three-day eviction notice to a twenty-day notice will pose problems for both the park owners and the tenants.

Security deposits are generally based on loss possibilities of rents and other charges. There are instances where park owners must collect not only the monthly rent but other charges from each tenant. (An example of these charges would be Rural Electric Association bills. The individual bills are sent to the park owner who must then collect from each tenant. These bills are always approximately six weeks to two months behind when we get them). If we must wait longer into the month before placing an eviction notice, we must take into consideration this longer period when charging the security deposits. These deposits will need to cover a larger rental loss possibility plus any other loss possibilities we might incur.

These larger deposits will be an additional burden on the tenant who must already come up with moving bills, rents, etc.

We also wonder why such a bill is being considered on mobile parks but not on apartments, homes, etc.

It is our understanding that these are now the steps a landlord must take in order to evict a tenant.

1. When the tenant fails to pay his rent on time, we must serve him with a three day eviction notice. (This notice is already several days delinquent).
2. If he does not pay his rent within these three days, we must then serve him a six day unlawful detainer. (We usually lose one to two day between these notices).
3. The next step is to have the court set a hearing within ten working days of our application for the hearing.
4. If the landlord wins the judgement, and the tenant refuses to move you must obtain a writ of habeas corpus to make the constable make them move. If they still

refuse to move, you must then pay someone to move their mobile home or possessions and store them.

All of this, of course, will cause additional rent losses. If we must wait even longer before evicting the tenant the losses will be even worse. Even though a landlord wins a case; there has been no way established to where he can regain his losses.

Montana N. Watts

Montana N. Watts, President
Chapter #3, Yellowstone County

WITNESS STATEMENT

Name Paul T. Jordan Committee On 666
Address 912-14 ave. So. St. Falls Mt. Date Feb. 14
Representing Montana Landowners Support _____
Bill No. 666 Oppose X
Amend _____

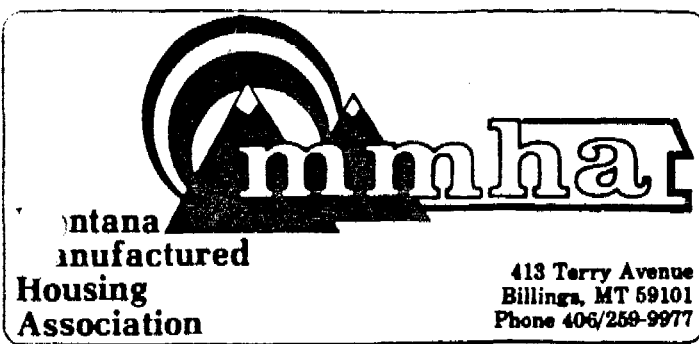
AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *delaying a payment due normally is created by the fact all parties involved hope things will work out but experience tells me it seldom does.*
2. *any payment that is late to the property owner is an added cost. bookkeeping, fines on his payments being late etc.*
3. *many senior citizens live in rented trailers. any financial deficiencies created by lack of rent. the property owner has to pass on to these good customers*
4. *Trebel damages is a laugh. If they can't pay original rent how can the people pay trebel.*

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Exhibit C
HB 666
2/14/83



Re: HB 666

House Judiciary Committee

The Montana Manufactured Housing Assn. supports the Mobile Home Park Operators Assn. in opposing the change in notice period that must be given to tenants. If this law is passed the owner will have another unwarranted expense for those tenants who are delinquent in their rent payments. Not only can they lose another month's rent before they can take action to evict, but they would also be responsible for added utility costs. The Park owners in Montana are striving to keep their rentals at a reasonable price and this bill will make it just that much harder on another group of small businesses. We would appreciate a "No pass" recommendation on this bill.

Sincerely,

George W. Swords II
Executive Director
Montana Mfg. Housing Assn.