

1 House BILL NO. 269
 2 INTRODUCED BY Winger James Weldon

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MANUFACTURED HOUSING OMBUDSMAN AND
 5 HEARING BOARD ACT; PROVIDING FOR THE DUTIES AND RESPONSIBILITIES OF THE OMBUDSMAN AND
 6 BOARD; PROVIDING FUNDING FOR THE OMBUDSMAN AND BOARD; APPROPRIATING FUNDING FOR THE
 7 OMBUDSMAN AND BOARD; AND PROVIDING AN EFFECTIVE DATE."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
 11 NEW SECTION. Section 1. Short title. [Sections 1 through 3 and 5 through 12] may be cited as
 12 the "Manufactured Housing Ombudsman and Hearing Board Act".

13
 14 NEW SECTION. Section 2. Purpose. An increasing number of Montanans live in manufactured
 15 homes, and many Montanans reside in manufactured housing communities. Because of the growing
 16 number of problems and complaints dealing with various aspects of living in manufactured housing
 17 communities and because of the unique nature of manufactured housing and the difficulty in relocating
 18 manufactured housing, it is necessary to designate an ombudsman and a hearing board to resolve the
 19 problems and complaints involving residents and owners of manufactured housing communities. In
 20 addition, the creation of the ombudsman will assist in an equitable implementation of the provisions of Title
 21 70, chapters 24 and 25, concerning mobile homes.

22
 23 NEW SECTION. Section 3. Definitions. As used in [sections 1 through 3 and 5 through 12],
 24 unless the context requires otherwise, the following definitions apply:

- 25 (1) "Board" means the manufactured housing hearing board established in [section 4].
 26 (2) "Manufactured housing" means any manufactured dwelling unit used primarily as a residence
 27 for the occupant.
 28 (3) "Manufactured housing community" means a mobile home park as defined in 70-24-103.
 29 (4) "Manufactured housing resident" means an owner of manufactured housing who leases or rents
 30 space in a manufactured housing community. The term does not include a person who rents or leases

1 manufactured housing as a tenant.

2 (5) "Ombudsman" means the manufactured housing ombudsman provided for under [section 5].

3 (6) "Respondent" means the person against whom an original complaint is directed.

4 (7) "Unreasonable" means:

5 (a) not fair, proper, just, moderate, or suitable under the circumstances; or

6 (b) not fit or appropriate to an objective.

7

8 **NEW SECTION. Section 4. Manufactured housing hearing board.** (1) There is a manufactured
9 housing hearing board. The board is attached to the office of the governor for administrative purposes
10 only. The board is a quasi-judicial board.

11 (2) The board consists of five members appointed by the governor. The term of a member is for
12 4 years or until a successor is appointed. The original members must be appointed to staggered terms.
13 A board member may not be a manufactured housing manufacturer or dealer, an owner or manager of a
14 manufactured housing community, or an agent for a manufacturer, dealer, owner, or manager and may not
15 be associated with a manufactured housing manufacturer or an owner of a manufactured housing
16 community.

17 (3) The board shall designate a presiding officer.

18 (4) A board member is not entitled to compensation but is entitled to reimbursement under
19 2-18-501 through 2-18-503 for expenses.

20 (5) The board shall meet at least four times a year and as often as necessary to implement the
21 provisions of [sections 1 through 3 and 5 through 12]. The board shall meet at locations throughout the
22 state to facilitate the attendance of parties having appeals before the board.

23

24 **NEW SECTION. Section 5. Manufactured housing ombudsman.** (1) There is a manufactured
25 housing ombudsman who shall investigate and resolve complaints and disputes involving manufactured
26 housing. The ombudsman is appointed by the board. The ombudsman must be licensed to practice law
27 in Montana. The board shall fix the compensation of the ombudsman pursuant to Title 2, chapter 18, part
28 3.

29 (2) The ombudsman shall investigate and resolve complaints related to manufactured housing
30 concerning:

1 (a) resident disputes with owners and managers of manufactured housing communities concerning
2 the approval of a prospective purchaser of an existing manufactured home owned by a resident;

3 (b) the reasonableness of rules and regulations promulgated by manufactured housing community
4 owners;

5 (c) environmental concerns, including the provision of safe drinking water and proper sewage
6 disposal;

7 (d) the interpretation of lease agreements; and

8 (e) the reasonableness of pending eviction procedures.

9 (3) The decision of the ombudsman is final and binding unless the decision is appealed to the
10 board. Once the issue is before the ombudsman, a proposed rent increase, proposed rule, or eviction
11 proceeding is stayed pending a final decision by the ombudsman.

12 (4) If the ombudsman determines that an existing or proposed rule promulgated by the owner or
13 manager of a manufactured housing community is unreasonable, the rule must be rescinded unless the
14 decision is appealed. Copies of all final decisions of the ombudsman must be forwarded to the attorney
15 general.

16 (5) The ombudsman may bring an action to protect the rights of manufactured housing residents
17 and may represent the residents before the court in any action.

18 (6) The ombudsman shall educate the public concerning the purchase of manufactured housing,
19 the lease or rental of space in a manufactured housing community, and the duties and functions of the
20 ombudsman. The educational material should include a brief summary of the key facts of which a person
21 contemplating the purchase of manufactured housing should be aware. The educational material must be
22 provided to:

23 (a) a prospective purchaser by a manufactured housing or used manufactured housing dealer at
24 least 48 hours prior to the signing of a sale agreement; and

25 (b) a prospective lessee by a manufactured housing community owner at least 48 hours prior to
26 the signing of a lease for space in the manufactured housing community.

27 (7) The ombudsman shall forward a copy of the educational material described in subsection (6)
28 and a copy of [sections 1 through 12] to each manufactured housing dealer in the state and to all owners
29 and managers of manufactured housing communities.

30 (8) The ombudsman shall work with the department of justice and the Montana commission for

1 human rights to implement the provisions of [sections 1 through 3 and 5 through 12]. The ombudsman
2 may employ personnel to carry out the functions of the ombudsman's office.

3
4 **NEW SECTION. Section 6. Informal disputes.** (1) A person who rents or owns manufactured
5 housing that is located in a manufactured housing community or the owner or manager of a manufactured
6 housing community may contact the ombudsman to investigate a complaint.

7 (2) The ombudsman shall prepare a standardized complaint form to be used for filing a complaint.
8 The ombudsman may not charge for the filing of a complaint. The form must include:

9 (a) a list of the complaints;

10 (b) the signature of the individual filing the complaint;

11 (c) the address and telephone number of the complainant; and

12 (d) the names, addresses, and telephone numbers of all parties named in the complaint.

13 (3) On receipt of a completed complaint form, the ombudsman shall send to the respondent a copy
14 of the complaint and a notice that a response may be filed by the respondent.

15 (4) After reviewing the complaint and any response, the ombudsman shall investigate the complaint
16 and attempt to mediate the dispute. The ombudsman shall render a decision on each complaint within 30
17 days of receipt of the complaint.

18 (5) If the ombudsman determines that there is no factual basis to support the complaint, the
19 ombudsman shall dismiss the complaint and notify the parties.

20 (6) If a complaint is substantiated, the ombudsman may recommend to the parties a solution to
21 the dispute. If the recommendation of the ombudsman is not accepted, the ombudsman shall issue an
22 order setting forth the appropriate action to be taken by all parties. The order has the force and effect of
23 law and may be judicially enforced unless appealed to the board.

24 (7) The complainant or the respondent may appeal the order of the ombudsman to the board within
25 30 days of receipt of the order.

26
27 **NEW SECTION. Section 7. Petition for hearing -- fee -- account.** (1) The ombudsman shall prepare
28 a standardized petition form to be used by an individual or individuals who appeal an order of the
29 ombudsman to the board.

30 (2) A filing fee set by the board must accompany each petition filed with the ombudsman for a

1 hearing before the board. If the board finds in favor of the original party or parties filing the complaint, the
2 respondent is responsible for the payment of the filing fee.

3 (3) Fees must be deposited in a state special revenue fund for the use of the ombudsman and the
4 board.

5
6 **NEW SECTION. Section 8. Hearing procedure.** (1) Upon receipt of a petition for a hearing and
7 the accompanying filing fee, the presiding officer of the board shall set a time and place for a hearing and
8 shall give the parties reasonable notice of the date, time, and location of the hearing. A notice of each
9 hearing must also be provided to the department of justice.

10 (2) Either party to a hearing may present witnesses, in party or by deposition, on making a request
11 to the board and designating the person or persons to be subpoenaed. The parties may request that
12 records and papers be subpoenaed and may request a written transcript of the hearing. The party
13 requesting the transcript is responsible for its cost. Subpoenas may be enforced in district court. The
14 district judge may find a party in contempt or may make another appropriate order. The board may take
15 the deposition of a witness outside of the state as prescribed by law for depositions in civil cases.

16 (3) Either party or the party's agent or attorney may inspect any file that pertains to the hearing
17 if a request is filed in writing with the ombudsman.

18 (4) The board shall render a decision based on evidence given at the hearing within 7 calendar days
19 of the hearing. The decision of the board is final unless appealed to district court. A copy of each decision
20 must be sent to the department of justice.

21
22 **NEW SECTION. Section 9. Appeal.** Within 30 days after service of notice of the decision of the
23 board, a person aggrieved by a decision of the board may appeal to district court.

24
25 **NEW SECTION. Section 10. Public access.** The ombudsman shall establish a toll-free telephone
26 number for public inquiries on the services available from the ombudsman, including the procedures for
27 filing a complaint and appealing to the board.

28
29 **NEW SECTION. Section 11. Resident notification.** By January 1, 1996, each owner of a
30 manufactured housing community shall provide each resident of the manufactured housing community with

1 a copy of [sections 1 through 12] and shall maintain a copy at a convenient location in the community for
2 review by residents. All lessees in the community must be provided with a copy of [sections 1 through 12]
3 at least 48 hours before a lessee signs a lease.

4

5 **NEW SECTION. Section 12. Fee -- collection.** (1) There is a fee of \$1 on each manufactured
6 housing space in a manufactured housing community. The fee must be collected by the county treasurer
7 in the same manner as property taxes are collected. The fee is assessed against the owner of a
8 manufactured housing community and must be included on the owner's tax statement. The owner may
9 collect the fee from the renter of the manufactured housing space. The county treasurer shall forward the
10 fees to the state treasurer.

11 (2) The state treasurer shall deposit the fees received under subsection (1) in an account in the
12 state special revenue account for the use of the ombudsman and the board.

13

14 **NEW SECTION. Section 13. Appropriation -- general fund loan.** There is appropriated from the
15 state special revenue account provided for in [section 12] \$100,000 for the use of the ombudsman and the
16 board. The ombudsman may be given a loan from the general fund to provide for the operations of the
17 ombudsman and the board until sufficient revenue is available in the special revenue account. The loan
18 must be repaid when sufficient revenue is available in the account.

19

20 **NEW SECTION. Section 14. Codification instruction.** [Section 4] is intended to be codified as an
21 integral part of Title 2, chapter 15, part 2, and the provisions of Title 2, chapter 15, part 2, apply to
22 [section 4].

23

24 **NEW SECTION. Section 15. Effective date.** [This act] is effective July 1, 1995.

25

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0269, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act creating the manufactured housing ombudsman and hearing board act; providing for the duties and responsibilities of the ombudsman and board; providing funding for the ombudsman and board; appropriating funding for the ombudsman and board; and providing an effective date.

ASSUMPTIONS:

1. The act is effective July 1, 1995.
2. There are currently 21,077 licensed mobile home spaces in Montana.
3. The ombudsman and the hearing board are to be funded by:
 - a. fees of \$1.00 on each mobile home space.
 - b. filing fees for each complaint filed with the board. The board is required to set the fee. The filing fee would be set at \$100. 5% of those occupying a manufactured home in a mobile home space would file complaints with the board.
4. The Ombudsman is required to be an attorney. This is assumed to be a grade 17 attorney. One FTE support staff (Grade 12) is assumed.
5. Operating expenses are estimated to be \$47,494 in both FY96 and FY97. The bill has many specific requirements for printing of forms and educational materials, and requires a toll-free telephone line.
6. Start-up costs for purchase of computers, equipment and furniture will be a one-time expenditure in FY96 of \$10,000 and on-going costs of \$1,500 in FY97.

FISCAL IMPACT:

Expenditures: (Governor's Office)

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
FTE	2.00	2.00
Personal Services	71,385	71,655
Operating Expenses	47,494	47,494
Equipment	10,000	1,500
Total	\$128,879	\$120,649

Department of Revenue

Under the provisions of this bill the department would incur costs associated with computer programming in county computer systems assessment software packages. It is estimated that these programming changes for all 56 counties would cost approximately \$12,320 and would be incurred in FY95. The Property Assessment Division does not have the funding for these changes in its FY95 budget (General Fund).

(continued page 2)

Dave Lewis 1-23-95

 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Jon Ellingson

 JON ELLINGSON, PRIMARY SPONSOR DATE
 Fiscal Note for HB0269, as introduced

HB 269

Revenues:

1. Filing Fee	\$105,385	\$105,385
2. Tax	<u>21,077</u>	<u>21,077</u>
Total	\$126,462	\$126,462

Net Impact:

Net Impact to State Special Revenue Fund	(\$2,417)	\$5,813
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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Unknown. The tax is required to be collected by County Treasurers, and the bill is to be printed on mobile home community tax statements.

TECHNICAL NOTES:

The bill does not direct responsibility for collecting the information on taxpayers who are subject to the tax. Generally, in these situations of special district taxation, this duty is the responsibility of the administrators of the special district being taxed.

(Dedication of Revenue - page 3)

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

All manufactured home residents would pay a \$1.00 per year tax, but only those using the complaint/ombudsman process would benefit.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? Yes No (if no, explain)

If the assumptions on the filing fee and the number of complaints is correct.

- d) Does the need for this state special revenue provision still exist? Yes No (Explain)

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

No. The funds are not statutorily appropriated.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

The effect of this provision would be minimal on the operations of the Governor's Office.

HOUSE BILL NO. 269

INTRODUCED BY ELLINGSON, SQUIRES, WELDON

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MANUFACTURED HOUSING OMBUDSMAN ~~AND HEARING BOARD~~ ACT; PROVIDING FOR THE DUTIES AND RESPONSIBILITIES OF THE OMBUDSMAN ~~AND BOARD~~; PROVIDING FUNDING FOR THE OMBUDSMAN ~~AND BOARD~~; APPROPRIATING FUNDING FOR THE OMBUDSMAN ~~AND BOARD~~; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through ~~3 and 5 through 12 7~~] may be cited as the "Manufactured Housing Ombudsman ~~and Hearing Board~~ Act".

NEW SECTION. **Section 2. Purpose.** An increasing number of Montanans live in manufactured homes, and many Montanans reside in manufactured housing communities. Because of the growing number of problems and complaints dealing with various aspects of living in manufactured housing communities and because of the unique nature of manufactured housing and the difficulty in relocating manufactured housing, it is necessary to designate an ombudsman ~~and a hearing board~~ to ~~resolve the~~ COLLECT DATA AND PROVIDE INFORMATION REGARDING problems and complaints involving residents and owners of manufactured housing communities. In addition, the creation of the ombudsman will assist in an equitable implementation of PROVIDING INFORMATION ON the provisions of Title 70, chapters 24 and 25, concerning mobile homes.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through ~~3 and 5 through 12 7~~], unless the context requires otherwise, the following definitions apply:

~~(1) "Board" means the manufactured housing hearing board established in [section 4].~~

~~(2)~~(1) "Manufactured housing" means any manufactured dwelling unit used primarily as a residence for the occupant.

~~(3)~~(2) "Manufactured housing community" means a mobile home park as defined in 70-24-103.

~~(4)~~(3) "Manufactured housing resident" means an owner of manufactured housing who leases or

1 rents space in a manufactured housing community. The term does not include a person who rents or leases
2 manufactured housing as a tenant.

3 ~~(5)~~(4) "Ombudsman" means the manufactured housing ombudsman provided for under [section
4 ~~5~~ 4].

5 ~~(6)~~(5) "Respondent" means the person against whom an original complaint is directed.

6 ~~(7)~~(6) "Unreasonable" means:

7 (a) not fair, proper, just, moderate, or suitable under the circumstances; or

8 (b) not fit or appropriate to an objective.

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11 ~~housing hearing board. The board is attached to the office of the governor for administrative purposes~~
12 ~~only. The board is a quasi-judicial board.~~

13 ~~(2) The board consists of five members appointed by the governor. The term of a member is for~~
14 ~~4 years or until a successor is appointed. The original members must be appointed to staggered terms.~~
15 ~~A board member may not be a manufactured housing manufacturer or dealer, an owner or manager of a~~
16 ~~manufactured housing community, or an agent for a manufacturer, dealer, owner, or manager and may not~~
17 ~~be associated with a manufactured housing manufacturer or an owner of a manufactured housing~~
18 ~~community.~~

19 ~~(3) The board shall designate a presiding officer.~~

20 ~~(4) A board member is not entitled to compensation but is entitled to reimbursement under~~
21 ~~2-18-501 through 2-18-503 for expenses.~~

22 ~~(5) The board shall meet at least four times a year and as often as necessary to implement the~~
23 ~~provisions of [sections 1 through 3 and 5 through 12]. The board shall meet at locations throughout the~~
24 ~~state to facilitate the attendance of parties having appeals before the board.~~

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26 ~~NEW SECTION. Section 4. Manufactured housing ombudsman. (1) There is a manufactured~~
27 ~~housing ombudsman who shall investigate and resolve COLLECT DATA AND PROVIDE INFORMATION~~
28 ~~REGARDING complaints and disputes involving manufactured housing. The ombudsman is appointed by~~
29 ~~the board GOVERNOR. The ombudsman must be licensed to practice law in Montana. The board~~
30 ~~GOVERNOR shall fix the compensation of the ombudsman pursuant to Title 2, chapter 18, part 3.~~

1 (2) The ombudsman shall investigate and ~~resolve~~ COLLECT DATA AND PROVIDE INFORMATION
 2 REGARDING complaints related to manufactured housing concerning:

3 (a) resident disputes with owners and managers of manufactured housing communities concerning
 4 the approval of a prospective purchaser of an existing manufactured home owned by a resident;

5 (b) the reasonableness of rules and regulations promulgated by manufactured housing community
 6 owners;

7 (c) environmental concerns, including the provision of safe drinking water and proper sewage
 8 disposal;

9 (d) the interpretation of lease agreements; and

10 (e) the reasonableness of pending eviction procedures.

11 ~~(3) The decision of the ombudsman is final and binding unless the decision is appealed to the~~
 12 ~~board. Once the issue is before the ombudsman, a proposed rent increase, proposed rule, or eviction~~
 13 ~~proceeding is stayed pending a final decision by the ombudsman.~~

14 ~~(4) If the ombudsman determines that an existing or proposed rule promulgated by the owner or~~
 15 ~~manager of a manufactured housing community is unreasonable, the rule must be rescinded unless the~~
 16 ~~decision is appealed. Copies of all final decisions of the ombudsman must be forwarded to the attorney~~
 17 ~~general.~~

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 21 the lease or rental of space in a manufactured housing community, and the duties and functions of the
 22 ombudsman. The educational material should include a brief summary of the key facts of which a person
 23 contemplating the purchase of manufactured housing should be aware. The educational material must be
 24 provided to:

25 (a) a prospective purchaser by a manufactured housing or used manufactured housing dealer at
 26 ~~least 48 hours prior to~~ THE TIME OF the signing of a sale agreement; and

27 (b) a prospective lessee by a manufactured housing community owner at ~~least 48 hours prior to~~
 28 THE TIME OF the signing of a lease for space in the manufactured housing community.

29 ~~(7)~~(4) The ombudsman shall forward a copy of the educational material described in subsection ~~(6)~~
 30 ~~(3)~~ and a copy of [sections 1 through ~~42~~ 7] to each manufactured housing dealer in the state and to all

1 owners and managers of manufactured housing communities.

2 ~~(8)(5)~~ The ombudsman shall work with the department of justice and the Montana commission for
3 human rights to implement the provisions of [sections 1 through ~~3 and 5 through 12~~ 7]. The ombudsman
4 may employ personnel to carry out the functions of the ombudsman's office.

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6 ~~**NEW SECTION. Section 6. Informal disputes.**~~ ~~(1) A person who rents or owns manufactured~~
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14 ~~(d) the names, addresses, and telephone numbers of all parties named in the complaint.~~

15 ~~(3) On receipt of a completed complaint form, the ombudsman shall send to the respondent a copy~~
16 ~~of the complaint and a notice that a response may be filed by the respondent.~~

17 ~~(4) After reviewing the complaint and any response, the ombudsman shall investigate the complaint~~
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