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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/10

SPONSOR O'Neill LAST UPDATED \_\_\_\_\_ HB 129

SHORT TITLE Mobile Home Property First Right of Refusal SB \_\_\_\_\_

ANALYST Wilson

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$1.0-\$10.0				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)

Regulation & Licensing (RLD)

### SUMMARY

#### Synopsis of Bill

House Bill 129 prohibits the owner of mobile home park property from selling his property, at any time, at any price, without first having offered that property at that same price to a residents association. Only residents associations may exercise this right of first refusal.

The bill also permits residents associations to make alternative offers in response to an owners' notice of intent to sell. The bill provides various deadlines by which the park owner is to provide notice of his intent to sell and by which residents associations may notify the owner whether they wish to exercise their right of first refusal or make alternative offers.

The bill provides for damage awards if a park owner violates the bill, including treble damages for willful conduct. If property must be vacated, a resident with school children is permitted to remain in his or her mobile home until a week after the end of the school year or graduation.

### FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

## SIGNIFICANT ISSUES

The AGO identified the following ambiguous or unclear areas in the bill:

1. When “notice” is deemed to have been given is not specified. “Notice” must be given by certified mail, but whether the clock starts running from mailing or receipt as evidenced by the return receipt is not clear. This could be particularly confusing where there is no association and notice is given to the individual residents instead.
2. The statutory form of notice at paragraph (E) does not articulate the obligation of residents to form an association within 30 days if they wish to exercise the refusal or alternative offer rights provided by this bill. This absence could lead to misinterpretation or confusion by residents without an association who receive notices.
3. In the circumstance where an association does not respond to a notice or states that it has no interest in purchasing, it is unclear whether a park owner is unable to negotiate thereafter with a third party, which may result in a lower price than initially offered, without again offering that lower price to the association. Paragraph (C) indicates that the owner would be obliged to again offer the property to the association at that lower price.
4. No deadline for making an alternative offer is stated. Paragraph (F) allows associations to respond to an offer by stating that they “intend” to make an alternative offer but does not state when such offer must be made. An alternative offer remains valid for 30 days after it is mailed under paragraph (H), but no deadline for making it is stated.
5. The 60-day deadline stated in paragraph (G) conflicts with the 90-day deadline stated in paragraph (F). Paragraph (G) states that if an association does not respond to a notice within 60 days, it is deemed to have notified the owner that it has no interest in purchasing. Paragraph (F) states that the association has 90 days to respond to a notice.
6. Under paragraph (J), a park owner may not reject an alternative offer that is not withdrawn and sell his property for a period of 60 days after the offer is mailed, which is 30 days beyond the “validity” period. Presumably, although not expressly stated, after 60 days, the owner is free to reject the alternative offer and proceed to sell the property. However, under paragraph (L), to the extent that the making of an alternative offer constitutes a “decision” to purchase by the association, the owner would be obliged to “negotiate in good faith for the sale” of the park property to the association. Apart from an unconditional acceptance at the offered price and terms, what constitutes a “decision” to purchase is not clear.
7. If the park owner and the association agree to a purchase by the association, the parties have 30 days to formalize a contract of sale. Paragraph (M) states that failure of the “association” to formalize a contract of sale within that period terminates its right to purchase. Because two parties are required to formalize a contract, it is unclear precisely what is meant by “failure of the association” to formalize a contract of sale.
8. Paragraph (N) requires that the sale be completed within 90 days of a contract of sale, unless mutually extended. Paragraph (P) states that if the parties do not complete the sale

within 90 days, presumably after the contract of sale is signed by both parties, subject to mutual extension, the owner may sell the property to a third party at any price, higher or lower. Paragraph (O), however, provides a deadline of 18 months, unless mutually extended, to complete the sale from receipt by the association of the notice of sale by the owner, within which to consummate the sale to the association. Eighteen months appears to be a considerably longer period than the internally established deadlines viewed cumulatively.

### **ADMINISTRATIVE IMPLICATIONS**

The agencies affected by this bill can handle the provisions of this bill with existing staff as part of ongoing responsibilities.

DW/svb