

2017 SENATE JUDICIARY

SB 2306

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2306
2/6/2017
27931

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to ejection from a mobile home park and maintainable evictions.

Minutes:

Testimony attached #

1,2,3,4,5,6,7,8,9

Chairman Armstrong called the committee to order on SB 2306. All committee members were present.

David Clemens, North Dakota State Senator of District 16, introduced testified in support of the bill, as well as providing a proposed amendment. (see attachment 1)

(Name is indistinguishable, sounds like Cheryl Lee), testified in support of the bill on the behalf of **Dave Anderson, Executive Director of the National Manufactured Home Owners Association**. (see attachment 2)

Sherri Horning, Co-Founder and Chair of Fargo Area Park Residents Association (FAPRA), testified in support of the bill. (see attachment 3)

Senator Myrdal: "Is this where you plan on living the rest of your life, and do you think that's the same for most people?"

Sherri Horning: "Yes."

Senator Myrdal: "Do you see people getting evicted a lot?"

Sherri Horning: "It's a growing problem, it's happening more and more."

Chairman Armstrong: "What I don't see is something like an emergency clause for a risk to other home residents? What if somebody had a meth lab or something? A difference between long term and short term eviction is those type of scenarios."

Senator Luick: "Can you give me an example why you would be evicted out?"

Sherri Horning: "If they don't like you, they can conjure up a fake water leak, there are nefarious things they could do to get you kicked out."

Senator Luick: "Right now, today, if I owned the lot and rented to you as a home owner, and I decided I don't like you, what kind of notice could I give you in today's law? How long do you have to vacate?"

Sherri Horning: "I believe it's 3 days."

Senator Larson told of a story of a past neighbor who was selling drugs in the trailer park and got kicked out because of selling drugs.

"I just kind of wonder when there is a community of young families, why wouldn't we want to kick a person out who is breaking the law?"

Sherri Horning: "We have no control over that conviction, that would be law enforcement."

Breezy Schmidt, Housing Project Mandatory and Attorney for Legal Services of North Dakota, testified in support of the bill. No written testimony. She discussed her background and how she got into working in the law and specifically in Housing Law. She said how she is one of the only lawyers who work with tenants who are being evicted.

"I don't like the term eject. It's not defined, there's no guarantee that the word eject would require that eviction process. I think we should change it to eviction and not eject."

Breezy Schmidt went over some of the reservations she had about the language in the bill. She stated how she thinks the amount of time needed to move everything after eviction is not long enough, especially in the winter months. She also described how there aren't many places in North Dakota to take a mobile home after eviction.

"A lot of my clients are just taking their homes to the dumps. An eviction notice only gives them 3 days to vacate and move their homes, which is impossible. You can't do this in the summer months, let alone winter."

Chairman Armstrong: "Most of these evictions happen from failure of payment, correct?"

Breezy Schmidt: "Yes."

Chairman Armstrong: "Well, don't you feel the landlord should be able to get paid?"

Breezy Schmidt: "I don't think they should be there rent free, even upon receiving that notice. There is a duty to pay rent from those perspectives."

Breezy Schmidt continued going over the bill and what are some things she liked and disliked on the bill.

"I do like part 2 on page 2 and I think that provision should be passed."

Senator Nelson: "The original word in this was ejection and you said that you didn't like that word, you wanted eviction, but there's a connotation with eviction that you did something wrong. If you're going to destroy the property, I mean if they're going to close down it's really not a true eviction of the way most of us understand it. Wouldn't eject be the right word?"

Breezy Schmidt: "Perhaps that provision would be better set out rather than under a subsection, maybe it would be better in its own part?"

Chairman Armstrong: "On subsection 2 it says you have to provide notice. Okay, then what? What if you don't? Particularly, when you have language like this you should have some kind of fine, or some kind of penalty. I don't see that a penalty exists in subsection 2?"

Breezy Schmidt: "In the end the best thing to do is either add a private right of action or to add in a civil penalty much like other chapters have."

Senator Luick: "What happens to this property if they are evicted and they are there longer than they should be?"

Breezy Schmidt: "One scenario is landlords take the mobile home and take it to the dump, another one is the landlord puts a lean on the mobile home."

Chairman Armstrong: "Can you send me your version of what this will look like when it's done?"

Breezy Schmidt: "Yes, I can do that and I will send you my testimony also."

Janet Wendel, resident of Fargo, testified in support of the bill. (see attachment 4)

Rebecca Cheatley, resident of Fargo, ND, testified in support of the bill. (see attachment 5) She also passed out written testimony of her husband but did not read it. (see attachment 6)
"I hope we can amend this bill and make it to what it needs to be."

Dennis M Nulle, resident of Fargo ND, testified in support of the bill. (see attachment 7)

Senator Luick: "Who pays property taxes on your home?"

Dennis M Nulle: "I do."

Senator Luick: "Do you own the property underneath it?"

Dennis M Nulle: "No, you have to pay a homeowner's tax to the city of Fargo."

Jay McCarty, resident of Fargo District 16, North Dakota, testified in support of the bill. (see attachment 8)

Edward Marshall, resident of Fargo, ND, briefly testified in support of the bill. No written testimony.

"I just want to say that we support this bill, I won't take up any of your time."

Todd Kranda, Lawyer with the North Dakota Manufactured Housing Association, testified in opposition of the bill. He read written testimony from **Kent French, Legislative Committee Chair fir the North Dakota Manufactured Housing Association,** who was not here to testify. (see attachment 9)

Chairman Armstrong: "Purely practical, how do you move a mobile home in five days."

Todd Kranda: "I don't know the mechanics, but the tenant should know about a possible eviction coming up ahead of time. If that tenant is not paying their bills they will get other notices and not such a strict eviction notice."

Senator Luick: "Do these tenants do down payments?"

Todd Kranda: "What you're probably talking about is a security deposit, usually those are held in an interest-bearing account. If you hold it for more than 9 months you get that money back."

Senator Luick: "Where do the taxes from the home owners go to?"

Todd Kranda: "I think my tenants pay the real estate tax on the land itself."

Senator Luick: "Do they go to the same coffers?"

Todd Kranda: "I do not know."

Kenan Bullinger, North Dakota Department of Health, testified in neutrality of the bill. No written testimony.

"I just want to be brief and say I'm all for removing redundancy in this. We've been in situations where immediate eviction is essential and there have been a number of situations where mobile homes have been used as meth production facilities and those issues that may be law enforcement in nature and should be addressed immediately."

Chairman Armstrong closed the hearing on SB 2306.

No motions were made.

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2306
2/6/2017
27946

- Subcommittee
 Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to ejection from a mobile home park and maintainable evictions.

Minutes: **No written testimony**

Chairman Armstrong began the discussion on SB 2306. All committee members were present.

Senator Larson discussed how she used to live in a mobile home and that the people who owned the mobile home court wanted her there because she was a source of money for them.

"As long as they have tenants, they will always have money; so they want me there. Regarding tenant issues, it's not like they don't know if they will be evicted. If they're not paying their rent they know that they may be evicted. They won't be evicted in 3 days if they miss their rent; that's not what happens. To be honest, I think we should kill this bill."

Chairman Armstrong: "This is in the wrong part of the code, first of all. It's in the Department of Health section of the code and not the Renting part of the code. Does anybody have an overwhelming sense to work on this bill? Does anybody have a burning desire to dig into this bill? Because I don't."

Senator Osland: "I think that trailer park is a few blocks from West Acres Mall and I think that living in that particular court at this particular time, that that land might become very valuable. So I think that this is one of the underlying concerns that they have. Like Senator Larson said, if they pay their rent the landlords want to keep them."

Senator Nelson: "You very well may be right. The problem up there is that there are a lot of people that live up there who own a lot of the trailer parks, so they could be dealing with a tractable tenant and absentee landlords. That one gal implied that was what her issue was."

Chairman Armstrong: "I just want to say also that if you can't get your trailer moved out in three days, which is what we seemed to be told was happening, if you can't do it because of snow or whatever, I doubt the landlord will be able to."

Senator Osland: "You can't move it in three days in the summer, let alone winter."

Senator Myrdal: "So if you can't get it out in January, does that mean you lose your property?"

Chairman Armstrong: "You may lose control and access over it, but what you don't lose is the equity in it. The question is what is your right and what the legal practical reality is."

Chairman Armstrong ended the discussion on SB 2306.

No motions were made.

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2306 Committee Work 2
2/8/2017
28044

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to ejection from a mobile home park and maintainable evictions.

Minutes:

Attachments

1,2

Chairman Armstrong began the discussion on SB 2306. All committee members were present.

Attachments were handed out which included Breezy Schmidt's testimony from the other day, and proposed amendment. (see attachment 1,2)

The committee did not wish to Adopt the Amendment.

Senator Larson: "This bill looks like a punishment bill. Somebody got mad about something and they want legislation to punish somebody. It doesn't look like good legislation and I heard from a lot of mobile park home owners regarding this bill, and they don't evict somebody in three days which was what we were lead to believe from the testimony. The landlords don't just kick people out for no reason. They want tenants; it's money for them."

Senator Larson moves Do Not Pass. **Senator Luick** seconded.

Discussion followed:

Chairman Armstrong: "I think this is primarily about one mobile-home park and the tenants there. The prime sponsor of the bill is listening to his constituents and trying to work out a problem and I think his heart was in the right place and maybe there may be some legislative fixes to some of this, but I feel this bill was a pendulum shift to the extreme; which is where you run into a problem."

Senator Nelson: "I got the feeling the gripe was with an absentee landlord. The people that testified about mistreatment lived in the same two parks that have the same management which is a company based out of Chicago. So I think it deals strictly with a specific landlord. I wish we can get at those absentee landlords, but this bill doesn't do it."

Chairman Armstrong: "There are compelling arguments about what is being said, but I don't think this legislation or the proposed amendment does anything to help solve the problem. The problem with a mobile-home park is that you have a nice expensive piece of property and you don't own the land it sits on. This bill doesn't change that."

Senator Nelson: "It's interesting here because Representative Marshall lives in that trailer court but he didn't sponsor the bill."

Chairman Armstrong: "I believe that this was brought to the legislators late. They tried to do something for them but it was just too late."

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.
The motion carried.

Senator Luick carried the bill.

Chairman Armstrong ended the discussion on SB 2306.

**2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2306**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Senator Larson Seconded By Senator Luick

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Nelson	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Luick

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2306: Judiciary Committee (Sen. Armstrong, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2306 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

SB 2306

①

2/6/17

SENATE BILL 2306
INTRODUCED BY DAVID CLEMENS
DISTRICT 16 SENATOR
WEST FARGO/FARGO

I HAVE INTRODUCED SENATE BILL 2306, AT THE REQUEST OF MOBILE HOME PARK RESIDENTS, WITH THE INTENT OF OFFERING THE RESIDENTS OF MOBILE HOME PARKS MORE PROTECTION IN THE EVENT OF EVICTION FROM THE MOBILE HOME PARK.

RESIDENTS OF MOBILE HOME PARKS OWN THEIR OWN HOMES AND NEED MORE CONSIDERATION DURING AN EVICTION THAN RESIDENTS OF APARTMENTS. THE HOME OWNERS OF THE PARK HAVE CONSIDERABLE INVESTMENTS IN THEIR HOMES AND IN THE EVENT OF AN EVICTION NOTICE, NEED ADDITIONAL TIME TO ATTEND TO THEIR PROPERTY.

THIS BILL DOES NOT CHANGE THE REASONS FOR EVICTION FROM THE MOBILE HOME PARK OWNER. THE MOBILE HOME PARK OWNER IS IN BUSINESS AND THE PARK OWNER NEEDS TO BE RESPECTED FOR THAT.

PLEASE NOTE THE ATTACHED AMENDMENT TO SENATE BILL 2306.

I ASK FOR YOUR FAVORABLE VOTE IN SUPPORT OF SB2306.

SUBMITTED BY,
SENATOR CLEMENS
DISTRICT 16

17.0704.02001
Title.

Prepared by the Legislative Council staff for
Senator Clemens
January 23, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2306

Page 2, line 5, replace "later" with "less"

Page 2, line 11, replace "later" with "less"

Renumber accordingly



NATIONAL MANUFACTURED HOME OWNERS ASSOCIATION

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admin@nmhoa.org • www.nmhoa.org

2 SB 2306

February 8, 2017

2/6/17

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Nevada

Anne Sadler, At-Large
Washington

Staff

Thomas Siburg,
Communications Associate

Senator David Hogue
Chairman, Judiciary Committee
North Dakota Legislative Assembly
6811 27th Avenue NW
Minot, ND 58703-8849

Dear Senator Hogue:

I write on behalf of the National Manufactured Home Owners Association (NMHOA) to express our support for Senate Bill 2306 to you and the members of the Senate Judiciary Committee. NMHOA exists to promote, represent, preserve and enhance the rights and interests of the 17 million people living in manufactured/mobile homes throughout the United States. We support this legislation because it protects the property rights of those who own mobile homes located on rented ground by ensuring that they will only be asked to endure the complicated and costly process of moving their homes for good cause.

Mobile homes represent a pathway to affordable homeownership for millions of Americans, but their ability to be an investment or wealth-building vehicle remains tenuous in many states. In some states, if the home is located on rented ground – in a manufactured home community (or “mobile home park”), for example – the homeowner can be evicted from the community at the community owner’s whim.

The precarious status of a mobile home on rented land can turn it into a financial disaster instead of an asset. Mobile home community sites are scarce in many areas, so a homeowner who is evicted from the community may not be able to find a new site for the home. Even if sites are available, the home may be too old to meet minimum requirements of a new community, it may be too costly to move, or it may be damaged in transit, which could force the homeowner to abandon it altogether.

The rules governing mobile home communities – leases, the rights of community owners and homeowners, eviction law, remedies – are the prerogative of the states. States can require good cause for eviction and prohibit park owners from citing arbitrary reasons or no reasons at all. States should prohibit termination or nonrenewal of the lease except for good cause such as nonpayment of rent, rule violations, disorderly conduct, or criminal activity. A strong policy should require the community owner to give the resident fair notice of the problem and, where appropriate, an opportunity to correct it.

Thirty-five states currently have some statutory provision establishing the reasonable grounds for eviction of a resident from a mobile home park, including neighboring states such as Idaho, Iowa, Minnesota, Montana, and Wisconsin. NMHOA supports the steps being taken by Senate Bill 2306 to add North Dakota to that growing list of states that provide fair protection for manufactured home owners property rights.

Thank you for your time and consideration.

Sincerely,

Dave Anderson, MPA
Executive Director

The mission of NMHOA is to promote, represent, preserve, and enhance the rights and interests of manufactured home-owners throughout the United States.

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SB 2306

February 6, 2017

Hello Chairman Senator Armstrong and Members of the Judiciary Committee

Thank you for the opportunity to speak for the Support of the Senate Bill 2306.

My name is Sherri Horning, Co-Founder & Chair of Fargo Area Park Residents Association (FAPRA), Member of the National Manufactured Home Owners Association (NMHOA) and I am a lifelong resident of North Dakota.

This Bill would further protect mobile home park Residents and homeowners from eviction without just cause as we only have a lease for 1 year. Then we are on a month to month basis. So then the eviction laws do not protect us. Please help us so we can have peace of mind not to worry about being evicted and losing our home.

This is very personal to me, as my husband is on Social Security and I am disabled and on disability. So we are on a fixed income. I have struggled my whole life with medical issues which is one of the reasons why we are in a mobile home. I am a cancer survivor of 25 years, along with 28 other surgeries and need another back fusion and total reconstruction this year.

We have moved different mobile homes for different reasons. We lost one to the 97 flood, No buy out for us. A mobile home park closed, so we were forced to move. We had a water damage due to water heater running all weekend and it was ruined so we bought one in another park but a different school district so we moved it so our son could finish high school. Then when we first got married we bought one in another town. So after we got married we moved it to town.

Thank you

Sherri Horning

Co-Founder and Chair FAPRA

Member NMHOA

February 6, 2017

Chairman Armstrong and Members of the Judiciary Committee,

My name is Janet Wendel. I live in Fargo, District 16.

I'm here today to ask for your support for SB 2306.

There is often a misperception about who lives in manufactured or mobile homes. We come from all walks of life, just like site-built home owners. My neighbors are or have been medical professionals, including nurses and technicians, office workers, college professors and research scientists, chefs, business owners, construction workers, railroaders, and so many others. We are members of churches, service groups, even politics, I'm second vice-chair of the District 16 Republicans, and at least one current North Dakota Legislator lives in a mobile home.

Why would I choose to live in a mobile home? I didn't like living in an apartment, for a variety of reasons, and I could buy a mobile home to own myself, giving me some autonomy. It, also allows me to have more room in my budget to support causes and candidates I believe in.

I recently found that, for no particular reason, I could lose my home, where I raised my daughter, and have so many memories, and where I live, now, with my pets. I have little protection from losing everything I have worked for, which is a position the thousands of other families, living in mobile homes in North Dakota, also find themselves. It takes months to arrange for and work thru the process of moving one of our houses, but a park manager/owner can take possession of a home in as little as 3 days, by evicting the owner and calling the home and other property abandoned, because it can't be moved that fast.

Thank you for hearing us, and helping us by supporting SB 2306.

Janet Wendel

District 16 Republicans, 2nd Vice-Chair

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SB 2306

Testimony of Rebecca Cheatley

February 6, 2017

My name is Rebecca Cheatley and I am a lifelong resident of North Dakota; currently residing in District 41 of Fargo, ND with my partner Philip Hinson, and our son, Jax Liam Cheatley. Thank you for the opportunity to speak on bill 2306. As a woman and one of the people, I feel as though our mobile home was stolen from us along with the original loan holder, Ann Orvik Kruse. We were in a rent to own situation that was approved by the mobile home park owners, Equity Lifestyle Properties, Inc.

I will briefly explain the confusing laws we learned of during this short time starting August 10, 2016. The impact it has had on our family, and why other mobile home owners would benefit from better updated and more defined legislation.

Please take notice at the facts I am about to present per bullet point.

- NDCC 47-16-07.2 states much to do about landlords and their legal responsibilities. This includes providing a check in sheet among other things. The check in sheet would describe the premises being rented. It further says certain amenities afforded to what is described as a tenant which included liability for safety features. Mobile home owners do not get any of these special treatments. Therefore, are we homeowners or tenants? My family serviced and provided our own fire safety equipment including carbon monoxide detectors and a fire extinguisher due to the fact we were attempting to run a licensed daycare out of our home. We were the only ones liable for anyone's safety.
- North Dakota law states no one may be evicted over a water issue nor intimidated or threatened. All of that has happened to my family and others around this state.
- The law affords an ability to livelihood without threats or intimidation. All of that, again to make my point clear, happened to my family and others around our state. We are not protected under current laws. Can we please change that?
- There is a conflict in the way the terminology is used in law. Mobile home owners need better protections in a separate category from a vehicle as it currently states.

This has affected our family entirely; from our budget to our health and well being.

- I was homeschooling my son, Jax Liam. I felt so lucky to be given that opportunity. He misses our quality time. We had to place him in public school where accessibility was a five minute walk; we now drive fifteen minutes to get him to school on time.
- I had just started a daycare out of our home. I now have to search for employment that works with my families schedule. It takes a lot of money to start a business up properly and that is where much of our finances went. I felt as though we got treated very unfairly. We were doing well for ourselves. Now we have already had eviction threats at our new place while attempting to get back on track with our finances and life.

I ask that we, together, as one person helping another person up, go through these outdated and inhumane unjust laws. My colleagues did not write this bill. We had people writing this bill out that never had our situation happen to them and they did miss much of what was there such as separation between homeowners and tenants. I am sure I need not tell anyone that nothing is perfect. We need justice, we need accountability, and we need rightful action by those who swore an oath to the people who, like me, hardly know what our rights and abilities are that get afforded to us.

I urge you to support Bill 2306 because of the smaller added protections that could have helped my family from losing our home. There are still many other families still fighting for the same cause! Let us help those families! My motto for 2017 has been "When you know better, you do better", maybe we could try that out?

Respectively,

Rebecca Cheatley

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SB 2306

Testimony of Philip Hinson

February 6, 2017

My name is Philip Hinson, I am a resident of Fargo, North Dakota residing with my partner, Rebecca Cheatley, and our son, Jax Liam Cheatley. I have to write to you today because our family home was taken from us through an eviction that we were told was a unique situation that would need more time than the "usual cut and dry process" per the judge handling our case. We were ultimately, after two weeks, still forced to vacate our home. I had the best credit, now I have an eviction and a judgment on my name which will affect me for who knows how long. Our way of life has been turned upside down over a false accusation that was never proven and couldn't be, nor was it meant to be apparently. I feel as though we were not "rightfully" evicted but just evicted because that's the process.

Please notice the confusion of laws we ran into and the way it has affected our entire family.

- During this ordeal, we had to give all our extra money, not paying any other bills, to the mobile court owner's, Equity Lifestyle Properties Inc. due to threats of eviction. I was forced to sign a "transitional agreement" and my partner, Rebecca, was banned from any other interactions including the agreement that I signed to give our family more time as we hadn't even been able to get a plumber into our home by that point. Xcel Energy was going to shut off our electricity with our child in the home. When we moved, we called to have the power shut off, they refused due to our names being on the property. We paid for one month of electricity with the heat on, windows open, and no one living there. We got evicted but we were still forced to pay for electrical usage?
- Is there really any protection that pertains to our situation? I cannot tell at this time.
- We cannot be considered homeowners, as we never would get a deed, only title. The entire phrase, mobile homeowner, needs to be considered during law making.
- On November 17th, my partner phoned district court to learn of the ruling. We were out that weekend. November 21st, we came to our home to find seven men standing about, drilling into the door knob I had recently put on there. We were in the process of renovating; new carpets, new toilets, new fixtures. We had plans for our home.
- We had gotten calls in May and June to let us know about our higher than normal water usage; typical for summer as Rebecca had a garden and we had sprinklers for the kids. We never received a call in July nor August pertaining to the impossible water usage. It was September when they first called and asked for the money on top of the additional rent.
- A judge can enforce all or part of a lease, Judge Doug Herman, did none of that.
- Water regulation was transferred from City of Fargo to the trailer park's years ago. Where is the regulation for them to maintain any equipment and have accountability? My wife, Rebecca, spoke to a Chris who works for the City of Fargo and he said that it was absolutely impossible, even with all our faucets on 24 hours a day.

- How do the park owners have the right to evict a person from that person's property and then claim ownership over the property per Herman's judgement? They only own land.
- We were never informed on the complexities of mobile home ownership ---- had we been properly informed like any actual homeowner is allotted before the sale of a new home, we would have never signed up for this! We didn't know we would be treated as though we were just living out of a car. We had a three bedroom, two bathroom house in our line of sight. And now someone else resides in the home we had long term plans for. They get to enjoy the new carpet I put in with my bare hands. The new toilets I installed and used our hard earned dollars to purchase. An even newer doorknob now with even fresher new shiny keys, ours were only about six months old.
- ND law also says landlords are to have fire extinguishers, and fire alarms placed throughout. They had no right to enter our property, therefore, they never did that. Yet, they were allowed to drill into our door and "graciously" allow us to finish getting our vacuum, shampooer, and little left overs as were coming that Monday only to finish cleaning our home so that the loan holder would not have to. We learned later they were not allowed to have the keys to the property they paid for either.
- Our way of life was entirely disrupted and again, per North Dakota law, that's not just.
- While in court, we were told we were legally supposed to have 30 days to vacate, we didn't get that either. It could be because we were never seen as tenants to begin with?

I urge you to support this bill because though it certainly does not help many, it at least adds smaller protections that my family was not given. This may not help us, but if it helps someone else, why not do it? We need to continue to work on the protections of the people who build this nation up every single day.

Respectfully,

Philip Hinson

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SB 2306

Febraury 6, 2017

Good morning Ms. Kelly M. Armstrong.

My name is Dennis M Nulle from Fargo ND.

Thank you for the opportunity to speak and to support the Senate Bill No. 2306 (eviction bill).

I have live here for 30 years in 2 different spots of Buena Visat Mobile Park. A single wide on San Cruz Dr. and now i live in a double wide Liberty Home on Montego Ave. This home has 3 bedroom, 2 baths and a sunroom off the kitchen on the eastside by the patio deck. I have live in Fargo all my life of 72 years in District 16. i take pride in my home and I have brought pictures to show you.

When i move in here in my single wide lot rent was \$65.00 a month now in 2017 in my double wide it is \$502.00 plus.

I have no experience in moving a mobile home. I am representing about 10,000 family who are mobile home owners in the state of North Dakota. There is no way that you can tear down a mobile home in thirty days. It take thirty days just to find a new park or location to move and tear down your mobile home.

A eviction notice would devastated me because I live on retirement and on a fixed income. To move and maintain my lifestyle it would cost me my entire Social Security and maybe more.

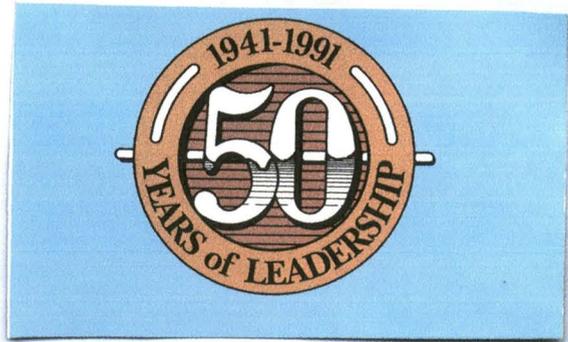
Thank you very much for letting me speak on this Senate Bill No. 2306 and i hope you will

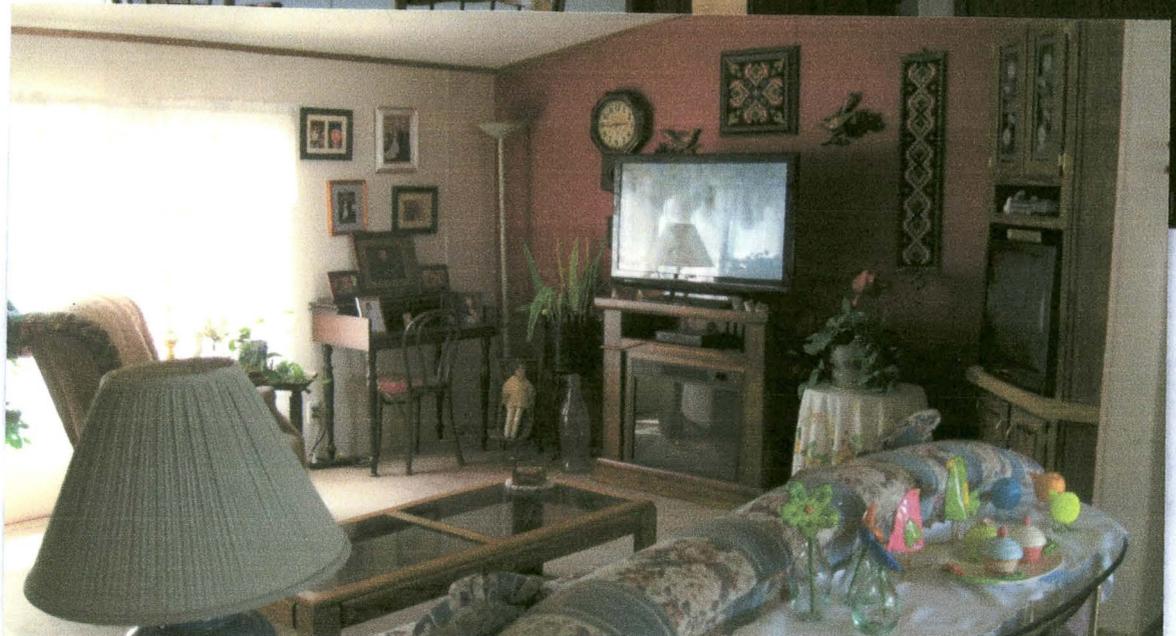
support this bill and pass it on behalf of all
Mobile Homes Owner in the state of North
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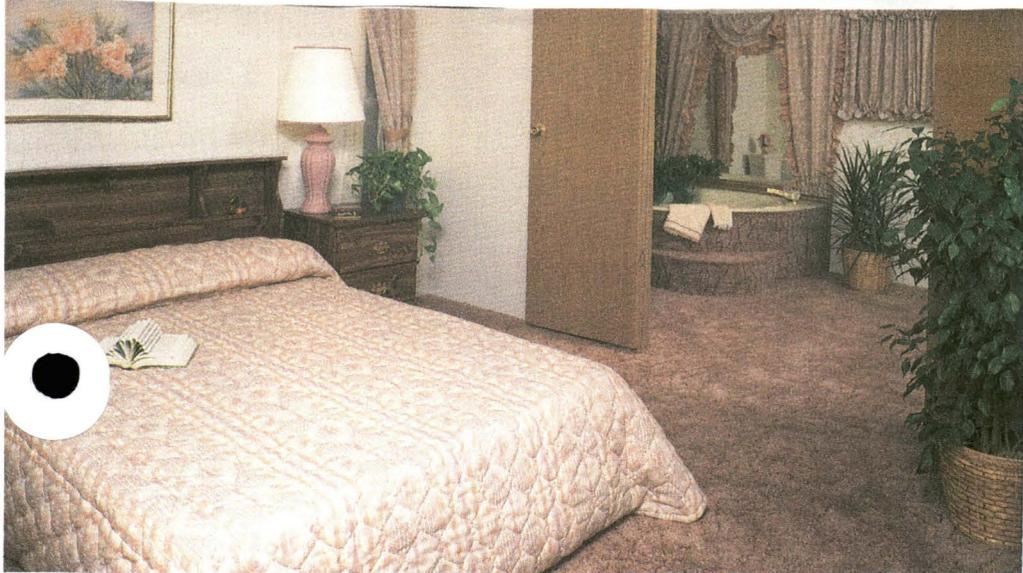
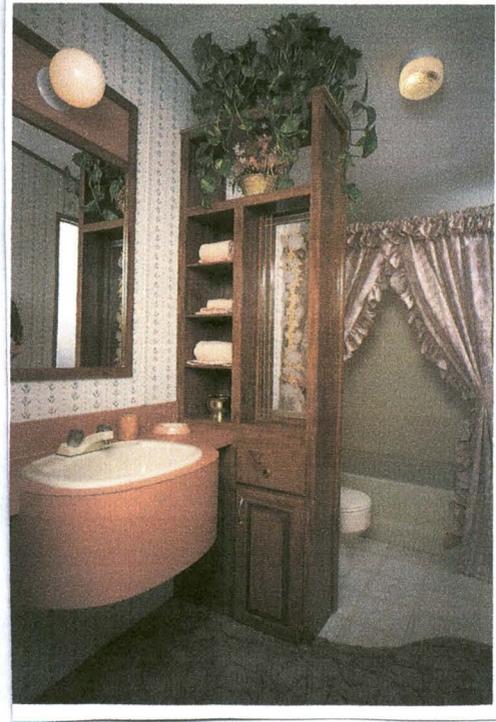
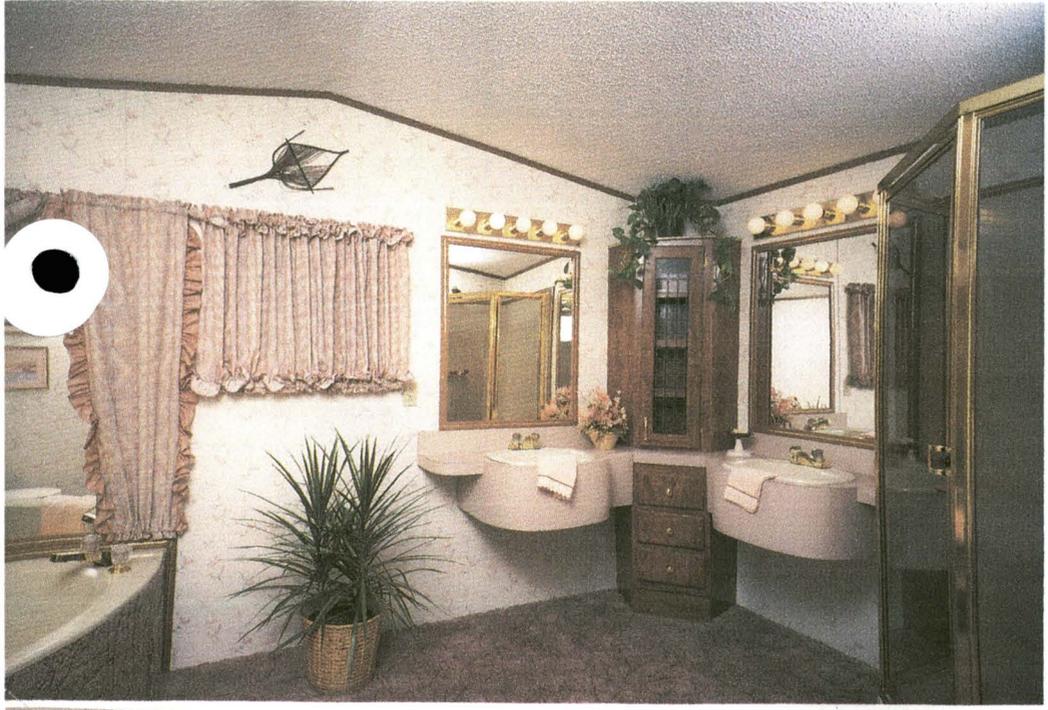
Dennis M Nulle

4556 Montego Ave SW

Fargo ND 58103











12/05/2016



07/08/2015

8

2/6/17

IN SUPPORT OF SENATE BILL NO. 2306

1. **Senator Armstrong, thank you for the privilege to testify today. My name is Jay McCarty, I live in district 16. I have lived in a mobile home two different times for a total of over 22 years. I presently live in a mobile home.**

2. **As mobile home owners, renters or a mortgagor, of which there are in excess of 20,000 in North Dakota, we for the most part have these thing in common and desire your support of this bill.**
 - A. **Our home, which is considered personal property, (Not real estate) usually sits on a site that is rented from a land owner/mobile home park**

 - B. **Present State law does not afford us protection from arbitrary action by the land owner or their managers in respect to removal of our property in the event they decide to evict or change the use of the land for other purposes. (Items #2 & #3 of this bill.)**

 - C. **As mobile home residents we are usually grouped together with trailer parks, campgrounds, and apartment renters. However, unlike campers, our homes are permanently connected to water and sewer and anchored to the ground on rented property.**

 - D. **Lack of suitable available locations and the time required to acquire a mover, plus weather considerations makes relocating a mobile home a rather lengthy and costly process and much more so if it is a double wide mobile home. (Item #5 of this bill.) I have moved a double wide mobile home 3 times, twice I did the moving myself.**

 - E. **Though arbitration cannot be mandated, this bill would require an agreement to arbitrate. (Item #4 of this bill.)**

 - F. **Requiring written notice for eviction and specific reason for eviction would give a level of protection not presently required by State law. (Section 2 Amendment #4)**

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2/6/17

**Testimony in Opposition to
SENATE BILL NO. 2306
Senate Judiciary Committee
February 2, 2017**

Chairman Armstrong, members of the Senate Judiciary Committee, for the record my name is Kent French. I am the Legislative Committee Chair for the North Dakota Manufactured Housing Association. Unfortunately, I am unable to attend the hearing in person. However, I have asked that a representative from Kelsch Kelsch Ruff & Kranda Law Firm of Mandan, our lobbyists for the North Dakota Manufactured Housing Association, appear and provide my testimony to you today on behalf of the North Dakota Manufactured Housing Association (NDMHA). NDMHA is in opposition to SB 2306.

NDMHA is a state trade association representing all segments of the manufactured housing industry, including: manufactured home builders, suppliers, retailers, community developers, owners and managers, insurers and financial services companies. NDMHA works to promote fair laws and regulations, increase and improve financing options, promote a positive image of manufactured housing, provide technical analysis and counsel, promote industry professionalism and remove zoning barriers to the use of manufactured housing. Through these various programs and activities, NDMHA seeks to promote the use of manufactured housing to consumers, developers, lenders, community operators, insurers, the media and public officials in an effort so more Americans can realize their dream of affordable home ownership.

NDMHA opposes SB 2306 for a number of reasons: 1) Ejection isn't defined in the Century Code; 2) NDMHA is unsure what issues SB 2306 is trying to remedy; 3) SB 2306 appears to be duplicative of current law; 4) the practical implementation of SB 2306 only delays the mobile home park's legal recourse in reclaiming its property from an unlawful tenant; and 5) SB 2306 creates irregularities and ambiguity with current law.

NDMHA is unaware of and has not received any information as to what issues, problems, or potential problems SB 2306 seeks to solve. Currently, mobile home parks have the option of evicting a tenant for violating the terms of a lease agreement under

Chapter 47-32 NDCC. Chapter 47-32 provides the method of eviction that applies to all real property owners - which includes manufactured homes - and provides the individual with a three (3) day notice of intent to evict prior to the initiation of an eviction action. Further, Section 23-10-11, shown below, currently allows a mobile home park to eject a tenant for the same reasons as outlined in Section 1, sub-parts a-g of SB 2306.

“23-10-11. Ejection from premises.

The owner or manager of a mobile home park, trailer park, or campground may eject any person from the premises for nonpayment of charges or fees for accommodations, for a violation of law, for disorderly conduct, for a violation of any regulation of the department, or for a violation of any reasonable rule of the mobile home park, trailer park, or campground which is publicly posted within the park or campground.”

NDMHA is concerned that SB 2306 contradicts current law and creates irregularities and ambiguity with the Century Code. In reviewing this bill with current State law, the only thing that is clear about SB 2306 is that it delays the mobile home park from lawfully reclaiming its property from an individual who is in violation of a lease. SB 2306 requires a fifteen (15) day notice to individuals who haven't paid rent; a three (30) day notice to individuals engaging in disorderly conduct; and a three (3) day notice to individuals violating a material terms of a written lease agreement. SB 2306 allows the individual to cure their conduct within that notice period, but then what? That individual can revert back to that same type of disorderly conduct, or violate the terms of their lease and the notice process has to start all over with no definitive end in sight. How will SB 2306 and the added notice requirements interact with Chapter 47-32 for evictions?

SB 2306 also creates a nine (9) month notice to individuals that a park is closing and a three (3) month notice to individuals of improvements being made to a park. While NDMHA agrees that providing as much notice as possible in these situations is in everyone's best interests, it may not be feasible to comply with the strict advance notice periods.

Lastly, Section 2 of SB 2306 requires the mobile home park to give a fifteen (15) day notice of nonpayment of rent to the individual prior to initiating an eviction action. It also allows the individual the option of curing the nonpayment within that notice period

and thus stopping the eviction action. However, if this bill became law, Section 23-10-11(1)(a), which provides the fifteen (15) day notice of nonpayment, does not allow the individual the option of curing their nonpayment of rent. So again, this bill creates more questions than it answers: Would the mobile home park be able to eject the individual from the premises even if the rent was paid within 15 days?

The bottom line is that SB 2306 is unnecessary legislation that will only create more problems and confusion for all involved than it could possibly solve. Current State law already provides for an ejection and provides for an eviction. The existing laws already provide a fair and reasonable process for the recovery of property by the owner.

Accordingly, on behalf of the NDMHA, I would urge a **DO NOT PASS** recommendation for **SB 2306**. I would be happy to try to answer any questions.

SB 2306 (1) 2/8/17



LEGAL SERVICES
of North Dakota

LEGAL SERVICES OF NORTH DAKOTA
CENTRAL INTAKE OFFICE

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A United Way Agency



February 7, 2017

Judiciary Committee
Legislative Assembly
State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

RE: Senate Bill 2306 - Testimony of Breezy Schmidt, Legal Services of North Dakota

Dear Judiciary Committee:

I have been requested by Senator David Clemens to testify in support of Senate Bill 2306. I am the Housing Program Manager for Legal Services of North Dakota (LSND). I am an attorney licensed to practice law in the State of North Dakota. I have been practicing law since 2012 with a focus on housing law. I am one of a few attorneys in North Dakota that represents tenants on a full-time basis. I have attended several national conferences on various areas of housing law. I have researched and analyzed the eviction provisions in the current and prior versions of the North Dakota Century Code. I have read and analyzed the eviction provisions in the Revised Code of the Territory of Dakota. I have researched the enactment and evolution of the Field Code. I have researched the development of eviction common law dating as far back as the Norman Conquest in 1066. I have conducted substantial research of eviction actions in North Dakota from 2008 through 2016. I have reviewed and collected data on every eviction case filed in district court since 2008. My co-worker, Gale Coleman, LSND IT staff, used the eviction data to generate statistical information explaining the state of evictions in North Dakota.

Mobile home ownership represents a unique form of home ownership. It is often the most affordable and efficient form of home ownership making it an attractive option for seniors and those of modest, fixed, or low-income. Mobile homes are often the owners' largest and most valuable asset.

The use of mobile homes started after World War II. In the 1950s and 1960s, mobile homes were primarily travel trailers, which were designed to be moved. The trailers could be hitched to cars and easily moved. Trailers were often occupied with their axles and wheels left in place. Today, mobile homes are not easily moved. Mobile homes are manufactured in factories and,

once placed on a pad or lot, they are seldom removed. Moving a mobile home requires substantial labor and costs. The axles and wheels must be affixed. The skirting must be removed. The hitch must be attached. Any joined segments of the home must be separated and weatherized. The owner must apply for and receive a permit to move the home. A mobile home moving company must be hired. The owner must find a place in which to move the home. Overall, the mobility of mobile home owners is more akin to single family home owners than apartment tenants.

Most mobile home owners either cannot afford to move their homes or cannot afford to purchase real property upon which to move the homes. Moreover, many mobile home parks have implemented policies restricting the entry of mobile homes beyond a certain age and condition. For example, many parks refuse to allow entry of mobile homes manufactured in the 1970s even if the home is in good condition. Furthermore, numerous mobile home parks have implemented policies that prohibit owners from attempting to sell their homes that are located in the park or require mobile homes sold in the park to be removed by the new owners upon sale.

Mobile home parks have significant bargaining power over tenants due to low vacancy rates and the relative immobility of the homes. Parks frequently take advantage of their power over tenants and engage in abuse and unconscionable practices. Many owners experience insecurity, fear, apprehension, despair, and resignation. Owners believe they have no other option but to accept unconscionable park rules, fees, and rent increases without complaint or risk being evicted and losing their homes to parks through judgments, liens, or unconstitutional takings.

Mobile home owners often rent a lot on a month to month basis. A park may terminate a tenant's month to month lease by giving the tenant at least one calendar month's notice. The law does not require a reason to terminate a month to month tenancy. N.D.C.C. § 47-16-15. If a park provides a mobile home owner such a termination notice and the tenant does not vacate by the end of the termination notice period, the park may commence an eviction action against the home owner for holding over after termination of lease. N.D.C.C. § 47-32-01. As currently written, the law allows a park to evict a home owner for simply continuing to occupy the premises after terminating the lease for no reason.

A park may evict a home owner without first providing a calendar month's notice to terminate the lease agreement if any of eight statutory grounds pursuant to North Dakota Century Code Chapter 47-32 exists. In such a case, a park must first serve the tenant a three day notice to evict (not required for some grounds) stating the tenant must cure the violation stated in the notice or vacate the property. If the tenant does not cure the violation or vacate the property within the three days, the park may move forward with an eviction action. To evict a tenant, the park must serve the tenant a summons and complaint stating the statutory ground(s) for eviction. A hearing must be held no sooner than three and no later than fifteen days after the tenant is served the summons and complaint. If, at the hearing, the court grants the eviction, the court must order the tenant to vacate the property immediately. If the tenant shows substantial hardship, the court may allow the tenant a maximum of five days to vacate after the order is entered. As currently

written, the law does not allow a court any discretion to grant a tenant more than five days to vacate the property after entry of an eviction order and judgment.

If the tenant does not vacate the property by the time stated in the court order, a writ of execution may be issued to the sheriff requiring the tenant to be forcibly removed from the property and the tenant's property be held to satisfy the money judgment. N.D.C.C. Ch. 28-21. Often times, a sheriff will show up at an owner's home unannounced and require the owner to immediately vacate the mobile home - owned by the tenant. The park will then change the locks on the home and refuse to allow the owner access to the home or personal belongings. The home generally continues to sit on the lot unoccupied for some time.

A park may dispose of the mobile home in several ways. Despite the writ of execution, I am unaware of sheriffs actually selling mobile homes at public auction to satisfy the outstanding money judgment. Instead, parks take involuntary control and ownership of the mobile homes. First, a park may simply begin exercising control and ownership over the home to the exclusion of the rightful owner without undertaking any efforts to secure lawful ownership of the home.

Second, a park may draft a lien, post the lien to the home, and after thirty days take ownership and control of the home. No judicial process is required for a landlord to put a lien on a tenant's home. There is no statutorily required minimum lien amount necessary to invoke the lien law allowing the park to take control and ownership of the home. The lien law states a park may sell the home upon fulfillment of the required steps. In reality, parks may retain possession of the home and rent it out or move the home to the dump where it is crushed within a few days. Often, owners receive no notice of the lien because they are not occupying the mobile home and the owner mails a copy of the lien to the address at which the mobile home is located. Parks are required to provide the former owner any money in excess of the amount owed after sale of the home. Again, parks often retain the entirety of the sale proceeds and do not attempt to provide any amount to the former owner. Mobile home owners lose any equity and remaining value in the home. See N.D.C.C. § 35-20-17.

Third, a park may take control and ownership of a home by applying for an involuntary transfer of title from the Department of Transportation. The Department of Transportation, upon receipt of the application, payment of fees, and either a copy of a court order or a lien drafted by the park, will issue a new title to the park as the owner of the home. The rightful owner receives no notice or opportunity to dispute the change of ownership of the home. See N.D.C.C. § 39-05-19.

Since 2008, the number of evictions statewide has increased substantially. For purposes of my research, the term eviction is limited to a narrowly defined category of data consisting of individuals who are involuntarily dispossessed of property through the legal eviction process. It is important to note that individuals may be involuntarily dispossessed of property in numerous other ways including: an increase in rent; a landlord's threatening or harassing conduct;

uninhabitable or poorly maintained housing; a landlord refusing to renew a tenant's lease; a landlord shutting off utilities or locking the tenant out; receiving a notice of termination; being served a summons and complaint; or removal by a sheriff.

In 2008, there were 678 eviction actions filed in district court. By 2015, there were 1669 eviction actions filed in district court. The rate of eviction actions filed in North Dakota district courts has increased an average of 246% from 2008 through 2015. The rate of increase in eviction actions filed varies across judicial districts. The percentage of eviction actions filed in district court increased the greatest in the Williston area judicial district with a nearly 2000% increase. The percentage of eviction actions filed has increased a minimum of 125% in every judicial district since 2008. The highest total number of evictions occurred in the Fargo area, with 35% of the total evictions from 2008 through 2015.

About 75% of eviction actions filed statewide between 2008 and 2015 were for nonpayment of rent. Of tenants who were summoned to eviction court, an average of 68.5% were evicted. Of tenants who were evicted, money judgments were entered against them in 88.5% of cases. On average, money judgments include over 78% in damages, including unpaid rent and damages to property, and over 13% in costs, including attorney's fees and court costs.

Of money judgments ordered, about 7.6% of judgments were satisfied (paid in full). Notably, judgments are valid for a term of ten years and, if renewed, an additional ten years. Due to the length of time a judgment is valid in comparison to the small point in time in which the research was conducted, the rate of money judgments satisfied may in fact be much higher than reflected by the data.

In light of the above facts, it is clear that current North Dakota eviction law does not address the current practical realities of being a mobile home owner. Additional protections for mobile home owners are necessary. It is important that any legislation balances the rights of mobile home parks and mobile home owners. It is also important to consider how changes to eviction law would affect or interact with provisions of law in other chapters of the Century Code. My legal opinion of Bill 2306 is as follows:

1. The term "eject" should be replaced with the term "evict," at least for mobile home owners. The term "eject" is defined literally as "to throw out." North Dakota statutory law and the common law upon which it was based did not allow tenants to be thrown out. Landlords are prohibited from engaging in self-help practices and must use a judicial process to remove tenants from the property. Mobile home park tenants, whether home owners or not, must be properly evicted through a legal process pursuant to Chapter 47-32.

2. Mobile home owners need more time than what is currently allowed by law to vacate a mobile home park upon termination, eviction, closure, and/or improvements. Upon receipt of a notice of intention to evict, tenants have three days to cure the alleged violation or

vacate the property. Tenants occupying apartments have a difficult time removing all of their personal belongings from the property in three days. It is impossible for mobile home owners to remove their homes from the park with three days notice. It is necessary, as a practical reality, to allow mobile home owners an adequate amount of time to vacate the park.

Bill 2306 seeks to allow tenants fifteen days to vacate a park after service of a notice of intention to evict. In my opinion, fifteen days is still an unreasonably short amount of time to move a mobile home, especially in the winter months. I recommend tenants be allowed a minimum of thirty days' notice to vacate the property after service of a notice of intention to evict.

3. Subsection 1 proposes grounds upon which an owner or manager may eject an individual from the premises. The proposed grounds include: violating a material term of the lease; violating a law; disorderly conduct or unreasonably disturbing the peaceful enjoyment of the park; posing a threat, risk, or danger; violating a regulation of the department; and for violating a reasonable rule of the park.

The proposed grounds are duplicative of the grounds required for eviction in Chapter 47-32, which specifically includes material breach of lease and unreasonable disturbance of the peaceful enjoyment as grounds for eviction. Generally, lease agreements will state violations of law, specifically drug-related or criminal activity, constitute a breach of lease warranting eviction. Park rules are usually incorporated as an addendum to the lease agreement. Accordingly, a violation of the park rules constitutes a violation of lease possibly warranting grounds for eviction. Lastly, the department of health and safety regulates the health and safety of mobile home parks and it is not appropriate to expand the departments' authority over parks and duties to include oversight of tenants. I recommend the proposed grounds for ejection in Section 1, subsections (b) through (g) receive a do not pass.

4. Subsection 2 proposes parks be required to provide owners nine months' notice in the event of the park closure and an option to relocate to another lot in the park in the event of a partial closure. It is important for home owners to have a reasonable amount of time to make arrangements to move in the event of a park closure. If the closure is voluntary, it may be feasible to provide home owners nine months' notice. If the closure is involuntary and required by the department of health and safety for statutory violations, it may not be feasible to provide home owners nine months' notice prior to the closure. A park would have little ability to control the amount of notice allowed before an involuntary park closure. I recommend Section 2 be amended to require parks to provide tenants a reasonable amount of time to vacate the park, a minimum of 60 days in the event of a voluntary closure.

5. Subsection 3 proposes parks be required to provide three months' notice to tenants in the event of park improvement. It is important for home owners to have a reasonable amount of time to make arrangements to move in the event of park improvements. Depending upon the type of improvements that are necessary, it may not be reasonable to provide three months' notice. Construction season in North Dakota is relatively short. It may be difficult to

hire contractors to perform work more than three months in advance. I recommend Section 3 be amended and passed to allow tenants' more than one month and less than three months' notice in the event of park improvement.

6. Subsection 4 proposes to require parks to include an agreement to arbitrate any reason for ejection not listed in subsection 1. As previously mentioned, landlords may not use self-help to throw out tenants; they must use the codified legal procedure to evict tenants. A landlord may only evict a tenant for grounds that are statutorily enumerated. Thus, an arbitration provision would provide no benefit to either party, but would incur substantial costs.

The only time formal negotiation (before the filing of an eviction action) between the parties regarding grounds for eviction may be necessary to protect a tenant's rights is if a landlord terminates the tenant's month to month tenancy for no reason and then attempts to evict the tenant for holding over after termination of lease. The solution to this problem would be to prohibit parks from terminating mobile home owners' month to month tenancies for no reason or to prohibit parks from utilizing month to month tenancies. I recommend the arbitration provision proposed in the Bill receive a do not pass and a provision be added prohibiting parks from terminating owners' month to month tenancies for no reason, or in the alternate, only allow termination for good cause, such as any of the grounds for eviction stated in Chapter 47-32.

7. Subsection 5 proposes to require parks to provide tenants six months to remove personal property from the premises after receiving notice of intention to evict. Currently, if a mobile home owner is evicted in court, the owner must remove the home either immediately or no later than five days after entry of the order and judgment. A mobile home owner must be provided an opportunity to dispute the park's attempted eviction. An owner should not be required to assume the park will be granted an order to evict the owner and to make preparations to move the mobile home before the case is heard before a court. To require otherwise would render the legal process useless. In turn, practical reality requires a mobile home owner be afforded a reasonable amount of time to make arrangements to move the home after the entry of an eviction order.

On the other hand, it may be unduly burdensome and costly to parks to allow mobile homes to remain stored on the lots for six months after entry of order of eviction. The fact of the matter is that most tenants are evicted for nonpayment of rent and those tenants will not pay, regardless of the reason, the costs to store the home for an extended period of time. The most reasonable approach would be to allow mobile home owners a minimum of one calendar month after entry of the eviction order to move their homes from the park.

8. Section 2 constitutes a cross-reference between Chapter 23-10 and Chapter 47-32 of the Century Code. It is important to cross-reference the relevant chapters of the Century Code. In this case, the question is whether the mobile home termination and eviction procedures are more appropriately placed in Title 23 (Health and Safety), Chapter 10 (Mobile Home Parks, Trailer Parks, and Campgrounds) or Title 47 (Property), Chapter 16 (Leasing of

Real Property), or Chapter 47 (Eviction), or in a completely new chapter for mobile homes.

Many states have enacted statutes for mobile homes and organized those statutes in a separate chapter of law. At this time, North Dakota does not separate different types of property leases or ownership into separate chapters. All property leases are found in Chapter 47-16 and all evictions are in Chapter 47-32. Due to the scope and purpose of Chapter 23-10, I do not recommend the proposed provisions be placed in Chapter 23-10. I envision a day will come when it will be appropriate to create a new chapter solely for mobile home leases, terminations, and evictions. If the provisions proposed in Bill 2306 are passed in their entirety, a separate chapter in Title 47 may be appropriate. If only a limited portion of the proposed provisions are passed, I recommend the provisions pertaining to termination of lease be placed in Chapter 47-16 and the provisions pertaining to eviction be placed in Chapter 47-32.

In conclusion, I recommend the Judiciary Committee amend Senate Bill 2306 as recommended herein and pass as amended. As requested, please find attached my proposed amended Senate Bill 2306. Thank you for your time and consideration.

Sincerely,

Breezy Schmidt
Attorney at Law

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2/8/17

Sixty-fifth
Legislative Assembly
17.0704.02000

Sixty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2306

Introduced by

Senators Clemens, Myrdal, Vedaa

Representative Olson

A BILL for an Act to amend and reenact sections 47-32-02 and 47-32-04 and create and enact new sections under chapter 47-16 of the North Dakota Century Code, relating to termination of lease and maintainable evictions in mobile home parks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-32-02 of the North Dakota Century Code is amended and reenacted as follows:

47-32-02. Appearance - Notice of intention to evict - When required - When and how served.

In any action for eviction the time specified in the summons for the appearance of the defendant may not be fewer than three nor more than fifteen days from the date on which the summons is issued. If the person cannot be found in the county, of which the return of the sheriff or process server is prima facie proof, and service has been attempted at least once between the hours of six p.m. and ten p.m. upon the filing of an affidavit of the plaintiff or the plaintiff's attorney stating that the defendant cannot be found or on belief that the defendant is not in this

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Sixty-fifth
Legislative Assembly

state and a copy of the summons has been mailed to the defendant at the defendant's last-known address if any is known to the plaintiff, service of the summons may be made upon the defendant by the sheriff or process server posting the summons upon the door of the residential unit. In all cases, except mobile homes, arising under subsections 4, 5, 6, and 8 of section 47-32-01, three days' written notice of intention to evict must be given to the lessee, subtenant, or party in possession, before proceedings can be instituted. In all mobile home cases arising under subsections 4, 5, 6, and 8 of section 47-32-01, one calendar months' written notice of intention to evict must be given to the lessee, subtenant, or party in possession, before proceedings can be instituted. The notice may be served and returned as a summons is served and returned or, if the party cannot be found, then by the sheriff of the county or a process server posting the notice conspicuously upon the premises. Service by delivery of a copy of the summons to the defendant in person within the county must be made at least three days before the time fixed for the appearance of the defendant. Service elsewhere or personal service in any other mode must be made at least seven days before the time fixed for the appearance of the defendant.

SECTION 2. A new section to chapter 47-16 of the North Dakota Century Code is created and enacted as follows:

47-16-16.1. Mobile Home Park Voluntary Closure - Notice.

If all or part of a mobile home park is voluntarily closing, the mobile home park landlord or owner shall provide a mobile home park tenant no less than sixty days' written notice of the closure. In the case of a partial voluntary closure, a mobile home park landlord or owner shall provide the mobile home park tenant the option to relocate to another available lot within the mobile home park.

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Legislative Assembly

SECTION 3. A new section to chapter 47-16 of the North Dakota Century Code is created and enacted as follows:

47-16-16.2. Mobile Home Park Improvements - Notice.

If all or part of a mobile home park is being improved for the benefit of the health and safety of the mobile home park tenants, the mobile home park landlord or owner shall provide mobile home park tenants no less than thirty days' written notice of the improvement before the improvement commences. A mobile home park landlord or owner shall provide a mobile home park tenant the option to relocate to another available lot within the mobile home park.

SECTION 4. A new subsection to section 47-16-15 of the North Dakota Century Code is created and enacted as follows:

47-16-15. Notice of termination of lease.

6. In a mobile home park tenancy from month to month and a mobile home park lease that converts from a term to a month-to-month tenancy, a mobile home park landlord or owner may not terminate the tenancy for no cause. A mobile home park landlord or owner may terminate the lease only for good cause grounds as stated pursuant to section 47-32-01. A mobile home park landlord or owner shall provide a mobile home park tenant no less than one calendar month's written notice of termination stating the good cause reason for termination.

SECTION 5. AMENDMENT. Section 47-32-04 of the North Dakota Century Code is amended and reenacted as follows:

47-32-04. Eviction actions not joinable with other actions - Exception - When

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Legislative Assembly
counterclaims only interposable.

An action of eviction cannot be brought in a district court in connection with any other action, except for rents and profits accrued or for damages arising by reason of the defendant's possession. No counterclaim can be interposed in such action, except as a setoff to a demand made for damages or for rents or profits. Except in the case of mobile homes, if the court finds for the plaintiff in the action, the court shall enter judgment that the plaintiff have immediate restitution of the premises. Except in the case of mobile homes, upon a showing by the defendant that immediate restitution of the premises would work a substantial hardship on the defendant or the defendant's family, except in cases in which the eviction judgment is based in whole or in part on a disturbance of the peace, the court may stay the special execution for a reasonable period, not to exceed five days. In the case of mobile homes, if the court finds for the plaintiff in the action, the court shall enter judgment that the defendant shall have no less than thirty days to vacate the premises, except in cases in which the eviction judgment is based in whole or in part on a disturbance of the peace, the court may stay the special execution for a reasonable period, not to exceed fourteen days.