

Wisconsin Department of Agriculture, Trade and Consumer Protection

Final Regulatory Flexibility Analysis

Rule Subject: **Manufactured Home Communities**
Adm. Code Reference: **ATCP 125**
Rules Clearinghouse #: **Not yet assigned**
DATCP Docket #: **12-R-06**

Rule Summary

This rule does all of the following:

- Modernizes the existing rule by incorporating the defined terms “manufactured home” and “manufactured home community”. These terms replace the current rule’s “mobile home” and “mobile home park”.
- Repeals the definition “television service” and creates the definition “electronic communication service” which will specify the mechanisms operators are allowed to use, or are prohibited from using, when billing tenants for these services.
- Amends the definition “utility service” to exclude water and sewer services. Section 100.20 (2) (b), Stats., was created after the promulgation of the current rule, which prohibits DATCP from regulating water and sewer services provided by manufactured home community operators.
- Updates the phrase “mobile home parking fee assessed by local units of government” with the term “municipal permit fee,” as specified under ch. 66, Stats.
- Repeals outdated and obsolete provisions in the current rule.

Under the current rule, rent and other charges may not be increased during the term of the rental agreement. However, this provision does not apply to “mobile home parking fees” and charges for utility services not included in rent. This rule expands the exceptions to include waste hauling or recycling fees that are assessed by local units of government.

Under the current rule, rental agreements are required to express the amount of rent due in each rent paying period in dollars. Under the proposed rule, if the tenant requests a rental agreement that is three years or greater, the amount of rent due in each rent paying period may be expressed in either a dollar amount or a defined formula based on the consumer price index.

Under the current rule, a rental agreement may not include a security deposit greater than either \$350 or three months’ rent, whichever is less. This rule updates the maximum security deposit to \$750, or two months’ rent, whichever is less.

Small Business Affected

This rule will have some limited effect on manufactured home community operators and tenants. Many operators are small businesses. According to the Department of Safety and Professional Services web page, there are about 1,074 licensed manufactured home communities in Wisconsin. Collectively, they have a total of 52,316 home sites. (These statistics are from an on-line listing of licensed manufactured home parks by DSPS, dated March, 2011.)

Many of the differences between this rule and the current rule are technical in nature (such as updating terms to conform to other rules and statutes, etc.) and have no impact. Other changes that might have some limited impact are listed below.

- ***Electronic communications services.*** Under current rules, television service provided through the operator's facilities may be assessed in the form of a uniform charge to subscribing tenants. This rule replaces the term "television service" with "electronic communications service". Therefore, for example, if internet service is provided through the operator's facilities, the operator may charge subscribing tenants a uniform charge to use the service. Under both the current rule and this proposed rule, either the amount charged for the service or the method for computing the charge must be set forth in the rental agreement.

This change may benefit tenants because they will have more options for receiving electronic communications services. Under this rule, operators have a method for passing the cost of providing these increased service options to tenants.

- ***Municipal waste hauling or recycling fees.*** Current rule prohibits manufactured home community operators from increasing rent and other charges during the term of the rental agreement. There are exceptions to this prohibition for utility services (that are not included in rent) and municipal permit fees. This rule also allows an exception for waste hauling fees charged by a municipal government.

This change may benefit manufactured home community operators because it allows them to pass municipal fee increases to tenants at the time they are incurred, rather than waiting until the next rental agreement renewal date.

- ***Inflation indexing on rental agreements of three years or longer.*** Current rule requires rental agreements to include the amount of the rent due in each rent-paying period. Under this proposed rule, rental agreements that are three years or longer may include a formula for adjusting future rental amounts based on the Consumer Price Index.

Manufactured homes can be financed using home mortgages. However, many lenders are hesitant to offer a mortgage if the term of the mortgage is longer than the term of the rental agreement. But community operators are generally unwilling to commit to long-term leases under current rules because they are unwilling to specify a dollar amount that will be in place far into the future. This proposed rule should benefit manufactured home owners by making it more likely that they will be able to finance the purchase of their home as a mortgage (rather than personal property).

- **Maximum security deposits.** Current rule limits the amount of security deposit that an operator can collect to three months' rent or \$350, whichever is less. This rule provision dates back to 1987. \$350 in 1987 is roughly equivalent to \$715 in 2012. This proposed rule revises the maximum security deposit to either two months' rent or \$750, whichever is less.

Raising the dollar amount to \$750 may benefit some manufactured home community operators because it allows them to collect security deposits that are more realistic with current economics. Limiting the security deposit to two months rather than three will benefit tenants whose monthly rents are relatively low.

Reporting, Bookkeeping and other Procedures

This proposed rule does not make any changes from current rule relating to reporting, bookkeeping and other procedures.

Professional Skills Required

The proposed rule does not make any changes from current rule relating to professional skills required.

Accommodation for Small Business

Many of the businesses affected by this rule are "small businesses." For the most part, this rule does not make special exceptions for "small businesses." The nature of the subject matter does not lend itself to differentiating between business sizes.

Conclusion

This rule will generally benefit affected businesses, including "small businesses." Negative effects, if any, will be few and limited. This rule will not have a significant adverse effect on "small business," and is not subject to the delayed "small business" effective date provided in s. 227.22(2)(e), Stats.

Dated this _____ day of _____, 20__.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Sandy Chalmers, Administrator
Division of Trade and Consumer Protection