

TESTIMONY OF CAROLYN L. CARTER  
before the  
URBAN AFFAIRS COMMITTEE of the  
PENNSYLVANIA HOUSE OF REPRESENTATIVES  
regarding H.B. 1673

September 3, 2008

My name is Carolyn Carter. I am a Pennsylvania attorney and the Deputy Director for Advocacy of the National Consumer Law Center. I appreciate your invitation to testify about H.B. 1673. The focus of my testimony will be Section 11.1(a)(3) of the bill, which gives manufactured home community residents the opportunity to purchase the community.

The National Consumer Law Center is a non-profit organization, founded in 1969, that specializes in consumer issues, particularly those affecting low-income and elderly consumers. We provide legal and technical assistance on consumer law issues on a daily basis to legal services, government, and private attorneys representing low-income and elderly consumers across the country.

I was one of the authors of the AARP model state manufactured housing community statute, published in 2004, which includes a resident purchase opportunity provision. My organization is now in the midst of a multi-year project to help promote resident ownership of manufactured housing communities in the United States. We have reviewed the features of all of the state laws that, like H.B. 1673, give residents of manufactured housing communities the opportunity to purchase their communities, and how those laws are working in practice.

***The experience in other states.*** H.B. 1673 would adopt a proven strategy that has enabled thousands of residents to purchase their communities in states across the nation. Fourteen states have laws that give residents the opportunity to purchase their communities.<sup>1</sup>

For example, a New Hampshire law requires community owners to give 60 days advance notice to residents whenever the community is sold. The community owner must consider any offer to purchase the community made by the residents, and negotiate in good faith with the residents. In the 20 years since this law was adopted, residents have purchased 90 communities in New Hampshire, preserving over 5000 homes. At present, over 20% of the communities in the state are resident-owned cooperatives, ranging in size from 15 units to 392 units, with resident leaders from all walks of life. In 2006 and 2007 alone, 15 communities were converted to resident cooperatives.

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<sup>1</sup> Summaries and the full text of these laws may be found on our website, [www.nclc.org](http://www.nclc.org). Click on "Homeownership and Consumer Credit," and then on "Manufactured Housing."

California and Florida have similar laws, although with shorter time periods and more gaps, particularly in Florida. California has at least 100 resident owned communities and Florida has hundreds. Vermont, with a law providing 45 days' advance notice, has converted over 40 communities to either resident or non-profit ownership. Massachusetts and Rhode Island, which have 45-day notice periods, each have between 10 and 15 resident-owned communities, a significant percentage in these small states.

Having seen what these states have done, Delaware and Washington passed resident purchase opportunity laws just this year, New York has passed a law that is awaiting the Governor's signature, and many other states - including North Carolina, Illinois, Ohio, Utah, and Georgia -- are considering resident purchase opportunity laws. Minnesota, Oregon, Connecticut, Maine, Nevada, and New Jersey also have resident purchase opportunity laws, although they have so many exceptions and loopholes that they have not been effective in fostering resident ownership.

*Elements of an effective law.* Based on our analysis of laws in other states, three key features are necessary for an effective resident purchase opportunity law:

- Notice to all of the owners of manufactured homes within the community and to a government agency
- Whenever a community is sold
- With a waiting period that is long enough for the residents to match the offer.

*Notice.* To be effective, a resident purchase opportunity law should require that notice be given to all the owners of manufactured homes who live in the community. This simple requirement is not burdensome to park owners, since they already have the addresses of all the homeowners and presumably are in regular communication with them about such things as rent and rule changes. Placing preconditions on the duty to give notice—for example, requiring a homeowners association to send an annual letter to the community owner—greatly diminishes the effectiveness of the law. Your bill imposes no such requirement.

However, the most effective state laws require notice to a governmental agency as well as to the homeowners. Notice to a governmental agency greatly enhances the effectiveness of a homeowner purchase opportunity law. When a governmental agency gets notice, it can leap into action and help the residents put together a purchase offer, or alert community organizations that will help the residents.

*Whenever a community is sold.* A second key feature of effective state laws is that they require notice to the homeowners whenever a community is sold. As a result, residents can be proactive. They will have the opportunity to stabilize their communities before a crisis such as the closure of the park arises. Limiting the purchase opportunity to occasions when the park is being sold for redevelopment would defeat the purpose of the law, as once the park has development value it will be beyond the financial reach of the homeowners. The states that have adopted such a restriction have highly ineffective

laws, as allow residents the opportunity to buy the park only at the very point when it has become unaffordable.

*Waiting period.* Finally, an effective law must give the homeowners sufficient time after receiving notice to put together a purchase offer. Experience in other states has shown that 60 days is a challenging but viable middle ground that accommodates the seller's and the residents' needs. Residents still have to move fast with a 60-day period, but it is a workable amount of time.

***Benefits of resident ownership.*** Resident ownership of a manufactured housing community usually means that the residents form a cooperative that purchases and owns the land. The residents then become members of the cooperative. Decisions about rents, improvements, rules and regulations, and community management are all made by the cooperative. The residents own their homes individually, but they own the land collectively through the cooperative.

Resident ownership of manufactured housing communities brings enormous advantages, both for the residents and for the community at large. When residents as a group own the land on which their homes sit, they -- and the community at large -- know that their homes are secure. The danger of closure of the community, leaving hundreds of families without housing and creating a community crisis, is gone. The community at large is able to preserve this key source of affordable housing, and the need for a relocation fund evaporates. With stable land tenure, the manufactured home becomes a true asset for a family rather than a potential financial disaster.

Being able to make decisions collectively about the community also increases civic engagement and reduces societal conflict. When residents see themselves as owners rather than as tenants, they buy into the community's rules and regulations, and invest time and effort in working out problems with their neighbors. The result is less disruption, fewer police calls, and a greater sense of community. These benefits of self-governance are one of the fundamental principles on which our society is built, and they apply just as much to manufactured housing communities as to other communities. The AARP report says it well:

One of the best solutions to conflicts between community owners and residents regarding rules, rents, and other matters is to provide a mechanism by which residents can purchase the community themselves and operate it as a cooperative or condominium development.

AARP, *Manufactured Housing Community Tenants: Shifting the Balance of Power*, at 5 (2004).

Experience elsewhere has shown that, when residents own a manufactured housing community, they invest in it. They repave the roads, fix the sewer system, repair and repaint outbuildings, and add landscaping and amenities. They make it a nice place to live -- a place that they, and the community at large, can feel proud of.

Resident owned communities are good investments for the business community as well. New Hampshire has put together 90 resident purchases, and not one loan has gone bad. Resident owned communities provide such stability that the Fannie Mae Corporation has started a pilot program in New Hampshire to make conventional single family financing available for residents who buy manufactured homes in resident-owned communities. This initiative will help eliminate predatory high-cost financing of manufactured homes – but Fannie Mae is making it available only for homes that will be located in resident-owned communities.

Pennsylvania's timing in considering this bill is particularly opportune. A new non-profit organization, ROC USA™ (see [www.rocusa.org](http://www.rocusa.org)), launched a nationwide program just this past May to ensure that technical assistance and financing is available in states - like Pennsylvania if H.B. 1673 becomes law - that give manufactured home owners the opportunity to purchase their communities. ROC USA is a spin off from the New Hampshire Community Loan Fund, which pioneered resident ownership of manufactured home communities. This program has substantial support from well-known national organizations such as the Ford Foundation, NCB Capital Impact, NeighborWorks® America and the Corporation for Enterprise Development. The program lends support, training and specially designed tools, to a network of specially trained local non-profit organizations throughout the country. It currently has nine certified technical assistance providers (ROC USA™ CTAPs) available to assist residents in 29 states-- including Pennsylvania. The opportunity to bring money into the state through ROC USA and its technical assistance providers is just one more benefit that H.B. 1673 would bring.

***Specific language of H.B. 1673.*** House Bill 1673 has some of the key features that make a resident purchase opportunity effective. It provides for notice to all residents, and the notice is required whenever a community is being sold. However, the bill needs greater specificity and clarity.

First, it has two separate provisions about what is to happen when a community owner is preparing to sell a community. Subsection (a)(1) requires the community owner to give notice within 30 days of entering into an agreement to sell the community. It is not completely clear from the language of the bill whether this notice is required *before* or *after* the community owner enters into the sales agreement. Since this notice is required to state the date the community is to be closed, it appears that it is to be sent after the sale of the community is already a done deal. If that is correct, this notice will have no role in giving the residents an opportunity to buy the community.

The second notice provision, subsection (a)(3), gives the residents the opportunity to purchase the community if they so notify the community owner within 45 days of receiving notice. This time period is inconsistent with the 30-day period in subsection (a)(1), which suggests that the notice referred to is a different notice. But subsection (a)(3) does not itself include any requirement of notice to the residents.

I therefore recommend that subsection (a)(3) be revised to include a specific requirement that the community owner send notice to each resident before entering into a final unconditional contract for sale of the community. I recommend that the notice period be 60 days, as is the case in New Hampshire, the state that has been most successful in fostering resident ownership. Residents still have to move fast with a 60-day period, but it is a workable amount of time. The bill should also specify the information that this notice should include, such as the price, terms, and conditions of the proposed sale of the community.

Second, I recommend that you require notice to be sent simultaneously to a governmental agency as well as to the home owners. Notice to a governmental agency greatly enhances the effectiveness of a homeowner purchase opportunity law. When a governmental agency gets notice, it can leap into action and help the residents put together a purchase offer, or alert community organizations that will help the residents.

And, third, I recommend that you provide greater specificity about how the residents' purchase opportunity will operate. For example, the laws that are effective in other states give the residents a period of time to secure financing after they have agreed to buy the community – just as is customary with commercial buyers. Effective laws also make it clear that the community owner has a duty to consider any offer made by the residents and negotiate in good faith with them. It is also helpful to specify that the residents can exercise the purchase opportunity through an association or cooperative that is open to all home owners in the community.

**Conclusion.** A resident purchase opportunity law like H.B. 1673 will make the ownership society a reality for residents of manufactured housing communities and bring many benefits to the community at large. Thank you for allowing me to testify.