

**Testimony**  
**Senate Bill No. 2385**  
**Senate Industry and Business Committee**  
**Senator Barta, Chairman**  
February 4, 2025

Chairman Barta, and members of the Senate Industry and Business Committee, I am Julie Wagendorf, Director of Food and Lodging with the Department of Health and Human Services (Department). I appear before you today to offer neutral testimony on Senate Bill No. 2385.

The Department supports a regulatory framework with effective enforcement mechanisms to ensure that every mobile home park (MHP) operates with strict regard for the health, safety, and comfort of its occupants. The Department is charged by N.D.C.C. § 23-10-03 with licensing mobile home parks in the state of North Dakota. As part of the licensure process and in response to new construction, expansion, or a change in the use, the Department performs a plan review and a preoperational inspection of the MHP before it operates and routinely thereafter, and in response to complaints. The MHP program is unique for the Department as other program areas, such as lodging establishments, recreational vehicle parks, and campgrounds, serve transient guests in the realm of hospitality and recreational purposes, and do not require regulation of residential property.

Section 8 of Senate Bill 2385 would expand the Department's scope of authority to include landlord-tenant disputes, rental fee and late fee disputes, and evictions, which are civil matters traditionally handled by the district courts under Title 47 of the North Dakota Century Code. The Department does not have experience or resources in adjudicating the

relations or disputes between a landlord and tenant. Section 8 of this bill is untenable for the Department, and if it remains in the bill it needs to be charged to another agency or remain as a civil court matter under Title 47.

### **Section 1**

Sections 1 and 7 of Senate Bill 2385 reinstate the authority of the Department to revoke a license due to noncompliance with state law and rules adopted by the Department. During the 2023 legislative session, this authority was removed from the Department. The challenge with revoking a license as a form of disciplinary action of the license holder is that this action results in an MHP operating without a license which is an infraction of law and inevitably leads to evictions of tenants. Section 1, lines 8-23, on page 1, and lines 1 through 20 on page 2, is a new section that includes a receivership. This mechanism of enforcement allows an MHP to continue operating when a license is revoked by the Department, protecting rule-abiding tenants from eviction, disciplines the license holder violating the law from collecting revenue on lease rent, and engages the court system to assist in the decision-making.

### **Section 2**

During the 2023 legislative session, the Department worked with legislative committees and sub-committees to add a new provision in law to require annual business ownership information. The authority was added in N.D.C.C. § 23-10-06.2 and includes a civil penalty for violation of this section. This one provision in law added significant time to the Department, issuing 121 warning letters and 15 orders to pay civil penalties.

At the time N.D.C.C. § 23-10-06.2 was enacted in law, the Department licensed 177 of the total 259 MHPs in the state or approximately 60%. Of the 177 MHPs, approximately 40% of the MHP owners licensed by F&L had mailing addresses listed out of state; and 83% of the out-of-state owners are listed as LLCs. The remaining 61% of MHPs that are licensed by the Department have mailing addresses in the state, and 35% are listed as LLCs. The number of licensed MHPs changing ownership tripled in 2024, from 15 compared to 5 in the previous two years. Most changes in ownership are not reported to the Department until several months after the point of sale, requiring the Department to expend time and resources to locate the new owner, send certified notices of violations for operating without a license, and engage in settlement agreements to achieve compliance in law. These enforcement actions increased significantly in the current biennium.

Section 2, lines 21 – 31 on page 1, and lines 1-10 on page 3 move the requirement for annual business ownership to a new section in law to improve accessibility and help license holders understand the requirement.

### **Section 3**

The proposed changes in section 3 of this bill amend Section 23-10-03 of the North Dakota Century Code to add additional enforcement mechanisms and requirements for license applications and provide general housekeeping. Proposed changes to paragraph 2, lines 17-23, on page 3, provide and add a requirement for the license applicant to submit local zoning approval for the intended use of the physical location of the property. This provision will ensure the MHP applicant has permission to

construct a park by local zoning and building authorities before or by the time they apply for a license to operate an MHP.

Lines 24-25 will require the applicant to describe plans for water utilities and water meter installation of the park with the application and plan review submittal.

Paragraph 3, starting on line 29, page 3 provides a 30-day-grace period for new MHP owners to submit complete license applications to the Department to avoid disciplinary action for operating without a license.

Paragraph 5, lines 6 – 19, page 4, removing the license and inspection requirement of the Department for any park owned by a political subdivision. N.D.C.C. § 23-10-02.1 authorizes the Department to accept local enforcement and inspections. The burden of the Department and operational costs for inspecting a park owned by a political subdivision should incur a license fee. Since this license fee is waived, the Department does not have operational costs to inspect parks owned by a political subdivision. Furthermore, this provision in law is intended to promote local control and, therefore, requiring the state to conduct inspections as a form of regulation contradicts the intent of local control. The provision to waive a license fee for a non-profit organization is removed. Line 14, page 4, adds the authority for the Department to adopt rules establishing inspection fees needed for a follow-up inspection and reinspection due to repeat violations and noncompliance.

#### **Section 4**

Section 4, line 23, page 4, replaces 'shall' with 'may,' affording the Department discretion in spending operational expenses in staff time and travel costs to inspect after receiving an application for an existing MHP if an inspection was recently conducted and the assessment at the time of the most recent inspection in addition to review of compliance history,

does not result in concern over the health and safety of the occupants or the general public.

### **Section 5**

Section 5, line 6, page 5, is mostly housekeeping and moves language to Section 3 of the bill under License Required - Application.

### **Section 6**

Section 6, lines 10-31, page 5, removes license transferability and moves language on annual business ownership into a new section 2, see page 2.

### **Section 7**

Section 7, Line 5, on page 6, reinstates the authority to revoke an MHP license as previously explained in coordination with a receivership outlined in Section 1 of the bill. Line 16 changes the criminal violation of law from an infraction to a Class B misdemeanor. Paragraph 3, lines 17-21, authorizes the Department to assess a civil penalty for operating without a license.

### **Section 8**

Section 8, starting at line 22 on page 6, through line 28 on page 7, as previously mentioned at the beginning of my testimony, cannot be implemented and maintained within the existing regulatory framework or resources charged to the Department under North Dakota Century Code 23-10.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.