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1 A bill to be entitled
2 An act relating to the Florida Mobile Home Act;
3 amending s. 723.003, F.S.; defining the term
4 "pass-on charge"; amending s. 723.035, F.S.;
5 prohibiting certain rules or regulations;
6 amending s. 723.037, F.S.; revising language
7 with respect to lot rental increases; amending
8 s. 723.0381, F.S.; deleting reference to
9 arbitration; amending s. 723.063, F.S.;
10 authorizing mobile home owners' associations to
11 defend actions for rent or possession; amending
12 s. 723.071, F.S.; revising language with
13 respect to the sale of mobile home parks;
14 amending s. 723.083, F.S.; revising language
15 with respect to governmental actions affecting
16 the removal of mobile home owners; amending s.
17 723.031, F.S.; correcting a cross reference, to
18 conform; providing an effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Subsections (10) through (14) of section
23 723.003, Florida Statutes, are renumbered as subsections (11)
24 through (15), respectively, and a new subsection (10) is added
25 to said section to read:

26 723.003 Definitions.--As used in this chapter, the
27 following words and terms have the following meanings unless
28 clearly indicated otherwise:

29 (10) The term "pass-on charge" means a charge for ad
30 valorem property taxes and utility charges, or increases of
31 either, to be paid by a mobile home owner to the park owner in

1 reimbursement of such charges paid by the park owner, provided
2 that the ad valorem property taxes and utility charges are not
3 otherwise being collected in the remainder of the lot rental
4 amount and provided further that the pass on of such ad
5 valorem taxes or utility charges, or increases of either, was
6 disclosed prior to tenancy, was being passed on as a matter of
7 custom between the mobile home park owner and the mobile home
8 owner, or such passing on was authorized by law.

9 Section 2. Subsection (3) is added to section 723.035,
10 Florida Statutes, to read:

11 723.035 Rules and regulations.--

12 (3) No rule or regulation shall prohibit a previously
13 owned mobile home from being permanently located in a mobile
14 home park, provided that such home shall be of comparable age
15 and comparable condition to homes already existing in the
16 park.

17 Section 3. Subsection (4) of section 723.037, Florida
18 Statutes, is amended to read:

19 723.037 Lot rental increases; reduction in services or
20 utilities; change in rules and regulations; mediation.--

21 (4)(a) A committee, not to exceed five in number,
22 designated by a majority of the affected mobile home owners or
23 by the board of directors of the homeowners' association, if
24 applicable, and the park owner shall meet, at a mutually
25 convenient time and place within 30 days after receipt by the
26 homeowners of the notice of change, to discuss the reasons for
27 the increase in lot rental amount, reduction in services or
28 utilities, or change in rules and regulations.

29 (b) At the meeting, the park owner shall in good faith
30 disclose and explain all material factors resulting in the
31 decision to increase the lot rental amount, reduce services or

1 utilities, or change rules and regulations, including those
2 factors used to justify the specific change proposed. The park
3 owner may not limit the discussion of the reasons for the
4 changes to generalities only, such as, but not limited to,
5 increases in operational costs, changes in economic
6 conditions, or rents charged by comparable mobile home parks.
7 A written summary of all material factors disclosed by the
8 park owner shall be delivered to the homeowners at the
9 meeting. Any such reasons not disclosed at the meeting by the
10 park owner shall not be admissible into evidence in any
11 subsequent administrative procedure or civil action between
12 the parties.

13 Section 4. Section 723.0381, Florida Statutes, is
14 amended to read:

15 723.0381 Civil actions; ~~arbitration.~~--

16 (1) After mediation of a dispute pursuant to s.
17 723.038 has failed to provide a resolution of the dispute,
18 either party may file an action in the circuit court.

19 ~~(2) The court shall refer the action to a panel of~~
20 ~~three arbitrators for court-annexed nonbinding arbitration~~
21 ~~pursuant to s. 44.103 and the Florida Rules of Civil~~
22 ~~Procedure, except that compensation for the arbitrators shall~~
23 ~~be in accordance with the authorized rate for circuit court~~
24 ~~mediators in that judicial circuit. The court shall assess~~
25 ~~the parties equally to pay the compensation awarded to the~~
26 ~~arbitrators if neither party requests a trial de novo. If a~~
27 ~~party has filed for a trial de novo, the party shall be~~
28 ~~assessed the arbitration costs, court costs, and other~~
29 ~~reasonable costs of the opposing party, including attorney's~~
30 ~~fees, investigation expenses, and expenses for expert or other~~
31 ~~testimony or evidence incurred after the arbitration hearing~~

1 ~~if the judgment upon the trial de novo is not more favorable~~
2 ~~than the arbitration decision. If subsequent to arbitration a~~
3 ~~party files for a trial de novo, the arbitration decision may~~
4 ~~be made known to the judge only after he has entered his order~~
5 ~~on the merits.~~

6 Section 5. Section 723.063, Florida Statutes, is
7 amended to read:

8 723.063 Defenses to action for rent or possession;
9 procedure.--

10 (1) In any action based upon nonpayment of rent or
11 seeking to recover unpaid rent, or a portion thereof, or a
12 rent increase, the mobile home owner or mobile home owners'
13 association may defend upon the ground of a material
14 noncompliance with any portion of this chapter or may raise
15 any other defense, whether legal or equitable, which he may
16 have. The defense of material noncompliance may be raised by
17 the mobile home owner or mobile home owners' association only
18 if 7 days have elapsed after he has notified the park owner in
19 writing of his intention not to pay rent, or a portion
20 thereof, based upon the park owner's noncompliance with
21 portions of this chapter, specifying in reasonable detail the
22 provisions in default. A material noncompliance with this
23 chapter by the park owner is a complete defense to an action
24 for possession based upon nonpayment of rent, or a portion
25 thereof, and, upon hearing, the court or the jury, as the case
26 may be, shall determine the amount, if any, by which the rent
27 is to be reduced to reflect the diminution in value of the lot
28 during the period of noncompliance with any portion of this
29 chapter. After consideration of all other relevant issues,
30 the court shall enter appropriate judgment.

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1 (2) In any action by the park owner or a mobile home
2 owner or mobile home owners' association brought under
3 subsection (1), the mobile home owner or mobile home owners'
4 association shall pay into the registry of the court that
5 portion of the accrued rent, if any, relating to the claim of
6 material noncompliance as alleged in the complaint, or as
7 determined by the court. The court shall notify the mobile
8 home owner or mobile home owners' association of such
9 requirement. The failure of the mobile home owner or mobile
10 home owners' association to pay the rent, or portion thereof,
11 into the registry of the court as required herein constitutes
12 an absolute waiver of the mobile home owner's or mobile home
13 owners' association's defenses other than payment, and the
14 park owner is entitled to an immediate default.

15 (3) When the mobile home owner or mobile home owners'
16 association has deposited funds into the registry of the court
17 in accordance with the provisions of this section and the park
18 owner is in actual danger of loss of the premises or other
19 personal hardship resulting from the loss of rental income
20 from the premises, the park owner may apply to the court for
21 disbursement of all or part of the funds or for prompt final
22 hearing, whereupon the court shall advance the cause on the
23 calendar. The court, after preliminary hearing, may award all
24 or any portion of the funds on deposit to the park owner or
25 may proceed immediately to a final resolution of the cause.

26 Section 6. Section 723.071, Florida Statutes, is
27 amended to read:

28 723.071 Sale of mobile home parks.--

29 (1)(a) If a mobile home park owner offers a mobile
30 home park for sale or receives a bona fide offer to purchase
31 the park that he or she intends to consider or make a counter

1 offer to, he shall notify the officers of the homeowners'
2 association created pursuant to ss. 723.075-723.079 of his
3 offer or the bona fide offer of purchase, stating the price
4 and the terms and conditions of sale.

5 (b) The mobile home owners, by and through the
6 association defined in s. 723.075, shall have the right to
7 purchase the park, provided the home owners meet the price and
8 terms and conditions of the bona fide offer of purchase or the
9 offer by the mobile home park owner by executing a contract
10 with the park owner within 45 days, unless agreed to
11 otherwise, from the date of mailing of the notice and provided
12 they have complied with ss. 723.075-723.079. If a contract
13 between the park owner and the association is not executed
14 within such 45-day period, then, unless the park owner
15 thereafter elects to offer the park at a price lower than the
16 price specified in his notice to the officers of the
17 homeowners' association, he has no further obligations under
18 this subsection, and his only obligation shall be as set forth
19 in subsection (2).

20 (c) If the bona fide offer of purchase includes other
21 property or more than one mobile home park, the mobile home
22 owners shall have the right to purchase the park in which they
23 reside for the price and terms and conditions as they relate
24 to said park separate and apart from the other properties. The
25 park owner shall notify the homeowners' association as
26 required in paragraph (a), and shall separately state the
27 price, terms, and conditions of each park which is a part of
28 an offer consisting of more than one park.

29 ~~(2)(c)~~ If the park owner thereafter elects to offer
30 the park at a price lower than the price specified in his
31 notice to the home owners, the home owners, by and through the

1 association, will have an additional 10 days to meet the price
2 and terms and conditions of the park owner by executing a
3 contract.

4 ~~(2) If a mobile home park owner receives a bona fide~~
5 ~~offer to purchase the park that he intends to consider or make~~
6 ~~a counteroffer to, his only obligation shall be to notify the~~
7 ~~officers of the homeowners' association that he has received~~
8 ~~an offer and disclose the price and material terms and~~
9 ~~conditions upon which he would consider selling the park and~~
10 ~~consider any offer made by the home owners, provided the home~~
11 ~~owners have complied with ss. 723.075-723.079. The park owner~~
12 ~~shall be under no obligation to sell to the home owners or to~~
13 ~~interrupt or delay other negotiations, and he shall be free at~~
14 ~~any time to execute a contract for the sale of the park to a~~
15 ~~party or parties other than the home owners or the~~
16 ~~association.~~

17 (3)(a) As used in subsections (1) and (2), the term
18 "notify" means the placing of a notice in the United States
19 mail addressed to the officers of the homeowners' association.
20 Each such notice shall be deemed to have been given upon the
21 deposit of the notice in the United States mail.

22 (b) As used in subsections ~~subsection~~ (1) and (2), the
23 term "offer" means any solicitation by the park owner to the
24 general public.

25 (4) This section does not apply to:

26 (a) Any sale or transfer to a person who would be
27 included within the table of descent and distribution if the
28 park owner were to die intestate.

29 (b) Any transfer by gift, devise, or operation of law.

30 (c) Any transfer by a corporation to an affiliate. As
31 used herein, the term "affiliate" means ~~any shareholder of the~~

1 ~~transferring corporation~~ any corporation or entity owned or
2 controlled, directly or indirectly, by the transferring
3 corporation; ~~or any other corporation or entity owned or~~
4 ~~controlled, directly or indirectly, by any shareholder of the~~
5 ~~transferring corporation.~~

6 (d) Any transfer by a partnership to any of its
7 partners.

8 (e) Any conveyance of an interest in a mobile home
9 park incidental to the financing of such mobile home park.

10 (f) Any conveyance resulting from the foreclosure of a
11 mortgage, deed of trust, or other instrument encumbering a
12 mobile home park or any deed given in lieu of such
13 foreclosure.

14 (g) Any sale or transfer between or among joint
15 tenants or tenants in common owning a mobile home park.

16 (h) Any exchange of a mobile home park for other real
17 property, whether or not such exchange also involves the
18 payment of cash or other boot.

19 (i) The purchase of a mobile home park by a
20 governmental entity under its powers of eminent domain.

21 Section 7. Section 723.083, Florida Statutes, is
22 amended to read:

23 723.083 Governmental action affecting removal of
24 mobile home owners.--No agency of municipal, local, county, or
25 state government shall approve any application for rezoning,
26 or take any other official action, which would result in the
27 removal or relocation of mobile home owners residing in a
28 mobile home park without first determining that adequate
29 mobile home parks ~~or other suitable facilities~~ exist for the
30 relocation of the mobile home owners.

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1 Section 8. Paragraph (b) of subsection (5) of section
2 723.031, Florida Statutes, is amended to read:

3 723.031 Mobile home lot rental agreements.--

4 (5) The rental agreement shall contain the lot rental
5 amount and services included. An increase in lot rental
6 amount upon expiration of the term of the lot rental agreement
7 shall be in accordance with ss. 723.033 and 723.037 or s.
8 723.059(4), whichever is applicable, provided that, pursuant
9 to s. 723.059(4), the amount of the lot rental increase is
10 disclosed and agreed to by the purchaser, in writing. An
11 increase in lot rental amount shall not be arbitrary or
12 discriminatory between similarly situated tenants in the park.
13 No lot rental amount may be increased during the term of the
14 lot rental agreement, except:

15 (b) For pass-through charges as defined in s.
16 723.003(11)~~(10)~~.

17 Section 9. This act shall take effect October 1, 1997.

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19 HOUSE SUMMARY

20 Revises the provisions of the Florida Mobile Home Act to:

- 21 1. Define the term "pass-on charge."
- 22 2. Provide that no park rule or regulation shall
- 23 prohibit a previously owned mobile home from being
- 24 permanently located in a mobile home park, provided that
- 25 such home is of comparable age and condition to homes
- 26 already existing in the park.
- 27 3. Revise language with respect to lot rental
- 28 increases.
- 29 4. Authorize mobile home owners' associations to
- 30 defend actions for rent or possession under described
- 31 circumstances.
5. Revise language with respect to the sale of
- mobile home parks.
6. Delete reference to arbitration.

See bill for details.