

By the Committee on Real Property & Probate and
Representatives Crow, Kelly, Spratt, Safley, Culp, Fasano,
Sindler, Brown and Byrd

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. 723.037, F.S.;
5 revising language with respect to lot rental
6 increases; amending s. 723.0381, F.S.; deleting
7 reference to arbitration; amending s. 723.063,
8 F.S.; authorizing mobile home owners'
9 associations to defend actions for rent or
10 possession; amending s. 723.071, F.S.; revising
11 language with respect to the sale of mobile
12 home parks; amending s. 723.031, F.S.;
13 correcting a cross reference, to conform;
14 providing an effective date.

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

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18 Section 1. Subsections (10) through (14) of section
19 723.003, Florida Statutes, are renumbered as subsections (11)
20 through (15), respectively, and a new subsection (10) is added
21 to said section to read:

22 723.003 Definitions.--As used in this chapter, the
23 following words and terms have the following meanings unless
24 clearly indicated otherwise:

25 (10) The term "pass-on charge" means a charge for ad
26 valorem property taxes and utility charges, or increases of
27 either, to be paid by a mobile home owner provided that the ad
28 valorem property taxes and utility charges are not otherwise
29 being collected in the remainder of the lot rental amount and
30 provided further that the pass on of such ad valorem taxes or
31 utility charges, or increases of either, was disclosed prior

1 to tenancy, was being passed on as a matter of custom between
2 the mobile home park owner and the mobile home owner, or such
3 passing on was authorized by law.

4 Section 2. Subsection (4) of section 723.037, Florida
5 Statutes, is amended to read:

6 723.037 Lot rental increases; reduction in services or
7 utilities; change in rules and regulations; mediation.--

8 (4)(a) A committee, not to exceed five in number,
9 designated by a majority of the affected mobile home owners or
10 by the board of directors of the homeowners' association, if
11 applicable, and the park owner shall meet, at a mutually
12 convenient time and place within 30 days after receipt by the
13 homeowners of the notice of change, to discuss the reasons for
14 the increase in lot rental amount, reduction in services or
15 utilities, or change in rules and regulations.

16 (b) At the meeting, the park owner shall in good faith
17 disclose and explain all material factors resulting in the
18 decision to increase the lot rental amount, reduce services or
19 utilities, or change rules and regulations, including those
20 factors used to justify the specific change proposed. The park
21 owner may not limit the discussion of the reasons for the
22 changes to generalities only, such as, but not limited to,
23 increases in operational costs, changes in economic
24 conditions, or rents charged by comparable mobile home parks.
25 A written summary of all material factors disclosed by the
26 park owner shall be delivered to the homeowners at the
27 meeting. Any such reasons not disclosed at the meeting by the
28 park owner shall not be admissible into evidence in any
29 subsequent administrative procedure or civil action between
30 the parties.

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1 Section 3. Section 723.0381, Florida Statutes, is
2 amended to read:

3 723.0381 Civil actions; ~~arbitration.~~--

4 (1) After mediation of a dispute pursuant to s.
5 723.038 has failed to provide a resolution of the dispute,
6 either party may file an action in the circuit court.

7 ~~(2) The court shall refer the action to a panel of
8 three arbitrators for court-annexed nonbinding arbitration
9 pursuant to s. 44.103 and the Florida Rules of Civil
10 Procedure, except that compensation for the arbitrators shall
11 be in accordance with the authorized rate for circuit court
12 mediators in that judicial circuit. The court shall assess
13 the parties equally to pay the compensation awarded to the
14 arbitrators if neither party requests a trial de novo. If a
15 party has filed for a trial de novo, the party shall be
16 assessed the arbitration costs, court costs, and other
17 reasonable costs of the opposing party, including attorney's
18 fees, investigation expenses, and expenses for expert or other
19 testimony or evidence incurred after the arbitration hearing
20 if the judgment upon the trial de novo is not more favorable
21 than the arbitration decision. If subsequent to arbitration a
22 party files for a trial de novo, the arbitration decision may
23 be made known to the judge only after he has entered his order
24 on the merits.~~

25 Section 4. Section 723.063, Florida Statutes, is
26 amended to read:

27 723.063 Defenses to action for rent or possession;
28 procedure.--

29 (1) In any action based upon nonpayment of rent or
30 seeking to recover unpaid rent, or a portion thereof, or a
31 rent increase, the mobile home owner or mobile home owners'

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

19 (2) In any action by the park owner or a mobile home
20 owner or mobile home owners' association brought under
21 subsection (1), the mobile home owner or mobile home owners'
22 association shall pay into the registry of the court that
23 portion of the accrued rent, if any, relating to the claim of
24 material noncompliance as alleged in the complaint, or as
25 determined by the court. The court shall notify the mobile
26 home owner or mobile home owners' association of such
27 requirement. The failure of the mobile home owner or mobile
28 home owners' association to pay the rent, or portion thereof,
29 into the registry of the court as required herein constitutes
30 an absolute waiver of the mobile home owner's or mobile home

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1 owners' association's defenses other than payment, and the
2 park owner is entitled to an immediate default.

3 (3) When the mobile home owner or mobile home owners'
4 association has deposited funds into the registry of the court
5 in accordance with the provisions of this section and the park
6 owner is in actual danger of loss of the premises or other
7 personal hardship resulting from the loss of rental income
8 from the premises, the park owner may apply to the court for
9 disbursement of all or part of the funds or for prompt final
10 hearing, whereupon the court shall advance the cause on the
11 calendar. The court, after preliminary hearing, may award all
12 or any portion of the funds on deposit to the park owner or
13 may proceed immediately to a final resolution of the cause.

14 Section 5. Section 723.071, Florida Statutes, is
15 amended to read:

16 723.071 Sale of mobile home parks.--

17 (1)(a) If a mobile home park owner offers a mobile
18 home park for sale or receives a bona fide offer to purchase
19 the park that he or she intends to consider or make a counter
20 offer to, he shall notify the officers of the homeowners'
21 association created pursuant to ss. 723.075-723.079 of his
22 offer or the bona fide offer of purchase, stating the price
23 and the terms and conditions of sale.

24 (b) The mobile home owners, by and through the
25 association defined in s. 723.075, shall have the right to
26 purchase the park, provided the home owners meet the price and
27 terms and conditions of the bona fide offer of purchase or the
28 offer by the mobile home park owner by executing a contract
29 with the park owner within 45 days, unless agreed to
30 otherwise, from the date of mailing of the notice and provided
31 they have complied with ss. 723.075-723.079. If a contract

1 between the park owner and the association is not executed
2 within such 45-day period, then, unless the park owner
3 thereafter elects to offer the park at a price lower than the
4 price specified in his notice to the officers of the
5 homeowners' association, he has no further obligations under
6 this subsection, and his only obligation shall be as set forth
7 in subsection (2).

8 (c) If the bona fide offer of purchase includes other
9 property or more than one mobile home park, the mobile home
10 owners shall have the right to purchase the park in which they
11 reside for the price and terms and conditions as they relate
12 to said park separate and apart from the other properties. The
13 park owner shall notify the homeowners' association as
14 required in paragraph (a), and shall separately state the
15 price, terms, and conditions of each park which is a part of
16 an offer consisting of more than one park.

17 ~~(2)(e)~~ If the park owner thereafter elects to offer
18 the park at a price lower than the price specified in his
19 notice to the home owners, the home owners, by and through the
20 association, will have an additional 10 days to meet the price
21 and terms and conditions of the park owner by executing a
22 contract.

23 ~~(2) If a mobile home park owner receives a bona fide~~
24 ~~offer to purchase the park that he intends to consider or make~~
25 ~~a counteroffer to, his only obligation shall be to notify the~~
26 ~~officers of the homeowners' association that he has received~~
27 ~~an offer and disclose the price and material terms and~~
28 ~~conditions upon which he would consider selling the park and~~
29 ~~consider any offer made by the home owners, provided the home~~
30 ~~owners have complied with ss. 723.075-723.079. The park owner~~
31 ~~shall be under no obligation to sell to the home owners or to~~

1 ~~interrupt or delay other negotiations, and he shall be free at~~
2 ~~any time to execute a contract for the sale of the park to a~~
3 ~~party or parties other than the home owners or the~~
4 ~~association.~~

5 (3)(a) As used in subsection (1)~~subsections (1) and~~
6 ~~(2)~~, the term "notify" means the placing of a notice in the
7 United States mail addressed to the officers of the
8 homeowners' association. Each such notice shall be deemed to
9 have been given upon the deposit of the notice in the United
10 States mail.

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

14 (4) This section does not apply to:

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

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

19 (c) Any transfer by a corporation to an affiliate. As
20 used herein, the term "affiliate" means ~~any shareholder of the~~
21 ~~transferring corporation~~any corporation or entity owned or
22 controlled, directly or indirectly, by the transferring
23 corporation ~~or any other corporation or entity owned or~~
24 ~~controlled, directly or indirectly, by any shareholder of the~~
25 ~~transferring corporation.~~

26 (d) Any transfer by a partnership to any of its
27 partners.

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

30 (f) Any conveyance resulting from the foreclosure of a
31 mortgage, deed of trust, or other instrument encumbering a

1 mobile home park or any deed given in lieu of such
2 foreclosure.

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

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

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

10 Section 6. Paragraph (b) of subsection (5) of section
11 723.031, Florida Statutes, is amended to read:

12 723.031 Mobile home lot rental agreements.--

13 (5) The rental agreement shall contain the lot rental
14 amount and services included. An increase in lot rental
15 amount upon expiration of the term of the lot rental agreement
16 shall be in accordance with ss. 723.033 and 723.037 or s.
17 723.059(4), whichever is applicable, provided that, pursuant
18 to s. 723.059(4), the amount of the lot rental increase is
19 disclosed and agreed to by the purchaser, in writing. An
20 increase in lot rental amount shall not be arbitrary or
21 discriminatory between similarly situated tenants in the park.
22 No lot rental amount may be increased during the term of the
23 lot rental agreement, except:

24 (b) For pass-through charges as defined in s.
25 723.003(11)~~(10)~~.

26 Section 7. This act shall take effect October 1, 1997.
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