
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 14, 1998 Revised: _____

Subject: Mobile Homes

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Schmith</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for SB 452 makes the following changes to the Florida Mobile Home Act, chapter 723, F.S.: revises the definition of the term “pass-through charge” to determine the park owner’s proportionate share; provides that a new tenant may be required to pay the pass-through charge that was paid by the park owner at the time of assessment; provides that the prospectus may be amended to provide for payment of the pass-through by the homeowner if that obligation was not initially disclosed; and authorizes a mobile home owners’ association to amend its bylaws to provide that less than a majority of owners constitutes a quorum.

This CS substantially amends the following sections of the Florida Statutes: 723.003, 723.012, and 723.078.

II. Present Situation:

Chapter 723 is known as the “Florida Mobile Home Act” and provides for regulation of mobile homes by the Division of Land Sales, Condominiums and Mobile Homes (division) of the Department of Professional Regulation (department). The following sections are affected by this committee substitute.

Section 723.003, F.S., provides definitions of terms used in this chapter. The term “pass-through charge” means the mobile home owner’s *proportionate share* of the necessary and actual direct costs and impact or hookup fees for a governmentally mandated capital improvement, which may include the necessary and actual direct costs and impact or hookup fees incurred for capital improvements required for public or private regulated utilities. There is no definition of the “mobile home owner’s proportionate share” or guidance on how that share should be calculated.

Section 723.012, F.S., provides the minimum information which must be included in the mobile home park's prospectus or offering circular. Subsection (9) requires that the prospectus or offering circular disclose the manner in which the lot rental amount will be raised. Paragraph (c) requires disclosure of the manner in which pass-through charges will be assessed.

Section 723.078, F.S., establishes the minimum criteria for a tenant association's bylaws. Subsection (2)(b) provides that a majority of the members constitutes a quorum and that decisions must be made at by a majority of the members represented at a meeting in which a quorum is present.

III. Effect of Proposed Changes:

Section 1 amends s. 723.003, F.S., by modifying the definition of "pass-through charge" to provide for the mobile home park owner's proportionate share, which may not be passed through to the home owners. That share is the portion of actual direct costs and impact or hookup fees attributable to governmentally mandated capital improvements that serve or will serve empty lots, property of undeveloped phases, and any property used and maintained by the park owner and not occupied by a mobile home owned by a mobile home owner.

According to the division, this change may have the unintended consequence of causing lot rental fees to be increased. If the park owner pays this "proportionate share" of capital improvement charges, he or she may use the increased expense to justify increased lot rentals in the future. Many parks have clauses in their prospectuses which allow rental increases based on disclosed increases in "operational costs."

Section 2 amends s. 723.012(9)(c), F.S., to provide that a new tenant may be required to pay the pass-through charge which was paid by the park owner at the time of assessment. This paragraph is further amended to authorize the amendment of the prospectus to require that the homeowner pay his or her proportionate share of any pass-through charge if the initial documents delivered to the homeowner did not disclose that obligation.

Section 3 amends s. 723.078, F.S., to authorize a home owners' association to amend its bylaws to provide a quorum requirement that is fewer than a majority of its members.

Section 4 provides an effective date of October 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Park owners will see an increase in costs due to the change in the definition of pass-through charge. However, park owners may be able to pass the increase to tenants in the form of lot rental increases.

Park residents may see a decrease in the amount of costs passed through; however, they may experience increased lot rentals as well.

C. Government Sector Impact:

The division anticipates an increase in complaints from the change in the definition of pass-through charge. The division anticipates addressing those complaints within current resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.