

By Senators Brown-Waite and Latvala

10-550-98

See HB

1 A bill to be entitled

2 An act relating to the Florida Mobile Home Act;

3 amending s. 723.003, F.S.; revising the

4 definition of "pass-through charge"; amending

5 s. 723.071, F.S., relating to the sale of a

6 mobile home park; revising provisions with

7 respect to a bona fide offer of purchase made

8 to a mobile home park owner; providing for

9 rights of mobile home owners when such an offer

10 of purchase includes other property or more

11 than one mobile home park; revising the

12 definition of the term "affiliate"; amending s.

13 723.072, F.S.; correcting cross references;

14 amending s. 723.078, F.S., relating to bylaws

15 of howeowners' associations; revising

16 provisions relating to the number of members

17 which constitutes a quorum; providing an

18 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. Subsection (10) of section 723.003, Florida

23 Statutes, is amended to read:

24 723.003 Definitions.--As used in this chapter, the

25 following words and terms have the following meanings unless

26 clearly indicated otherwise:

27 (10) The term "pass-through charge" means the mobile

28 home owner's proportionate share of the necessary and actual

29 direct costs and impact or hookup fees for a governmentally

30 mandated capital improvement, which may include the necessary

31 and actual direct costs and impact or hookup fees incurred for

1 capital improvements required for public or private regulated
2 utilities. The mobile home park owner's proportionate share
3 shall be that portion of actual direct costs and impact or
4 hookup fees attributable to governmentally mandated capital
5 improvements that serve or will serve empty lots, property of
6 undeveloped phases, and any property used and maintained by
7 the park owner not occupied by a mobile home owned by a mobile
8 home owner.

9 Section 2. Section 723.071, Florida Statutes, is
10 amended to read:

11 723.071 Sale of mobile home parks.--

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

20 (b) The mobile home owners, by and through the
21 association defined in s. 723.075, shall have the right to
22 purchase the park, provided the home owners meet the price
23 and terms and conditions of the bona fide offer of purchase or
24 the offer by the mobile home park owner by executing a
25 contract with the park owner within 45 days, unless agreed to
26 otherwise, from the date of mailing of the notice and provided
27 they have complied with ss. 723.075-723.079. If a contract
28 between the park owner and the association is not executed
29 within such 45-day period, then, unless the park owner
30 thereafter elects to offer the park at a price lower than the
31 price specified in her or his notice to the officers of the

1 homeowners' association, the park owner has no further
2 obligations under this subsection, and her or his only
3 obligation shall be as set forth in subsection (2).

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

13 ~~(2)(c)~~ If the park owner thereafter elects to offer
14 the park at a price lower than the price specified in her or
15 his notice to the home owners, the home owners, by and through
16 the association, will have an additional 10 days to meet the
17 price and terms and conditions of the park owner by executing
18 a contract.

19 ~~(2) If a mobile home park owner receives a bona fide~~
20 ~~offer to purchase the park that she or he intends to consider~~
21 ~~or make a counteroffer to, the park owner's only obligation~~
22 ~~shall be to notify the officers of the homeowners' association~~
23 ~~that she or he has received an offer and disclose the price~~
24 ~~and material terms and conditions upon which she or he would~~
25 ~~consider selling the park and consider any offer made by the~~
26 ~~home owners, provided the home owners have complied with ss.~~
27 ~~723.075-723.079. The park owner shall be under no obligation~~
28 ~~to sell to the home owners or to interrupt or delay other~~
29 ~~negotiations and shall be free at any time to execute a~~
30 ~~contract for the sale of the park to a party or parties other~~
31 ~~than the home owners or the association.~~

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

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

9 (4) This section does not apply to:

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

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

14 (c) Any transfer by a corporation to an affiliate. As
15 used herein, the term "affiliate" means ~~any shareholder of the~~
16 ~~transferring corporation,~~any corporation or entity owned or
17 controlled, directly or indirectly, by the transferring
18 corporation; ~~or any other corporation or entity owned or~~
19 ~~controlled, directly or indirectly, by any shareholder of the~~
20 ~~transferring corporation.~~

21 (d) Any transfer by a partnership to any of its
22 partners.

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

25 (f) Any conveyance resulting from the foreclosure of a
26 mortgage, deed of trust, or other instrument encumbering a
27 mobile home park or any deed given in lieu of such
28 foreclosure.

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

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

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

6 Section 3. Subsection (1) of section 723.072, Florida
7 Statutes, is amended to read:

8 723.072 Affidavit of compliance with statutory
9 requirements.--

10 (1) A park owner may at any time record, in the
11 official records of the county where a mobile home park is
12 situated, an affidavit in which the park owner certifies that:

13 (a) With reference to an offer by him or her for the
14 sale of such park, he or she has complied with the provisions
15 of s. 723.071(1) and (2);

16 (b) With reference to an offer received by him or her
17 for the purchase of such park, or with reference to a
18 counteroffer which he or she intends to make, or has made, for
19 the sale of such park, he or she has complied with the
20 provisions of s. 723.071(1) and (2);

21 (c) Notwithstanding his or her compliance with the
22 provisions of either subsection (1) or subsection (2) of s.
23 723.071, no contract has been executed for the sale of such
24 park between himself or herself and the park homeowners'
25 association;

26 (d) The provisions of subsections (1) and (2) of s.
27 723.071 are inapplicable to a particular sale or transfer of
28 such park by him or her, and compliance with such subsections
29 is not required; or

30 (e) A particular sale or transfer of such park is
31 exempted from the provisions of this section and s. 723.071.

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2 Any party acquiring an interest in a mobile home park, and any
3 and all title insurance companies and attorneys preparing,
4 furnishing, or examining any evidence of title, have the
5 absolute right to rely on the truth and accuracy of all
6 statements appearing in such affidavit and are under no
7 obligation to inquire further as to any matter or fact
8 relating to the park owner's compliance with the provisions of
9 s. 723.071.

10 Section 4. Paragraph (b) of subsection (2) of section
11 723.078, Florida Statutes, is amended to read:

12 723.078 Bylaws of homeowners' associations.--In order
13 for a homeowners' association to exercise the rights provided
14 in s. 723.071, the bylaws of the association shall provide for
15 the following:

16 (2) The bylaws shall provide and, if they do not,
17 shall be deemed to include, the following provisions:

18 (b) A majority of the members shall constitute a
19 quorum unless the bylaws of the homeowners' association
20 provide that a lesser number of members constitutes a quorum.

21 Decisions shall be made by a majority of members represented
22 at a meeting at which a quorum is present. In addition,
23 provision shall be made in the bylaws for definition and use
24 of proxy. Any proxy given shall be effective only for the
25 specific meeting for which originally given and any lawfully
26 adjourned meetings thereof. In no event shall any proxy be
27 valid for a period longer than 120 days after the date of the
28 first meeting for which it was given. Every proxy shall be
29 revocable at any time at the pleasure of the member executing
30 it.

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1 Section 5. This act shall take effect October 1 of the
2 year in which enacted.

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5 LEGISLATIVE SUMMARY

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

- 7 1. Revise the definition of the term "pass-through
8 charge" for the purpose of specifying a mobile home park
9 owner's proportionate share of described costs.
10 2. Revise provisions relating to the sale of a
11 mobile home park with respect to a bona fide offer of
12 purchase made to a mobile home park owner; provide for
13 rights of mobile home owners when such an offer of
14 purchase includes other property or more than one mobile
15 home park; revise the definition of the term "affiliate."
16 3. Revise provisions with respect to bylaws of
17 homeowners' associations relating to the number of
18 members which constitutes a quorum.

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