

By Senator Latvala

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1 A bill to be entitled
2 An act relating to mobile home parks; amending
3 s. 723.003, F.S.; defining the term
4 "pass-through charge"; limiting pass-through
5 charges; amending s. 723.005, F.S.; authorizing
6 the Division of Florida Land Sales,
7 Condominiums, and Mobile Homes of the
8 Department of Business and Professional
9 Regulation to enforce provisions relating to
10 unreasonable lot rentals; amending s. 723.004,
11 F.S.; empowering local governments to establish
12 alternative dispute resolution forums; amending
13 s. 723.011, F.S.; revising provisions relating
14 to the division's role in approving
15 prospectuses; requiring copies of prospectuses
16 to be maintained and provided to mobile home
17 owners, upon request; amending s. 723.012,
18 F.S.; requiring prospectuses to disclose when
19 they were deemed adequate by the division and
20 requiring that they include a notice that the
21 rent should be expected to increase; amending
22 s. 723.021, F.S.; authorizing the division to
23 take certain action against parties not acting
24 in good faith; amending s. 723.022, F.S.;
25 requiring park owners to maintain certain plant
26 materials; amending s. 723.033, F.S.; providing
27 judicial guidelines for determining
28 unreasonable rent increases; amending s.
29 727.037, F.S.; requiring the division to
30 maintain certain records; providing that a park
31 owner is bound by a required summary of rental

1 increase factors; authorizing parties to
2 petition the division for a good-faith
3 determination; amending s. 723.059, F.S.;
4 deleting a requirement that a park owner
5 approve prospective purchases of homes;
6 providing seller's duties; requiring notice of
7 proposed rental increases to purchasers;
8 amending s. 320.77, F.S.; redefining the term
9 "mobile home broker"; providing an effective
10 date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsection (10) of section 723.003, Florida
15 Statutes, is amended to read:

16 723.003 Definitions.--As used in this chapter, the
17 following words and terms have the following meanings unless
18 clearly indicated otherwise:

19 (10) The term "pass-through charge" means the mobile
20 home owner's proportionate share of the necessary and actual
21 direct costs and impact or hookup fees for a governmentally
22 mandated capital improvement, which may include the necessary
23 and actual direct costs and impact or hookup fees incurred for
24 capital improvements required for public or private regulated
25 utilities. However, the pass-through charge only includes that
26 portion of the total capitalized expense that cannot be
27 depreciated or amortized under regulations of the Internal
28 Revenue Service.

29 Section 2. Section 723.005, Florida Statutes, is
30 amended to read:

31

1 723.005 Regulation by division.--The division has the
2 power and duty to enforce and ensure compliance with ~~the~~
3 ~~provisions of this chapter and rules adopted thereunder~~
4 ~~promulgated pursuant hereto~~ relating to the rental,
5 development, and sale of mobile home parks. However, the
6 division does not have the power or duty to enforce mobile
7 home park rules and regulations or to enforce the provisions
8 of ss. ~~723.022~~,723.023,and 723.033.

9 Section 3. Subsection (6) is added to section 723.004,
10 Florida Statutes, to read:

11 723.004 Legislative intent; preemption of subject
12 matter.--

13 (6) Notwithstanding the provisions of subsection (3),
14 a municipality or county may establish an alternative dispute
15 resolution forum having jurisdiction over disputes arising
16 between mobile home park owners and either mobile home owners
17 or a mobile homeowners association which arise under the
18 prospectus, park rules, or this chapter.

19 Section 4. Subsection (1) of section 723.011, Florida
20 Statutes, is amended to read:

21 723.011 Disclosure prior to rental of a mobile home
22 lot; prospectus, filing, approval.--

23 (1)(a) In a mobile home park containing 26 or more
24 lots, the park owner shall file a prospectus with the
25 division. Prior to entering into an enforceable rental
26 agreement for a mobile home lot, the park owner shall deliver
27 to the homeowner a prospectus considered adequate ~~approved~~ by
28 the division. This subsection may ~~shall~~ not be construed to
29 invalidate those lot rental agreements for which a ~~an approved~~
30 prospectus considered adequate by the division was required to
31

1 be delivered and which was delivered on or before July 1,
2 1986, if the mobile home park owner had:

3 1. Filed a prospectus with the division prior to
4 entering into the lot rental agreement;

5 2. Made a good-faith ~~good faith~~ effort to correct
6 deficiencies cited by the division by responding within the
7 time limit set by the division, if one was set; and

8 3. Delivered the ~~approved~~ prospectus to the mobile
9 home owner within 45 days after it was considered adequate of
10 ~~approval~~ by the division.

11
12 This paragraph does ~~shall~~ not preclude the finding that a lot
13 rental agreement is invalid on other grounds and may ~~shall~~ not
14 be construed to limit any rights of a mobile home owner or to
15 preclude a mobile home owner from seeking any remedies allowed
16 by this chapter, including a determination that the lot rental
17 agreement or any part thereof is unreasonable.

18 (b) The division shall determine whether the proposed
19 prospectus or offering circular is adequate to meet the
20 requirements of this chapter and shall notify the park owner
21 by mail, within 45 days after ~~of~~ receipt of the document, that
22 the division has deemed ~~either approved~~ the prospectus or
23 offering circular adequate or found specified deficiencies.
24 ~~If in the event~~ the division does not deem ~~approve~~ the
25 prospectus adequate or advise the park owner of deficiencies
26 within 45 days, the prospectus shall automatically be deemed
27 adequate ~~to be approved~~.

28 (c)1. Filings for mobile home parks in which lots have
29 not been offered for lease prior to June 4, 1984, shall be
30 accompanied by a filing fee of \$10 per lot offered for lease
31

1 by the park owner; however, the fee shall not be less than
2 \$100.

3 2. Filings for mobile home parks in which lots have
4 been offered for lease prior to the effective date of this
5 chapter shall be accompanied by a filing fee as follows:

6 a. For a park in which there are 26-50 lots: \$100.

7 b. For a park in which there are 51-100 lots: \$150.

8 c. For a park in which there are 101-150 lots: \$200.

9 d. For a park in which there are 151-200 lots: \$250.

10 e. For a park in which there are 201 or more lots:
11 \$300.

12 (d) After being deemed adequate, the prospectus and
13 any amendments thereto for each lot in the mobile home park
14 shall be maintained in the mobile home park by the park owner.
15 The park owner shall make available to a mobile home owner
16 additional copies of the prospectus and any amendments thereto
17 which relate to the lot occupied by the mobile home owner,
18 upon request. After the initial prospectus is provided to the
19 mobile home owner, the park owner may charge the mobile home
20 owner the actual costs for such copies.

21 (e) The division shall maintain copies of each
22 prospectus and any amendments thereto which it has deemed
23 adequate.

24 Section 5. Subsection (1) of section 723.012, Florida
25 Statutes, is amended to read:

26 723.012 Prospectus or offering circular.--The
27 prospectus or offering circular, which is required to be
28 provided by s. 723.011, must contain the following
29 information:

30 (1) The front cover or the first page must contain
31 only:

1 (a) The name of the mobile home park, the date the
2 prospectus was deemed adequate by the division, and the number
3 of any other prospectuses deemed adequate.

4 (b) The following statements in conspicuous type:

5 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS
6 IMPORTANT MATTERS TO BE CONSIDERED IN LEASING A MOBILE HOME
7 LOT.

8 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
9 NATURE. A PROSPECTIVE LESSEE SHOULD REFER TO ALL REFERENCES,
10 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
11 MATERIALS.

12 3. ORAL REPRESENTATIONS SHOULD NOT BE RELIED UPON AS
13 CORRECTLY STATING THE REPRESENTATIONS OF THE PARK OWNER OR
14 OPERATOR. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND
15 ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

16 4. UPON DELIVERY OF THE PROSPECTUS TO A PROSPECTIVE
17 LESSEE, THE RENTAL AGREEMENT IS VOIDABLE BY THE LESSEE FOR A
18 PERIOD OF 15 DAYS.

19 5. YOU SHOULD EXPECT YOUR LOT RENT TO INCREASE. THE
20 METHOD BY WHICH YOUR LOT RENT WILL INCREASE IS SET FORTH ON
21 PAGE _____ OF THIS DOCUMENT. THE PARK OWNER, IN ACCORDANCE WITH
22 SECTION 723.037, FLORIDA STATUTES, MUST GIVE NOTICE OF AN
23 INCREASE IN RENT.

24 Section 6. Section 723.021, Florida Statutes, is
25 amended to read:

26 723.021 Obligation of good faith and fair
27 dealings.--Every rental agreement or duty within this chapter
28 imposes an obligation of good faith and fair dealings in its
29 performance or enforcement. If the division determines that a
30 party has not acted in good faith and with fair dealings, it
31 may take any action authorized by s. 723.006. Either party to

1 a dispute under this chapter may seek a judicial ~~an~~ order
2 finding that the other party has not complied with the
3 obligations of good faith and fair dealings. Upon such a
4 finding, the court shall award reasonable costs and attorney's
5 fees to the prevailing party for proving the noncompliance.

6 Section 7. Subsection (2) of section 723.022, Florida
7 Statutes, is amended to read:

8 723.022 Mobile home park owner's general
9 obligations.--A mobile home park owner shall at all times:

10 (2) Maintain buildings and improvements in common
11 areas in a good state of repair and maintenance; ~~and~~ maintain
12 the common areas in a good state of appearance, safety, and
13 cleanliness; and maintain trees, shrubs, and other vegetation
14 not planted by mobile home owners, removing any such
15 vegetation that threatens the safety of a mobile home.

16 Section 8. Subsection (5) of section 723.033, Florida
17 Statutes, is amended to read:

18 723.033 Unreasonable lot rental agreements; increases,
19 changes.--

20 (5) In determining market rent, the court may consider
21 rents charged by comparable mobile home parks in its
22 competitive area. To be comparable, a mobile home park must
23 offer similar facilities, services, amenities, and management
24 and be in the same geographical region not less than 25 miles
25 from the park. A rental increase that is not authorized by
26 this section is deemed to be unreasonable.

27 Section 9. Subsections (3) and (4) of section 727.037,
28 Florida Statutes, are amended and subsection (7) is added to
29 that section to read:

30 723.037 Lot rental increases; reduction in services or
31 utilities; change in rules and regulations; mediation.--

1 (3) The park owner shall file annually with the
2 division a copy of any notice of a lot rental amount increase.
3 The notice shall be filed on or before January 1 of each year
4 for any notice given during the preceding year. If the actual
5 increase is an amount less than the proposed amount stated in
6 the notice, the park owner shall notify the division of the
7 actual amount of the increase within 30 days after ~~of~~ the
8 effective date of the increase or at the time of filing,
9 whichever is later. The division shall keep the notices in its
10 active files for at least 5 years.

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

19 (b) At the meeting, the park owner or subdivision
20 developer shall in good faith disclose and explain all
21 material factors resulting in the decision to increase the lot
22 rental amount, reduce services or utilities, or change rules
23 and regulations, including how those factors justify the
24 specific change proposed. The park owner or subdivision
25 developer may not limit the discussion of the reasons for the
26 change to generalities only, such as, but not limited to,
27 increases in operational costs, changes in economic
28 conditions, or rents charged by comparable mobile home parks.
29 For example, if the reason for an increase in lot rental
30 amount is an increase in operational costs, the park owner
31 must disclose the item or items which have increased, the

1 amount of the increase, any similar item or items which have
2 decreased, and the amount of the decrease. If an increase is
3 based upon the lot rental amount charged by comparable mobile
4 home parks, the park owner shall disclose the name, address,
5 lot rental amount, and any other relevant factors concerning
6 the mobile home parks relied upon by the park owner. The park
7 owner shall prepare a written summary of the material factors
8 and retain a copy for 3 years. The park owner shall provide
9 the committee a copy of the summary at the meeting, which
10 summary is binding on the park owner during the pendency of
11 any dispute regarding rental increases, reductions in services
12 or utilities, or changes in park rules. The summary may not be
13 amended after it is provided to the committee.

14 (7) A homeowner or park owner may petition the
15 division to initiate an investigation to determine whether the
16 other party has failed to meet its obligation of good faith
17 and fair dealings and, upon a determination that such
18 obligation has not been met, take action pursuant to ss.
19 723.021 and 723.006.

20 Section 10. Subsections (1), (3), and (4) of section
21 723.059, Florida Statutes, are amended to read:

22 723.059 Rights of purchaser.--

23 (1) The purchaser of a mobile home within a mobile
24 home park may become a tenant of the park if such purchaser
25 would otherwise qualify with the requirements of entry into
26 the park under the park rules and regulations, ~~subject to the~~
27 ~~approval of the park owner, but such approval may not be~~
28 ~~unreasonably withheld.~~

29 (3) The purchaser of a mobile home who becomes a
30 resident of the mobile home park in accordance with this
31 section has the right to assume the remainder of the term of

1 any rental agreement then in effect between the mobile home
2 park owner and the seller and shall be entitled to rely on the
3 terms and conditions of the prospectus or offering circular as
4 delivered to the initial recipient. The seller shall provide
5 to the purchaser a prospectus governing the rental agreement
6 in effect on the date of the sale.

7 (4) However, nothing in this section ~~herein~~ shall be
8 construed to prohibit a mobile home park owner from increasing
9 the rental amount to be paid by the purchaser upon the
10 expiration of the assumed rental agreement if the ~~in an amount~~
11 ~~deemed appropriate by the mobile home park owner, so long as~~
12 ~~such~~ increase is disclosed to the purchaser prior to his or
13 her occupancy and is imposed in a manner consistent with the
14 initial offering circular or prospectus and this act. If a lot
15 rental increase is proposed pursuant to a prospectus other
16 than one in effect on the date of the sale, the park owner
17 must give the purchaser copies of both prospectuses. The
18 purchaser must acknowledge the proposed increase in writing
19 before it take effect.

20 Section 11. Paragraph (b) of subsection (1) of section
21 320.77, Florida Statutes, is amended to read:

22 320.77 License required of mobile home dealers.--

23 (1) DEFINITIONS.--As used in this section:

24 (b) "Mobile home broker" means any person who is
25 licensed pursuant to chapter 475 or is engaged in the business
26 of offering to procure or procuring used mobile homes for the
27 general public; who holds himself or herself out through
28 solicitation, advertisement, or otherwise as one who offers to
29 procure or procures used mobile homes for the general public;
30 or who acts as the agent or intermediary on behalf of the
31 owner or seller of a used mobile home which is for sale or who

1 assists or represents the seller in finding a buyer for the
2 mobile home.

3 Section 12. This act shall take effect July 1, 2000.
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6 SENATE SUMMARY

7 Revises several provisions relating to mobile home parks.
8 Provides a limitation on pass-through charges. Authorizes
9 the division to enforce certain provisions relating to
10 unreasonable lot rentals. Requires the division to impose
11 a civil penalty that was formerly discretionary regarding
12 violations. Authorizes the division to require certain
13 disclosures regarding rent calculations. Requires on-site
14 inspections of certain records. Revises terminology to
15 require the division to "deem adequate" certain
16 prospectuses rather than "approve" them and requires that
17 prospectuses be recorded. Requires prospectuses to
18 disclose when they were deemed adequate and to include
19 certain sample calculations regarding rent increases.
20 Authorizes the division to take certain action against
21 parties not acting in good faith. Requires park owners to
22 maintain certain plants. Provides judicial guidelines for
23 determining unreasonable lot rental increases. Requires
24 the division to keep certain filed notices of lot rental
25 increases for 5 years. Provides that a park owner is
26 bound by a rental increase summary that is required.
27 Authorizes homeowners and park owners to petition the
28 division for a determination of whether the other is
29 acting in good faith. Deletes a requirement that park
30 owners approve prospective home purchasers. Provides
31 seller's duties and requires park owners to give
purchasers notice of proposed rental increases. Empowers
local governments to establish alternative dispute
resolution forums. (See bill for details.)