

By the Committee on Regulated Industries and Senator Latvala

315-2093-00

1 A bill to be entitled
2 An act relating to mobile homes; amending s.
3 723.003, F.S.; defining the term "proportionate
4 share"; amending s. 723.005, F.S.; authorizing
5 the Division of Florida Land Sales,
6 Condominiums, and Mobile Homes of the
7 Department of Business and Professional
8 Regulation to enforce provisions relating to
9 mobile home park owners' general obligations;
10 amending s. 723.011, F.S.; revising provisions
11 relating to the division's role in approving
12 prospectuses; requiring copies of prospectuses
13 to be maintained and provided to mobile home
14 owners, upon request; amending s. 723.012,
15 F.S.; requiring prospectuses to disclose when
16 they were deemed adequate by the division and
17 requiring that they include a notice that the
18 rent should be expected to increase; amending
19 s. 723.021, F.S.; authorizing the division to
20 take certain action against parties not acting
21 in good faith; amending s. 723.033, F.S.;
22 providing judicial guidelines for determining
23 unreasonable rent increases; amending s.
24 727.037, F.S.; requiring the division to
25 maintain certain records; providing that a park
26 owner is bound by a required summary of rental
27 increase factors; authorizing parties to
28 petition the division for a good-faith
29 determination; amending s. 723.059, F.S.;
30 deleting a requirement that a park owner
31 approve prospective purchases of homes;

1 providing seller's duties; requiring notice of
2 proposed rental increases to purchasers;
3 amending s. 320.77, F.S.; redefining the term
4 "mobile home broker"; providing an effective
5 date.

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

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9 Section 1. Present subsections (11), (12), (13), and
10 (14) of section 723.003, Florida Statutes, are redesignated as
11 subsections (12), (13), (14), and (15) respectively, and a new
12 subsection (11) is added to that section to read:

13 723.003 Definitions.--As used in this chapter, the
14 following words and terms have the following meanings unless
15 clearly indicated otherwise:

16 (11) The term "proportionate share" as used in s.
17 723.003(10) is calculated by dividing equally among the
18 developed lots in the park the total costs for the necessary
19 and actual direct costs and impact or hookup fees incurred for
20 capital improvements serving the recreational and common areas
21 and all developed lots in the park.

22 Section 2. Section 723.005, Florida Statutes, is
23 amended to read:

24 723.005 Regulation by division.--The division has the
25 power and duty to enforce and ensure compliance with ~~the~~
26 ~~provisions of~~ this chapter and rules adopted thereunder
27 ~~promulgated pursuant hereto~~ relating to the rental,
28 development, and sale of mobile home parks. However, the
29 division does not have the power or duty to enforce mobile
30 home park rules and regulations or to enforce the provisions
31 of ss. ~~723.022, 723.023,~~ and 723.033.

1 Section 3. Subsection (1) of section 723.011, Florida
2 Statutes, is amended to read:

3 723.011 Disclosure prior to rental of a mobile home
4 lot; prospectus, filing, approval.--

5 (1)(a) In a mobile home park containing 26 or more
6 lots, the park owner shall file a prospectus with the
7 division. Prior to entering into an enforceable rental
8 agreement for a mobile home lot, the park owner shall deliver
9 to the homeowner a prospectus considered adequate ~~approved~~ by
10 the division. This subsection may ~~shall~~ not be construed to
11 invalidate those lot rental agreements for which an approved
12 prospectus was required to be delivered and which was
13 delivered on or before July 1, 1986, if the mobile home park
14 owner had:

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

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

20 3. Delivered the approved prospectus to the mobile
21 home owner within 45 days of approval by the division.

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23 This paragraph does ~~shall~~ not preclude the finding that a lot
24 rental agreement is invalid on other grounds and may ~~shall~~ not
25 be construed to limit any rights of a mobile home owner or to
26 preclude a mobile home owner from seeking any remedies allowed
27 by this chapter, including a determination that the lot rental
28 agreement or any part thereof is unreasonable.

29 (b) The division shall determine whether the proposed
30 prospectus or offering circular is adequate to meet the
31 requirements of this chapter and shall notify the park owner

1 by mail, within 45 days after ~~of~~ receipt of the document, that
2 the division has deemed ~~either approved~~ the prospectus or
3 offering circular adequate or found specified deficiencies.
4 ~~If in the event~~ the division does not deem ~~approve~~ the
5 prospectus adequate or advise the park owner of deficiencies
6 within 45 days, the prospectus shall automatically be deemed
7 adequate ~~to be approved~~.

8 (c)1. Filings for mobile home parks in which lots have
9 not been offered for lease prior to June 4, 1984, shall be
10 accompanied by a filing fee of \$10 per lot offered for lease
11 by the park owner; however, the fee shall not be less than
12 \$100.

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

- 16 a. For a park in which there are 26-50 lots: \$100.
17 b. For a park in which there are 51-100 lots: \$150.
18 c. For a park in which there are 101-150 lots: \$200.
19 d. For a park in which there are 151-200 lots: \$250.
20 e. For a park in which there are 201 or more lots:
21 \$300.

22 (d) After being deemed adequate, the prospectus and
23 any amendments thereto for each lot in the mobile home park
24 shall be maintained in the mobile home park by the park owner.
25 The park owner shall make available to a mobile home owner
26 additional copies of the prospectus and any amendments thereto
27 which relate to the lot occupied by the mobile home owner,
28 upon request. After the initial prospectus is provided to the
29 mobile home owner, the park owner may charge the mobile home
30 owner the actual costs for such copies.

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1 (e) The division shall maintain copies of each
2 prospectus and any amendments thereto which it has deemed
3 adequate.

4 Section 4. Subsection (1) of section 723.012, Florida
5 Statutes, is amended to read:

6 723.012 Prospectus or offering circular.--The
7 prospectus or offering circular, which is required to be
8 provided by s. 723.011, must contain the following
9 information:

10 (1) The front cover or the first page must contain
11 only:

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

15 (b) The following statements in conspicuous type:

16 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS
17 IMPORTANT MATTERS TO BE CONSIDERED IN LEASING A MOBILE HOME
18 LOT.

19 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
20 NATURE. A PROSPECTIVE LESSEE SHOULD REFER TO ALL REFERENCES,
21 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
22 MATERIALS.

23 3. ORAL REPRESENTATIONS SHOULD NOT BE RELIED UPON AS
24 CORRECTLY STATING THE REPRESENTATIONS OF THE PARK OWNER OR
25 OPERATOR. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND
26 ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

27 4. UPON DELIVERY OF THE PROSPECTUS TO A PROSPECTIVE
28 LESSEE, THE RENTAL AGREEMENT IS VOIDABLE BY THE LESSEE FOR A
29 PERIOD OF 15 DAYS.

30 5. YOU SHOULD EXPECT YOUR LOT RENT TO INCREASE. THE
31 METHOD BY WHICH YOUR LOT RENT WILL INCREASE IS SET FORTH ON

1 PAGE _____ OF THIS DOCUMENT. THE PARK OWNER, IN ACCORDANCE WITH
2 SECTION 723.037, FLORIDA STATUTES, MUST GIVE NOTICE OF AN
3 INCREASE IN RENT.

4 Section 5. Section 723.021, Florida Statutes, is
5 amended to read:

6 723.021 Obligation of good faith and fair
7 dealings.--Every rental agreement or duty within this chapter
8 imposes an obligation of good faith and fair dealings in its
9 performance or enforcement. If the division determines that a
10 party has not acted in good faith and with fair dealings, it
11 may take any action authorized by s. 723.006. Either party to
12 a dispute under this chapter may seek a judicial ~~an~~ order
13 finding that the other party has not complied with the
14 obligations of good faith and fair dealings. Upon such a
15 finding, the court shall award reasonable costs and attorney's
16 fees to the prevailing party for proving the noncompliance.

17 Section 6. Subsection (5) of section 723.033, Florida
18 Statutes, is amended to read:

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

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

28 Section 7. Subsections (3) and (4) of section 723.037,
29 Florida Statutes, are amended and subsection (7) is added to
30 that section to read:

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1 723.037 Lot rental increases; reduction in services or
2 utilities; change in rules and regulations; mediation.--

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

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

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

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

16 (7) A homeowner or park owner may petition the
17 division to initiate an investigation to determine whether the
18 other party has failed to meet its obligation of good faith
19 and fair dealings and, upon a determination that such
20 obligation has not been met, take action pursuant to ss.
21 723.021 and 723.006.

22 Section 8. Subsections (1), (3), and (4) of section
23 723.059, Florida Statutes, are amended to read:

24 723.059 Rights of purchaser.--

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

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1 (3) The purchaser of a mobile home who becomes a
2 resident of the mobile home park in accordance with this
3 section has the right to assume the remainder of the term of
4 any rental agreement then in effect between the mobile home
5 park owner and the seller and shall be entitled to rely on the
6 terms and conditions of the prospectus or offering circular as
7 delivered to the initial recipient. The seller shall provide
8 to the purchaser a prospectus governing the rental agreement
9 in effect on the date of the sale.

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

23 Section 9. Paragraph (b) of subsection (1) of section
24 320.77, Florida Statutes, is amended to read:

25 320.77 License required of mobile home dealers.--

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

27 (b) "Mobile home broker" means any person who is
28 licensed pursuant to chapter 475 or is engaged in the business
29 of offering to procure or procuring used mobile homes for the
30 general public; who holds himself or herself out through
31 solicitation, advertisement, or otherwise as one who offers to

1 procure or procures used mobile homes for the general public;
2 or who acts as the agent or intermediary on behalf of the
3 owner or seller of a used mobile home which is for sale or who
4 assists or represents the seller in finding a buyer for the
5 mobile home.

6 Section 10. This act shall take effect July 1, 2000.

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8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 Senate Bill 2342

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11 The Committee Substitute for Senate Bill:

- 12 - Deletes amendments to definition of "pass-through
13 charge" and defines "proportionate share."
14 - Deletes authority for local governments to establish
15 mobile home park dispute resolution forums.
16 - Deletes provisions relating to requirement that
17 Department of Business and Professional Regulation
18 approve the prospectus.
19 - Deletes requirement that park owners maintain certain
20 plant materials.
21 - Clarifies that to be comparable, a mobile home park must
22 be not more than 25 miles from the park where rental
23 amount is at issue.
24 - Makes technical changes.

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