

By the Committees on Comprehensive Planning, Local and Military Affairs; Regulated Industries; and Senator Latvala

316-2172-00

1                                   A bill to be entitled  
2           An act relating to mobile homes; amending s.  
3           723.003, F.S.; providing definitions; defining  
4           the term "proportionate share" for purposes of  
5           determining a pass-through charge; amending s.  
6           723.006, F.S.; authorizing the Division of  
7           Florida Land Sales, Condominiums, and Mobile  
8           Homes of the Department of Business and  
9           Professional Regulation to charge a fee for  
10          amendments to an approved prospectus or  
11          offering circular; amending s. 721.011, F.S.;  
12          requiring that a park owner and the division  
13          maintain copies of certain documents that  
14          pertain to the rental of mobile home lots;  
15          amending s. 723.012, F.S.; specifying  
16          additional information to be included in the  
17          prospectus or offering circular; creating s.  
18          723.015, F.S.; requiring park owners to make  
19          available for inspection the applicable rental  
20          agreement, rules, and prospectus; providing for  
21          the home owner to notify the park owner of any  
22          differences in the rental agreement, rules, or  
23          prospectus; providing that there is not  
24          liability on the part of the division, a park  
25          owner, or a home owner for failure to provide,  
26          obtain, or receive a copy of the applicable  
27          prospectus; amending s. 723.035, F.S.;  
28          authorizing a mobile home owner, a mobile home  
29          homeowners' association, or a park owner to  
30          seek an injunction to prohibit violations of  
31          park rules; providing for penalties and

1 enforcement; amending s. 723.037, F.S.;

2 requiring the division to maintain notices of

3 rental increases; revising the procedures under

4 which a park owner may increase the lot rental

5 amount, change the rules, or reduce services or

6 utilities; amending s. 723.051, F.S.; providing

7 for rights and obligations of guests of a

8 mobile home owner; amending s. 723.059, F.S.;

9 providing certain requirements for the seller

10 and park owner with respect to the sale of a

11 mobile home within a mobile home park; amending

12 s. 723.073, F.S.; providing requirements for

13 the conveyance of a mobile home park by an

14 assignee; amending s. 723.076, F.S.; providing

15 additional requirements for the notice by a

16 homeowners' association of its right to

17 purchase the mobile home park; amending s.

18 723.079, F.S.; authorizing an assignee of a

19 homeowners' association to exercise certain

20 powers and duties; amending s. 719.106, F.S.;

21 providing for the election of board members in

22 a mobile home cooperative homeowners'

23 association; amending s. 320.77, F.S.; defining

24 the term "mobile home broker" to include

25 persons licensed under ch. 475, F.S.; repealing

26 s. 723.0791, F.S., relating to the election of

27 board members in a mobile home cooperative

28 homeowners' association; providing an effective

29 date.

30

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

1           Section 1. Subsections (3), (5), and (7) of section  
2 723.003, Florida Statutes, are amended, present subsections  
3 (11), (12), (13), and (14) of that section are redesignated as  
4 subsections (12), (13), (14), and (15), respectively, and a  
5 new subsection (11) is added to that section, to read:

6           723.003 Definitions.--As used in this chapter, the  
7 following words and terms have the following meanings unless  
8 clearly indicated otherwise:

9           (3) The term "mobile home" or "manufactured home"  
10 means a residential structure, transportable in one or more  
11 sections, which is 8 body feet or more in width, over 35 body  
12 feet in length with the hitch, built on an integral chassis,  
13 designed to be used as a dwelling when connected to the  
14 required utilities, and not originally sold as a recreational  
15 vehicle, and includes the plumbing, heating, air-conditioning,  
16 and electrical systems contained therein.

17           (5) The term "mobile home owner," "manufactured home  
18 owner," or "home owner" means a person who owns a mobile home  
19 and rents or leases a lot within a mobile home park for  
20 residential use.

21           (7) The term "mobile home park owner," "community  
22 owner, or "park owner" means an owner or operator of a mobile  
23 home park.

24           (11) The term "proportionate share" as used in  
25 subsection (10) refers to an amount calculated by dividing  
26 equally among the developed lots in the park the total costs  
27 for the necessary and actual direct costs and impact or hookup  
28 fees incurred for capital improvements serving the  
29 recreational and common areas and all developed lots in the  
30 park.

1 Section 2. Subsection (8) of section 723.006, Florida  
2 Statutes, is amended to read:

3 723.006 Powers and duties of division.--In performing  
4 its duties, the division has the following powers and duties:

5 (8) The division may ~~has the authority~~ by rule to  
6 authorize amendments permitted by this chapter to an approved  
7 prospectus or offering circular. The division may charge up to  
8 \$100 for each amendment filing.

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

11 723.011 Disclosure prior to rental of a mobile home  
12 lot; prospectus, filing, approval.--

13 (1)(a) In a mobile home park containing 26 or more  
14 lots, the park owner shall file a prospectus with the  
15 division. Prior to entering into an enforceable rental  
16 agreement for a mobile home lot, the park owner shall deliver  
17 to the homeowner a prospectus approved by the division. This  
18 subsection does ~~shall not be construed to~~ invalidate those lot  
19 rental agreements for which an approved prospectus was  
20 required to be delivered and which was delivered on or before  
21 July 1, 1986, if the mobile home park owner had:

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

24 2. Made a good faith effort to correct deficiencies  
25 cited by the division by responding within the time limit set  
26 by the division, if one was set; and

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

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30 This paragraph does ~~shall~~ not preclude the finding that a lot  
31 rental agreement is invalid on other grounds and does ~~shall~~

1 ~~not be construed to~~ limit any rights of a mobile home owner or  
2 ~~to~~ preclude a mobile home owner from seeking any remedies  
3 allowed by this chapter, including a determination that the  
4 lot rental agreement or any part thereof is unreasonable.

5 (b) The division shall determine whether the proposed  
6 prospectus or offering circular is adequate to meet the  
7 requirements of this chapter and shall notify the park owner  
8 by mail, within 45 days after ~~of~~ receipt of the document, that  
9 the division has either approved the prospectus or offering  
10 circular or found specified deficiencies. If ~~In the event~~ the  
11 division does not approve the prospectus or advise the park  
12 owner of deficiencies within 45 days, the prospectus shall be  
13 deemed to be approved.

14 (c)1. Filings for mobile home parks in which lots have  
15 not been offered for lease prior to June 4, 1984, shall be  
16 accompanied by a filing fee of \$10 per lot offered for lease  
17 by the park owner; however, the fee shall not be less than  
18 \$100.

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

- 22 a. For a park in which there are 26-50 lots: \$100.  
23 b. For a park in which there are 51-100 lots: \$150.  
24 c. For a park in which there are 101-150 lots: \$200.  
25 d. For a park in which there are 151-200 lots: \$250.  
26 e. For a park in which there are 201 or more lots:  
27 \$300.

28 (d) The park owner shall maintain a list identifying  
29 the rental agreement, rules and regulations, and prospectus  
30 that applies to each home owner or lot and shall maintain in  
31 the park a copy of each prospectus for the park which is

1 deemed adequate by the division and any amendments to the  
2 prospectus.

3 (e) The division shall maintain copies of each  
4 prospectus and all amendments to the prospectus which are  
5 deemed adequate by the division.

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

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

12 (1) The front cover or the first page must contain  
13 only:

14 (a) The name of the mobile home park.

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.

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1           5. THE FACTORS THAT WILL BE CONSIDERED FOR ADJUSTING  
2 THE LOT RENTAL AMOUNT ARE SET FORTH ON PAGES           OF THIS  
3 PROSPECTUS.

4           Section 5. Section 723.015, Florida Statutes, is  
5 created to read:

6           723.015 Notice of rental agreement, rules, and  
7 prospectus.--

8           (1) Prior to January 1, 2001, and permanently  
9 thereafter, a copy of the applicable rental agreement, rules  
10 and regulations, and prospectus as to each home owner or lot  
11 shall be maintained by the park owner and be available for  
12 inspection in the park office or in a central information  
13 site, such as the recreation hall or clubhouse.

14           (2) The home owner may request that the park owner  
15 provide a copy of the rental agreement, rules and regulations,  
16 and prospectus applicable to his or her lot.

17           (3) The park owner may charge the home owner for the  
18 actual costs of preparing and copying any copy provided, and  
19 the home owner may be required to sign a receipt acknowledging  
20 delivery of the prospectus, rules and regulations, and rental  
21 agreement. Within 14 days after the date of receipt by the  
22 home owner, the home owner shall notify the park owner in  
23 writing of any differences in the rental agreement, rules and  
24 regulations, and prospectus deemed by the park owner to be  
25 applicable to the home owner pursuant to s. 723.011(2). The  
26 home owner shall provide a copy of the documents to the park  
27 owner which the home owner contends are applicable to the  
28 mobile home owner.

29           (4) Within 14 days after receipt of the home owner's  
30 written objections, the park owner shall notify the home owner  
31 in writing by certified mail, return receipt requested, that

1 the documents provided by the home owner are the appropriate  
2 prospectus, rental agreement, and rules and regulations  
3 delivered pursuant to s. 723.011(2), or that the park owner  
4 agrees in part or disagrees with the home owner's position.

5 (5) This section is intended to correct problems  
6 concerning prospectus recordkeeping experienced by the  
7 division, park owner, and home owners. Notwithstanding any  
8 other provision of this section, there is no liability on the  
9 part of the division, a park owner, or a home owner under this  
10 section for failure to provide, obtain, or receive another  
11 copy of the prospectus deemed adequate by the division which  
12 was previously delivered to the home owner, pursuant to s.  
13 723.011(2), prior to July 1, 2000.

14 (6) The division, park owners, and home owners shall  
15 cooperate to assure that a complete and accurate copy of the  
16 prospectus, rental agreement, and rules and regulations  
17 applicable to each lot is obtained by the park owner, is  
18 available to the home owner, and is filed with the division.

19 Section 6. Subsection (3) is added to section 723.035,  
20 Florida Statutes, to read:

21 723.035 Rules and regulations.--

22 (3) A mobile home owner, a mobile home homeowners'  
23 association, or a park owner may seek an injunction from the  
24 county court to prohibit a park owner, a mobile home owner, or  
25 a mobile home homeowners' association from violating the park  
26 rules and regulations. For purposes of this section, a mobile  
27 home owner, a mobile home homeowners' association, or park  
28 owner is not required to prove irreparable harm in order to  
29 obtain the injunction, and the court may dispense with the  
30 requirement for posting a bond. The injunction may be enforced  
31 by a civil penalty of up to \$100 per day and by contempt of



1 court. This section does not preclude a party to such an  
2 action from seeking any other civil or criminal remedy  
3 available at law.

4 Section 7. Subsections (3) and (4) of section 723.037,  
5 Florida Statutes, are amended to read:

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

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

18 (4)(a) A committee, not to exceed five in number,  
19 designated by a majority of the affected mobile home owners or  
20 by the board of directors of the homeowners' association, if  
21 applicable, and the park owner shall meet, at a mutually  
22 convenient time and place within 30 days after receipt by the  
23 homeowners of the notice of change, to discuss the reasons for  
24 the increase in lot rental amount, reduction in services or  
25 utilities, or change in rules and regulations. The committee  
26 and the park owner may mutually agree, in writing, to extend  
27 the time for the meeting beyond the 30 days.

28 (b) At the meeting, the park owner or subdivision  
29 developer shall in good faith disclose and explain all  
30 material factors resulting in the decision to increase the lot  
31 rental amount, reduce services or utilities, or change rules

1 and regulations, including how those factors justify the  
2 specific change proposed. The park owner or subdivision  
3 developer may not limit the discussion of the reasons for the  
4 change to generalities only, such as, but not limited to,  
5 increases in operational costs, changes in economic  
6 conditions, or rents charged by comparable mobile home parks.  
7 For example, if the reason for an increase in lot rental  
8 amount is an increase in operational costs, the park owner  
9 must disclose the item or items which have increased, the  
10 amount of the increase, any similar item or items which have  
11 decreased, and the amount of the decrease. If an increase is  
12 based upon the lot rental amount charged by comparable mobile  
13 home parks, the park owner shall disclose the name, address,  
14 lot rental amount, facilities, services, amenities,  
15 management, and any other relevant factors concerning the  
16 mobile home parks relied upon by the park owner. Comparable  
17 mobile home parks may include those mobile home parks in the  
18 competitive area of the subject park and must include any  
19 comparable parks within 25 miles of the subject park. The park  
20 owner is not required to list more than five comparable parks  
21 within 25 miles of the subject park. The park owner shall  
22 prepare a written summary of the material factors, deliver a  
23 copy to the committee at or before the meeting, and retain a  
24 copy for 3 years. The park owner shall provide the committee a  
25 copy of the summary at the meeting.

26 (c) If the committee disagrees with the park owner,  
27 the committee shall provide a written response to the park  
28 owner identifying those matters that the committee has relied  
29 upon to determine that the lot rental amount increase is  
30 unreasonable, the change in the rules and regulations is  
31 unreasonable, or the reduction in services or utilities is

1 unreasonable. If the committee bases its decision on  
2 comparable mobile home parks, the committee shall disclose the  
3 name, address, lot rental amount, facilities, services,  
4 amenities, management, and any other relevant factors  
5 concerning the mobile home parks relied upon by the committee.  
6 The committee shall provide the disclosure and written  
7 responses to the park owner within 30 days after the meeting  
8 with the park owner and request a second meeting with the park  
9 owner, which shall be held within 15 days after the park  
10 owner's receipt of the committee's written response.

11 Section 8. Subsections (1) and (3) of section 723.051,  
12 Florida Statutes, are amended to read:

13 723.051 Invitees; rights and obligations.--

14 (1) An invitee or guest of a mobile home owner shall  
15 have ingress and egress to and from the home owner's site  
16 without the home owner or invitee being required to pay  
17 additional rent, a fee, or any charge whatsoever. Any mobile  
18 home park rule or regulation providing for fees or charges  
19 contrary to the terms of this section is null and void.

20 (3) For the purposes of this section, the term an  
21 "invitee" or "guest" means ~~is defined as~~ a person whose stay  
22 at the request of a mobile home owner does not exceed 15  
23 consecutive days or 30 total days per year, unless such person  
24 has the permission of the park owner or unless permitted by a  
25 properly promulgated rule or regulation. The spouse of a  
26 mobile home owner shall not be considered an invitee.

27 Section 9. Subsections (3) and (4) of section 723.059,  
28 Florida Statutes, are amended, and subsection (6) is added to  
29 that section, to read:

30 723.059 Rights of purchaser.--

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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. If the purchaser exercises  
8 his or her right to assume the remainder of the term of the  
9 rental agreement, the seller shall provide the purchaser with  
10 a copy of the assumed rental agreement and the prospectus.

11           (4) However, this section does not ~~nothing herein~~  
12 ~~shall be construed to~~ prohibit a mobile home park owner from  
13 increasing the rental amount to be paid by the purchaser upon  
14 the expiration of the assumed rental agreement in an amount  
15 deemed appropriate by the mobile home park owner, so long as  
16 such increase is disclosed to the purchaser in writing in  
17 accordance with s. 723.031 prior to his or her occupancy and  
18 is imposed in a manner consistent with the initial offering  
19 circular or prospectus and this act.

20           (6) The park owner may not offer a buyer another  
21 mobile home for a sale or otherwise interfere with a signed  
22 contract between the buyer and seller of a mobile home during  
23 the approval process permitted by this section.

24           Section 10. Section 723.073, Florida Statutes, is  
25 amended to read:

26           723.073 Conveyance by the association.--

27           (1) If ~~in the event that~~ an association or its  
28 assignee acquires a mobile home park and intends to reconvey a  
29 portion or portions of the property acquired to members of the  
30 association, the association shall record copies of its  
31 articles and bylaws and any additional covenants,

1 restrictions, or declarations of servitude affecting the  
2 property with the clerk of the circuit court prior to the  
3 conveyance of any portion of the property to an individual  
4 member of the association. To create a mobile home cooperative  
5 after acquisition of the property, the association shall  
6 record the cooperative documents, as required by chapter 719,  
7 in the county where the property is located. The effective  
8 date of the cooperative shall be the date of the recording.

9 (2) An association, or its assignee, which ~~that~~  
10 acquires a mobile home park pursuant to s. 723.071 is exempt  
11 from s. 719.1035 and the requirements of part VI of chapter  
12 718 and part VI of chapter 719.

13 Section 11. Subsections (1) and (3) of section  
14 723.076, Florida Statutes, are amended to read:

15 723.076 Incorporation; notification of park owner.--

16 (1) Upon receipt of its certificate of incorporation,  
17 the homeowners' association shall notify the park owner in  
18 writing of such incorporation and shall advise the park owner  
19 of the names and addresses of the board of directors ~~officers~~  
20 of the homeowners' association by personal delivery upon the  
21 park owner's representative as designated in the prospectus or  
22 by certified mail, return receipt requested. Thereafter, the  
23 homeowners' association shall notify the park owner in writing  
24 by certified mail, return receipt requested, of any change of  
25 names and addresses of its board of directors ~~president~~ or  
26 registered agent.

27 (3) The homeowners' association shall file a notice of  
28 its right to purchase the mobile home park as set forth in s.  
29 723.071. The notice shall contain the name of the  
30 association, the name of the park owner, ~~and~~ the address or  
31 legal description of the park, and the names and addresses of

1 the officers of the association to receive notice under s.  
2 723.071. The notice shall be recorded with the clerk of the  
3 circuit court in the county where the mobile home park is  
4 located. Within 10 days after ~~of~~ the recording, the  
5 homeowners' association shall provide a copy of the recorded  
6 notice to the park owner at the address provided by the park  
7 owner by certified mail, return receipt requested. Thereafter,  
8 the homeowners' association shall notify the park owner in  
9 writing by certified mail, return receipt requested, of any  
10 change of names and addresses of its officers identified in  
11 the notice filed with the clerk of the circuit court.

12 Section 12. Subsections (9) and (10) of section  
13 723.079, Florida Statutes, are amended to read:

14 723.079 Powers and duties of homeowners'  
15 association.--

16 (9) An association organized under this chapter, or  
17 its assignee, may offer subscriptions, for the purpose of  
18 raising the necessary funds to purchase, acquire, and operate  
19 the mobile home park, to its members or other owners of mobile  
20 homes within the park. Subscription funds collected for the  
21 purpose of purchasing the park shall be placed in an  
22 association or other escrow account prior to purchase, which  
23 funds shall be held according to the terms of the subscription  
24 agreement. The directors, or the assignee, shall maintain  
25 accounting records according to generally accepted accounting  
26 practices and shall, upon written request by a subscriber,  
27 furnish an accounting of the subscription fund escrow account  
28 within 60 days of the purchase of the park or the ending date  
29 as provided in the subscription agreement, whichever occurs  
30 first.

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1           (10) For a period of 180 days after the date of a  
2 purchase of a mobile home park by the association or its  
3 assignee, the association or its assignee shall not be  
4 required to comply with the provisions of part V of chapter  
5 718 or part V of chapter 719, as to mobile home owners or  
6 persons who have executed contracts to purchase mobile homes  
7 in the park.

8           Section 13. Subsection (3) is added to section  
9 719.106, Florida Statutes, to read:

10           719.106 Bylaws; cooperative ownership.--

11           (3) ELECTION OF BOARD MEMBERS.--Notwithstanding  
12 paragraph (1)(b), the election of board members in a mobile  
13 home cooperative homeowners' association may be carried out in  
14 the manner provided for in the bylaws of the association. The  
15 term "mobile home cooperative" means a residential cooperative  
16 that consists of real property at which ten or more mobile  
17 homes are located or to which they are affixed.

18           Section 14. Paragraph (b) of subsection (1) of section  
19 320.77, Florida Statutes, is amended to read:

20           320.77 License required of mobile home dealers.--

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

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

1           Section 15. Section 723.0791, Florida Statutes, is  
2 repealed.

3           Section 16. This act shall take effect July 1, 2000.

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5                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
6   COMMITTEE SUBSTITUTE FOR  
7   CS/SB 2342

8 Authorizes the Division of Florida Land Sales, Condominiums,  
9 and Mobile Homes (division) to charge a filing fee of up to  
\$100 for each prospectus amendment filing.

10 Creates a procedure for a mobile home owner to declare the  
11 version of the prospectus he believes applies to his tenancy.

12 Requires park owners to include a statement in the front cover  
13 of the prospectus or offering circular that the factors for  
14 adjusting the lot rental amount are located on which pages of  
the document, rather than a statement that the lot rental  
amount will increase.

15 Provides that a mobile home owner, home owner's association or  
16 park owner may seek injunctive relief to prohibit violations  
of the parks rules and regulations.

17 Provides that in determining market rent, a mobile home park  
18 is comparable if it is in the same competitive area of the  
subject park and must include comparable parks within 25 miles  
of the subject park.

19 Provides that where a committee of home owners is organized to  
20 evaluate a lot rental increase, the park owner shall deliver a  
21 written copy of the material factors on which the increase was  
22 based before the committee meeting and the committee, after  
its deliberations, must provide a written response to the park  
owner describing the factors on which it relied in concluding  
that the increase is unreasonable.

23 Provides that if the purchaser of a mobile home assumes the  
24 remainder of the term of a lot rental agreement, the seller  
25 must provide the purchaser with a copy of the assumed rental  
26 agreement and prospectus and the park owner is prohibited from  
27 interfering with a contract between the seller and buyer of a  
28 mobile home.  
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