

By Senators Saunders, Latvala, Sebesta, Carlton, Laurent and Kurth

25-393-00

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; redefining the term
12 "affiliate"; amending s. 723.072, F.S.;
13 conforming cross-references; amending s.
14 723.078, F.S., relating to bylaws of
15 homeowners' associations; revising the quorum
16 requirements; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. Subsection (10) of section 723.003, Florida
21 Statutes, is amended to read:

22 723.003 Definitions.--As used in this chapter, the
23 following words and terms have the following meanings unless
24 clearly indicated otherwise:

25 (10) The term "pass-through charge" means the mobile
26 home owner's proportionate share of the necessary and actual
27 direct costs and impact or hookup fees for a governmentally
28 mandated capital improvement, which may include the necessary
29 and actual direct costs and impact or hookup fees incurred for
30 capital improvements required for public or private regulated
31 utilities. The mobile home park owner's proportionate share is

1 that portion of actual direct costs and impact or hookup fees
2 attributable to governmentally mandated capital improvements
3 that serve or will serve empty lots, property of undeveloped
4 phases, and any property used and maintained by the park owner
5 which is not occupied by a mobile home owned by a mobile home
6 owner.

7 Section 2. Section 723.071, Florida Statutes, is
8 amended to read:

9 723.071 Sale of mobile home parks.--

10 (1)(a) If a mobile home park owner offers a mobile
11 home park for sale or receives a bona fide offer to purchase
12 the park which the owner intends to consider or make a counter
13 offer to, she or he shall notify the officers of the
14 homeowners' association created pursuant to ss.

15 723.075-723.079 of the offer, stating the price and the terms
16 and conditions of sale.

17 (b) The mobile home owners, by and through the
18 association defined in s. 723.075, ~~shall~~ have the right to
19 purchase the park if, provided the home owners meet the price
20 and terms and conditions of the offer to purchase or the offer
21 by the mobile home park owner to sell by executing a contract
22 with the park owner within 45 days, unless agreed to
23 otherwise, from the date of mailing of the notice and if
24 ~~provided~~ they have complied with ss. 723.075-723.079. If a
25 contract between the park owner and the association is not
26 executed within the ~~such~~ 45-day period, then, unless the park
27 owner thereafter elects to offer the park at a price lower
28 than the price specified in the ~~her or his~~ notice to the
29 officers of the homeowners' association, the park owner has no
30 further obligations under this subsection, and has ~~her or his~~
31 only the obligation ~~shall be as~~ set forth in subsection (2).

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

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

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

29 (3)(a) As used in subsection ~~subsections~~ (1) and ~~(2)~~,
30 the term "notify" means the mailing ~~placing~~ of a notice by
31 certified ~~in the United States~~ mail addressed to the officers

1 of the homeowners' association. Each such notice is considered
2 ~~shall be deemed~~ to have been given upon the deposit of the
3 notice in the United States mail.

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

7 (4) This section does not apply to:

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

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

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

19 (d) Any transfer by a partnership to any of its
20 partners.

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

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

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

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

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

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

5 723.072 Affidavit of compliance with statutory
6 requirements.--

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

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

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

18 (c) Notwithstanding his or her compliance with the
19 provisions of either subsection (1) or subsection (2) of s.
20 723.071, no contract has been executed for the sale of such
21 park between himself or herself and the park homeowners'
22 association;

23 (d) The provisions of subsections (1) and (2) of s.
24 723.071 are inapplicable to a particular sale or transfer of
25 such park by him or her, and compliance with such subsections
26 is not required; or

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

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30 Any party acquiring an interest in a mobile home park, and any
31 and all title insurance companies and attorneys preparing,

1 furnishing, or examining any evidence of title, have the
2 absolute right to rely on the truth and accuracy of all
3 statements appearing in such affidavit and are under no
4 obligation to inquire further as to any matter or fact
5 relating to the park owner's compliance with the provisions of
6 s. 723.071.

7 Section 4. Paragraph (b) of subsection (2) of section
8 723.078, Florida Statutes, is amended to read:

9 723.078 Bylaws of homeowners' associations.--In order
10 for a homeowners' association to exercise the rights provided
11 in s. 723.071, the bylaws of the association shall provide for
12 the following:

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

15 (b) A majority of the members shall constitute a
16 quorum, unless the bylaws of the homeowners' association
17 provide that a lesser number of members constitutes a quorum.
18 Decisions shall be made by a majority of members represented
19 at a meeting at which a quorum is present. In addition,
20 provision shall be made in the bylaws for definition and use
21 of proxy. Any proxy given shall be effective only for the
22 specific meeting for which originally given and any lawfully
23 adjourned meetings thereof. In no event shall any proxy be
24 valid for a period longer than 120 days after the date of the
25 first meeting for which it was given. Every proxy shall be
26 revocable at any time at the pleasure of the member executing
27 it.

28 Section 5. This act shall take effect October 1, 2000.
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SENATE SUMMARY

Revises the provisions of the Florida Mobile Home Act to:

1. Revise the definition of the term "pass-through charge" for the purpose of specifying a mobile home park owner's proportionate share of described costs.

2. Revise provisions relating to the sale of a mobile home park with respect to a bona fide offer of purchase made to a mobile home park owner; provide for rights of mobile home owners when such an offer of purchase includes other property or more than one mobile home park; revise the definition of the term "affiliate."

3. Revise provisions with respect to bylaws of homeowners' associations relating to the number of members which constitutes a quorum.