

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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4		.	

ORIGINAL STAMP BELOW

11 The Committee on Agriculture & Consumer Affairs offered the
12 following:

14 **Amendment (with title amendment)**

15 Remove from the bill: Everything after the enacting clause
16
17 and insert in lieu thereof:

18 Section 1. Present subsections (11), (12), (13), and
19 (14) of section 723.003, Florida Statutes, are renumbered as
20 subsections (12), (13), (14), and (15), respectively, and a
21 new subsection (11) is added to that section, 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 (11) The term "proportionate share" as used in
26 subsection (10) means an amount calculated by dividing equally
27 among the affected developed lots in the park the total costs
28 for the necessary and actual direct costs and impact or hookup
29 fees incurred for governmentally mandated capital improvements
30 serving the recreational and common areas and all affected
31 developed lots in the park.

Amendment No. ____ (for drafter's use only)

1 Section 2. 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 approved by the division. This
10 subsection does ~~shall not be construed to~~ invalidate those lot
11 rental agreements for which an approved prospectus was
12 required to be delivered and which was delivered on or before
13 July 1, 1986, if the mobile home park owner had:

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

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

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

21
22 This paragraph does ~~shall~~ not preclude the finding that a lot
23 rental agreement is invalid on other grounds and does ~~shall~~
24 ~~not be construed to~~ limit any rights of a mobile home owner or
25 ~~to~~ preclude a mobile home owner from seeking any remedies
26 allowed by this chapter, including a determination that the
27 lot rental agreement or any part thereof is unreasonable.

28 (b) The division shall determine whether the proposed
29 prospectus or offering circular is adequate to meet the
30 requirements of this chapter and shall notify the park owner
31 by mail, within 45 days after ~~of~~ receipt of the document, that

Amendment No. ____ (for drafter's use only)

1 the division has found that ~~either approved~~ the prospectus or
2 offering circular is adequate or has found specified
3 deficiencies. ~~If in the event~~ the division does not make
4 either finding ~~approve the prospectus or advise the park owner~~
5 ~~of deficiencies~~ within 45 days, the prospectus shall be deemed
6 to have been found adequate ~~be approved~~.

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

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

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

21 (d) The division shall maintain copies of each
22 prospectus and all amendments to each prospectus which are
23 considered adequate by the division. The division shall
24 provide copies of documents requested in writing under this
25 subsection within 10 days after the written request is
26 received.

27 Section 3. Subsection (1) of section 723.012, Florida
28 Statutes, is amended to read:

29 723.012 Prospectus or offering circular.--The
30 prospectus or offering circular, which is required to be
31 provided by s. 723.011, must contain the following

Amendment No. ____ (for drafter's use only)

1 information:

2 (1) The front cover or the first page must contain
3 only:

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

5 (b) The following statements in conspicuous type:

6 1. THIS PROSPECTUS CONTAINS VERY IMPORTANT INFORMATION
7 REGARDING YOUR LEGAL RIGHTS AND YOUR FINANCIAL OBLIGATIONS IN
8 LEASING A MOBILE HOME LOT. MAKE SURE THAT YOU READ THE ENTIRE
9 DOCUMENT AND SEEK LEGAL ADVICE IF YOU HAVE ANY QUESTIONS
10 REGARDING THE INFORMATION SET FORTH IN THIS DOCUMENT~~(OFFERING~~
11 ~~CIRCULAR) CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN~~
12 ~~LEASING A MOBILE HOME LOT.~~

13 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
14 NATURE. A PROSPECTIVE LESSEE SHOULD REFER TO ALL REFERENCES,
15 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
16 MATERIALS.

17 3. ORAL REPRESENTATIONS SHOULD NOT BE RELIED UPON AS
18 CORRECTLY STATING THE REPRESENTATIONS OF THE PARK OWNER OR
19 OPERATOR. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND
20 ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

21 4. UPON DELIVERY OF THE PROSPECTUS TO A PROSPECTIVE
22 LESSEE, THE RENTAL AGREEMENT IS VOIDABLE BY THE LESSEE FOR A
23 PERIOD OF 15 DAYS.

24 Section 4. Subsection (4) and paragraph (a) of
25 subsection (5) of section 723.037, Florida Statutes, are
26 amended to read:

27 723.037 Lot rental increases; reduction in services or
28 utilities; change in rules and regulations; mediation.--

29 (4)(a) A committee, not to exceed five in number,
30 designated by a majority of the affected mobile home owners or
31 by the board of directors of the homeowners' association, if

Amendment No. ____ (for drafter's use only)

1 applicable, and the park owner shall meet, at a mutually
2 convenient time and place within 30 days after receipt by the
3 homeowners of the notice of change, to discuss the reasons for
4 the increase in lot rental amount, reduction in services or
5 utilities, or change in rules and regulations.

6 (b) At the meeting, the park owner or subdivision
7 developer shall in good faith disclose and explain all
8 material factors resulting in the decision to increase the lot
9 rental amount, reduce services or utilities, or change rules
10 and regulations, including how those factors justify the
11 specific change proposed. The park owner or subdivision
12 developer may not limit the discussion of the reasons for the
13 change to generalities only, such as, but not limited to,
14 increases in operational costs, changes in economic
15 conditions, or rents charged by comparable mobile home parks.
16 For example, if the reason for an increase in lot rental
17 amount is an increase in operational costs, the park owner
18 must disclose the item or items which have increased, the
19 amount of the increase, any similar item or items which have
20 decreased, and the amount of the decrease. If an increase is
21 based upon the lot rental amount charged by comparable mobile
22 home parks, the park owner shall disclose, and provide in
23 writing to the committee at or before the meeting, the name,
24 address, lot rental amount, and any other relevant factors
25 relied upon by the park owner such as, facilities, services,
26 and amenities concerning the comparable mobile home parks
27 ~~relied upon by the park owner~~. The park owner shall prepare a
28 written summary of the material factors and retain a copy for
29 3 years. The park owner shall provide the committee a copy of
30 the summary at or before the meeting.

31 (c) If the committee disagrees with a park owner's lot

Amendment No. ____ (for drafter's use only)

1 rental amount increase based upon comparable mobile home
2 parks, the committee shall disclose to the park owner the
3 name, address, lot rental amount, and any other relevant
4 factors relied upon by the committee such as, facilities,
5 services, and amenities concerning the comparable mobile home
6 parks. The committee shall provide to the park owner the
7 disclosure, in writing, within 15 days after the meeting with
8 the park owner, together with a request for a second meeting.

9 (d) The committee and the park owner may mutually
10 agree, in writing, to extend or continue any meetings required
11 by this section.

12 (e) Either party may prepare and use additional
13 information to support its position during or subsequent to
14 the meetings required by this section.

15 (5)(a) Within 30 days after the date of the last
16 scheduled meeting date described in subsection (4), the
17 homeowners may petition the division to initiate mediation of
18 the dispute pursuant to s. 723.038 if a majority of the
19 affected homeowners have designated, in writing, that:

- 20 1. The rental increase is unreasonable;
- 21 2. The rental increase has made the lot rental amount
22 unreasonable;
- 23 3. The decrease in services or utilities is not
24 accompanied by a corresponding decrease in rent or is
25 otherwise unreasonable; or
- 26 4. The change in the rules and regulations is
27 unreasonable.

28 Section 5. Section 723.061, Florida Statutes, is
29 amended to read:

30 723.061 Eviction; grounds, proceedings.--

31 (1) A mobile home park owner may evict a mobile home

Amendment No. ____ (for drafter's use only)

1 owner or a mobile home only on one or more of the grounds
2 provided in this section.

3 (a) Nonpayment of lot rental amount. If a mobile home
4 owner fails to pay the lot rental amount when due and if the
5 default continues for 5 days after delivery of a written
6 demand by the mobile home park owner for payment of the lot
7 rental amount, the park owner may terminate the tenancy.
8 However, if the mobile home owner pays the lot rental amount
9 due, including any late charges, court costs, and attorney's
10 fees, the court may, for good cause, deny the order of
11 eviction, provided such nonpayment has not occurred more than
12 twice.

13 (b) Conviction of a violation of a federal or state
14 law or local ordinance, which violation may be deemed
15 detrimental to the health, safety, or welfare of other
16 residents of the mobile home park.

17 (c) Violation of a park rule or regulation, the rental
18 agreement, or this chapter.

19 1. For the first violation of any properly promulgated
20 rule or regulation, rental agreement provision, or this
21 chapter which is found by any court having jurisdiction
22 thereof to have been an act which endangered the life, health,
23 safety, or property of the park residents or the peaceful
24 enjoyment of the mobile home park by its residents, the mobile
25 home park owner may terminate the rental agreement, and the
26 mobile home owner will have 7 days from the date that the
27 notice is delivered to vacate the premises.

28 2. For a second violation of the same properly
29 promulgated rule or regulation, rental agreement provision, or
30 this chapter within 12 months, the mobile home park owner may
31 terminate the tenancy if she or he has given the mobile home

Amendment No. ____ (for drafter's use only)

1 owner written notice within 30 days of the first violation,
2 which notice specified the actions of the mobile home owner
3 which caused the violation and gave the mobile home owner 7
4 days to correct the noncompliance. The mobile home owner must
5 have received written notice of the ground upon which she or
6 he is to be evicted at least 30 days prior to the date on
7 which she or he is required to vacate. A second violation of
8 a properly promulgated rule or regulation, rental agreement
9 provision, or this chapter within 12 months of the first
10 violation is unequivocally a ground for eviction, and it is
11 not a defense to any eviction proceeding that a violation has
12 been cured after the second violation. Violation of a rule or
13 regulation, rental agreement provision, or this chapter after
14 the passage of 1 year from the first violation of the same
15 rule or regulation, rental agreement provision, or this
16 chapter does not constitute a ground for eviction under this
17 section.

18
19 No properly promulgated rule or regulation may be arbitrarily
20 applied and used as a ground for eviction.

21 (d) Change in use of the land comprising the mobile
22 home park, or the portion thereof from which mobile homes are
23 to be evicted, from mobile home lot rentals to some other use,
24 provided all tenants affected are given at least 6 month's ±
25 ~~year's~~ notice of the projected change of use and of their need
26 to secure other accommodations. The park owner may not give a
27 notice of increase in lot rental amount 90 days before giving
28 notice of a change in land use.

29 (e) Failure of the purchaser of a mobile home situated
30 in the mobile home park to be qualified as, and to obtain
31 approval to become, a tenant, if such approval is required by

Amendment No. ____ (for drafter's use only)

1 a properly promulgated rule.

2 (2) In the event of eviction for change of land use,
3 homeowners must object to the change in land use by
4 petitioning for administrative or judicial remedies within 90
5 days of the date of the notice or they will be barred from
6 taking any subsequent action to contest the change in land
7 use. This provision shall not be construed to prevent any
8 homeowner from objecting to a zoning change at any time.

9 ~~(a) Within 90 days from the time the park owner gives~~
10 ~~the 1-year notice, she or he shall notify the homeowner of her~~
11 ~~or his election to either buy the mobile home, relocate the~~
12 ~~mobile home to another park owned by the park owner, or pay to~~
13 ~~relocate the mobile home to another mobile home park, as~~
14 ~~follows:~~

15 ~~1. Pay as damages the actual cost, including setup~~
16 ~~fees, to move an evicted mobile home, with comparable and any~~
17 ~~required appurtenances, to a comparable mobile home park~~
18 ~~within a 50-mile radius of the mobile home park or other~~
19 ~~distance agreed upon by the park owner and mobile home owner.~~
20 ~~Since the amount of damages that a homeowner will suffer due~~
21 ~~to the change in land use by the park owner cannot be easily~~
22 ~~estimated and would be difficult and expensive to determine,~~
23 ~~it is the intent of the Legislature that the payment contained~~
24 ~~herein be considered in the nature of liquidated damages and~~
25 ~~not a penalty. It is the intent of the Legislature that the~~
26 ~~liquidated damages to which the mobile home owner is entitled~~
27 ~~be limited to the damages defined in this subparagraph only~~
28 ~~for so long as this subsection remains in effect. The~~
29 ~~liquidated damages apply only to the harm incurred by the~~
30 ~~homeowner for having to relocate, and this provision shall not~~
31 ~~preclude incidental damages that might occur in relocating the~~

Amendment No. ____ (for drafter's use only)

1 ~~mobile home;~~

2 ~~2. Purchase the mobile home and all appurtenances~~

3 ~~thereto at a value to be determined as follows:~~

4 ~~a. A mutually agreed upon appraiser will assess the~~

5 ~~book value of the mobile home and cash value of all~~

6 ~~appurtenances thereto and the market value of the mobile home~~

7 ~~as situated immediately prior to the notice of change in land~~

8 ~~use. Any nationally recognized publication for valuation of~~

9 ~~mobile and manufactured homes shall be used as a guide for~~

10 ~~determining such value.~~

11 ~~b. The homeowner will be entitled to the book value of~~

12 ~~the mobile home and cash value of the appurtenances.~~

13 ~~c. The homeowner will also be entitled to the~~

14 ~~following portion of the difference between the book value and~~

15 ~~cash value of the appurtenances and the market value of the~~

16 ~~mobile home. If the homeowner has resided in the mobile home~~

17 ~~at the time of notice of land use change by the park owner:~~

18 ~~0 years up to 5 years.....40 percent~~

19 ~~5 years up to 15 years.....60 percent~~

20 ~~15 years up to 20 years.....80 percent~~

21 ~~20 years or more.....100 percent~~

22 ~~d. The homeowner who has become a resident of the park~~

23 ~~within 0-5 years of the notice of change in land use shall be~~

24 ~~entitled, in addition to the compensation set forth above, to~~

25 ~~60 percent of the difference between the book value and the~~

26 ~~market value of the mobile home.~~

27 ~~e. Between the date of the appraisals referred to in~~

28 ~~this subsection and the delivery of title and possession of~~

29 ~~the mobile home and all appurtenances thereto to the park~~

30 ~~owner, the mobile home and the appurtenances shall be~~

31 ~~maintained by the homeowner in the condition existing on the~~

Amendment No. ____ (for drafter's use only)

1 ~~date of the appraisals, ordinary wear and tear excepted; or~~
2 ~~3. Reach a mutually agreed to settlement between the~~
3 ~~park owner and the homeowner.~~

4 ~~(b) Either the mobile home owner or the park owner may~~
5 ~~apply to the circuit court in the county where the mobile home~~
6 ~~lot is located for purposes of selecting an appraiser to~~
7 ~~determine the value of the mobile home and appurtenances or~~
8 ~~for resolution of any other dispute arising under this~~
9 ~~subsection.~~

10 ~~(c) In any dispute in a circuit court regarding the~~
11 ~~value of the mobile home as appraised pursuant to this~~
12 ~~subsection, the court shall determine the amount to be~~
13 ~~deposited into the registry of the court as will fully secure~~
14 ~~and fully compensate the homeowner as ultimately determined by~~
15 ~~the final judgment. The court shall fix the time within which~~
16 ~~and the terms upon which the homeowner shall be required to~~
17 ~~surrender possession and title to the park owner. The order of~~
18 ~~the court shall not become effective unless the deposit of the~~
19 ~~required sum is made in the registry of the court.~~

20 ~~(3)(d)~~ The provisions of s. 723.083 shall not be
21 applicable to any park where the provisions of this subsection
22 apply.

23 ~~(4)(3)~~ A mobile home park owner applying for the
24 removal of a mobile home owner or a mobile home, or both,
25 shall file, in the county court in the county where the mobile
26 home lot is situated, a complaint describing the lot and
27 stating the facts that authorize the removal of the mobile
28 home owner and the mobile home. The park owner is entitled to
29 the summary procedure provided in s. 51.011, and the court
30 shall advance the cause on the calendar.

31 ~~(5)(4)~~ Any notice required by this section must be in

Amendment No. ____ (for drafter's use only)

1 writing, and must be posted on the premises and sent to the
2 mobile home owner by certified or registered mail, return
3 receipt requested, addressed to the mobile home owner at her
4 or his last known address. Delivery of the mailed notice
5 shall be deemed given 5 days after the date of postmark.

6 Section 6. Section 723.0611, Florida Statutes, is
7 created to read:

8 723.0611 Florida Mobile Home Relocation Corporation.--

9 (1) There is created the Florida Mobile Home
10 Relocation Corporation. The corporation shall be administered
11 by a board of directors made up of six members, three members
12 appointed by the Secretary of Business and Professional
13 Regulation from a list of nominees submitted by the largest
14 nonprofit association representing mobile home owners in this
15 state, and three members appointed by the Secretary of
16 Business and Professional Regulation from a list of nominees
17 submitted by the largest nonprofit association representing
18 the manufactured housing industry in this state. All board
19 members, including the chair, shall be appointed to serve for
20 staggered 3-year terms.

21 (2)(a) The board of directors may employ or retain
22 such persons as are necessary to perform the administrative
23 and financial transactions and responsibilities of the
24 corporation and to perform other necessary and proper
25 functions not prohibited by law.

26 (b) Board members may be reimbursed from moneys of the
27 corporation for actual and necessary expenses incurred by them
28 as members, but may not otherwise be compensated for their
29 services.

30 (c) There shall be no liability on the part of, and no
31 cause of action of any nature shall arise against, agents or

Amendment No. ____ (for drafter's use only)

1 employees of the corporation, members of the board of
2 directors of the corporation, or the departmental
3 representatives for any act or omission taken by board of
4 directors in the performance of their powers and duties under
5 this section, unless such act or omission by such person is in
6 intentional disregard of the rights of the claimant.

7 (d) Meetings of the board are subject to s. 286.011.

8 (3) The board of directors shall:

9 (a) Adopt a plan of operation and articles, bylaws,
10 and operating rules.

11 (b) Establish procedures under which applicants for
12 payments from the corporation may have grievances reviewed by
13 an impartial body and reported to the board.

14 (4) The corporation may:

15 (a) Sue or be sued.

16 (b) Borrow from private finance sources in order to
17 meet the demands of the relocation program established in s.
18 723.0612.

19 Section 7. Section 723.0612, Florida Statutes, is
20 created to read:

21 723.0612 Change in land use; relocation expenses;
22 payments by park owner.--

23 (1) If a mobile home owner is required to move due to
24 a change in use of the park as set forth in s. 723.061(1)(d)
25 and the mobile home owner complies with the requirements of
26 this section, the mobile home owner is entitled to payment
27 from the Mobile Home Relocation Corporation as follows:

28 (a) The amount of actual moving expenses of relocating
29 the mobile home to a new location within a 50-mile radius of
30 the vacated park, or the amount of \$5,000 for a single-section
31 mobile home, or \$10,000 for a multisection home, whichever is

Amendment No. ____ (for drafter's use only)

1 less.

2 (b) Moving expenses include the cost of taking down,
3 moving, and setting up the mobile home in a new location.

4 (2) A park owner is not required to make the payment
5 to the department under s. 723.06116 nor is the homeowner
6 entitled to compensation under subsection (1) when:

7 (a) The park owner moves a homeowner to another space
8 in the mobile home park or to another mobile home park at the
9 park owner's expense;

10 (b) A homeowner is vacating the premises and has
11 informed the park owner or manager before the change in use
12 notice has been given; or

13 (c) A homeowner abandons the mobile home as set forth
14 in subsection (7).

15 (3) Except as provided in subsection (7), in order to
16 obtain payment from the corporation, the homeowner shall
17 submit to the Florida Mobile Home Relocation Corporation, with
18 a copy to the mobile home park owner, an application for
19 payment which includes:

20 (a) A copy of the notice of eviction due to change in
21 land use; and

22 (b) A contract with a moving or towing contractor for
23 the moving expenses for the mobile home.

24 (4) The corporation must approve payment within 15
25 days after receipt of the information set forth in subsection
26 (3) or payment is deemed approved. A copy of the approval must
27 be forwarded to the mobile home park owner with an invoice for
28 payment. Upon approval, the corporation shall issue a voucher
29 in the amount of the contract price for relocating the mobile
30 home. The moving contractor may redeem the voucher from the
31 corporation following completion of the relocation and upon

Amendment No. ____ (for drafter's use only)

1 approval of the relocation by the homeowner.

2 (5) Actions by the corporation under this section are
3 not subject to the provisions of chapter 120, but are
4 reviewable only by writ or certiorari in the circuit court in
5 the county in which the claimant resides in the manner and
6 within the time provided by the Florida Rules of Appellate
7 Procedure.

8 (6) This section does not apply to any proceeding in
9 eminent domain under chapter 73 or chapter 74.

10 (7) In lieu of collecting payment from the corporation
11 as set forth in subsection (1), a mobile home owner may
12 abandon the mobile home in the mobile home park and collect an
13 amount equal to one-fourth of the maximum allowable moving
14 expenses from the corporation as long as the homeowner
15 delivers to the park owner the current title to the mobile
16 home duly endorsed by the owner of record and valid releases
17 of all liens shown on the title. If a homeowner chooses this
18 option, the park owner shall make payment to the corporation
19 in an amount equal to one-fourth of the maximum allowable
20 moving expenses.

21 (8) The corporation is not liable to any person for
22 recovery if it does not have available the money necessary to
23 pay the amounts claimed. If the corporation does not have
24 sufficient funds to pay the claimant, it shall keep a record
25 of the time and date of its determination for payment to a
26 claimant. If money becomes available, the corporation shall
27 pay the claimant whose unpaid claim is the earliest by time
28 and date of determination.

29 (9) It is unlawful for any person or his or her agent
30 to file any notice, statement, or other document required
31 under this section which is false or contains any material

Amendment No. ____ (for drafter's use only)

1 misstatement of fact. Any person who violates this subsection
2 commits a misdemeanor of the second degree, punishable as
3 provided in s. 775.082 or s. 775.083.

4 Section 8. This act shall not impair the contract
5 providing for the method of purchase of the mobile homes where
6 the contracts for purchase were entered into between the
7 mobile home park owner and the mobile home owners prior to the
8 effective date of this act and the notices of eviction are
9 appropriately provided as required by chapter 723.

10 Section 9. This act shall take effect July 1, 2001.

11
12
13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 On page 1, lines 2-23,
16 remove from the bill: all of said lines

17
18 and insert in lieu thereof:

19 An act relating to the Florida Mobile Home Act;
20 amending s. 723.003, F.S.; defining the term
21 "proportionate share"; amending s. 723.011,
22 F.S.; requiring the division to maintain
23 specified records; requiring that copies be
24 provided within a specified time after written
25 request; amending s. 723.012, F.S.; revising
26 provisions relating to statements in a
27 prospectus; amending s. 723.037, F.S.; revising
28 procedures for committee meetings that
29 determine the status of changes in lot rentals;
30 amending s. 723.061, F.S.; revising timeframes
31 for giving notice of changes in lot rental

Amendment No. ____ (for drafter's use only)

1 amounts and use of mobile home parks; creating
2 s. 723.0611, F.S.; creating the Florida Mobile
3 Home Relocation Corporation; providing for a
4 board of directors to be appointed by the
5 Secretary of Business and Professional
6 Regulation; providing for terms of office;
7 specifying powers and duties of the board;
8 authorizing the board to borrow from private
9 finance sources; creating s. 723.0612, F.S.;
10 providing for the payment of relocation
11 expenses if a mobile home owner is required to
12 move due to a change in use of the park;
13 providing certain exceptions; specifying
14 procedures for payments upon approval of the
15 corporation; providing for a mobile home owner
16 to abandon the mobile home in lieu of
17 collecting full payment; providing a penalty;
18 providing for recognition of existing
19 contracts; providing an effective date.

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