

By the Committee on Judicial Oversight and Representatives
Kyle, Murman, Paul, Detert, Baxley, Hart, Byrd, Littlefield,
Machek, Alexander, Spratt, Fiorentino, Mayfield, Farkas,
Green, Bilirakis, Waters, Brummer, Crow, Kallinger, Kottkamp,
(Additional Sponsors on Last Printed Page)

1 A bill to be entitled
2 An act relating to the Florida Mobile Home Act;
3 amending s. 723.003, F.S.; defining the term
4 "proportionate share"; amending s. 723.007,
5 F.S.; providing for imposition of a surcharge
6 on annual fees; amending s. 723.011, F.S.;
7 requiring the Division of Florida Land Sales,
8 Condominiums, and Mobile Homes to maintain
9 specified records; requiring that copies be
10 provided within a specified time after written
11 request; amending s. 723.012, F.S.; revising
12 provisions relating to statements in a
13 prospectus; amending s. 723.037, F.S.; revising
14 procedures for meetings that determine the
15 status of changes in lot rentals; amending s.
16 723.061, F.S.; revising timeframes for giving
17 notice of changes in lot rental amounts and use
18 of land comprising mobile home parks; creating
19 s. 723.0610, F.S.; providing for the payment of
20 relocation expenses under certain
21 circumstances; providing a penalty with respect
22 to certain false statements or misstatements of
23 fact; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsections (11) through (14) of section
28 723.003, Florida Statutes, are renumbered as subsections (12)
29 through (15), respectively, and a new subsection (11) is added
30 to said section to read:
31

1 723.003 Definitions.--As used in this chapter, the
2 following words and terms have the following meanings unless
3 clearly indicated otherwise:

4 (11) The term "proportionate share" as used in
5 subsection (10) means an amount calculated by dividing equally
6 among the affected developed lots in the park the total costs
7 for the necessary and actual direct costs and impact or hookup
8 fees incurred for governmentally mandated capital improvements
9 serving the recreational and common areas and all affected
10 developed lots in the park.

11 Section 2. Section 723.007, Florida Statutes, is
12 amended to read:

13 723.007 Annual fees; surcharge.--

14 (1) Each mobile home park owner shall pay to the
15 division, on or before October 1 of each year, an annual fee
16 of \$4 for each mobile home lot within a mobile home park which
17 he or she owns. ~~The division may, after December 31, 1993, by~~
18 rule, increase the amount of the annual fee to an amount not
19 to exceed \$5 for each mobile home lot to fund operation of the
20 division. If the fee is not paid by December 31, the mobile
21 home park owner shall be assessed a penalty of 10 percent of
22 the amount due, and he or she shall not have standing to
23 maintain or defend any action in the courts of this state
24 until the amount due, plus any penalty, is paid.

25 (2) There is levied on each annual fee imposed under
26 subsection (1) a surcharge in the amount of \$1 upon each
27 mobile home lot that is offered for lease within a mobile home
28 park owned by a mobile home park owner. The surcharge shall be
29 collected in the same manner as the annual fee and shall be
30 deposited into the Florida Mobile Home Relocation Trust Fund
31 if created by law. Collection of the surcharge shall begin

1 during the first year after this subsection takes effect. This
2 surcharge may not be imposed during the next year if the
3 balance in the trust fund exceeds \$10 million. The surcharge
4 shall be reinstated in the next year after the balance in the
5 trust fund falls below \$6 million. The surcharge imposed by
6 this subsection may not be imposed as a separate charge
7 regardless of any disclosure in the prospectus.

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

10 723.011 Disclosure prior to rental of a mobile home
11 lot; prospectus, filing, approval.--

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

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

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

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

28
29 This paragraph does ~~shall~~ not preclude the finding that a lot
30 rental agreement is invalid on other grounds and does ~~shall~~
31 ~~not be construed to~~ limit any rights of a mobile home owner or

1 ~~to~~ preclude a mobile home owner from seeking any remedies
2 allowed by this chapter, including a determination that the
3 lot rental agreement or any part thereof is unreasonable.
4 (b) The division shall determine whether the proposed
5 prospectus or offering circular is adequate to meet the
6 requirements of this chapter and shall notify the park owner
7 by mail, within 45 days after ~~of~~ receipt of the document, that
8 the division has found that ~~either approved~~ the prospectus or
9 offering circular is adequate or has found specified
10 deficiencies. ~~If in the event~~ the division does not make
11 either finding approve the prospectus or advise the park owner
12 of deficiencies within 45 days, the prospectus shall be deemed
13 to have been found adequate ~~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 division shall maintain copies of each
29 prospectus and all amendments to each prospectus which are
30 considered adequate by the division. The division shall
31 provide copies of documents requested in writing under this

1 subsection within 10 days after the written request is
2 received.
3 Section 4. Subsection (1) of section 723.012, Florida
4 Statutes, is amended to read:
5 723.012 Prospectus or offering circular.--The
6 prospectus or offering circular, which is required to be
7 provided by s. 723.011, must contain the following
8 information:
9 (1) The front cover or the first page must contain
10 only:
11 (a) The name of the mobile home park.
12 (b) The following statements in conspicuous type:
13 1. THIS PROSPECTUS~~(OFFERING CIRCULAR)~~CONTAINS VERY
14 IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS AND YOUR
15 FINANCIAL OBLIGATIONS ~~MATTERS TO BE CONSIDERED~~ IN LEASING A
16 MOBILE HOME LOT. MAKE SURE THAT YOU READ THE ENTIRE DOCUMENT
17 AND SEEK LEGAL ADVICE IF YOU HAVE ANY QUESTIONS REGARDING THE
18 INFORMATION SET FORTH IN THIS DOCUMENT.
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
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1 Section 5. Subsection (4) and paragraph (a) of
2 subsection (5) of section 723.037, Florida Statutes, are
3 amended to read:

4 723.037 Lot rental increases; reduction in services or
5 utilities; change in rules and regulations; mediation.--

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

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

1 address, lot rental amount, and any other relevant factors
2 relied upon by the park owner, such as facilities, services,
3 and amenities, concerning the comparable mobile home parks
4 ~~relied upon by the park owner~~. The park owner shall prepare a
5 written summary of the material factors and retain a copy for
6 3 years. The park owner shall provide the committee a copy of
7 the summary at or before the meeting.

8 (c) If the committee disagrees with a park owner's lot
9 rental amount increase based upon comparable mobile home
10 parks, the committee shall disclose to the park owner the
11 name, address, lot rental amount, and any other relevant
12 factors relied upon by the committee, such as facilities,
13 services, and amenities, concerning the comparable mobile home
14 parks. The committee shall provide to the park owner the
15 disclosure, in writing, within 15 days after the meeting with
16 the park owner, together with a request for a second meeting.

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

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

23 (5)(a) Within 30 days after the date of the last
24 scheduled meeting described in subsection (4), the homeowners
25 may petition the division to initiate mediation of the dispute
26 pursuant to s. 723.038 if a majority of the affected
27 homeowners have designated, in writing, that:

- 28 1. The rental increase is unreasonable;
29 2. The rental increase has made the lot rental amount
30 unreasonable;

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1 3. The decrease in services or utilities is not
2 accompanied by a corresponding decrease in rent or is
3 otherwise unreasonable; or

4 4. The change in the rules and regulations is
5 unreasonable.

6 Section 6. Section 723.061, Florida Statutes, is
7 amended to read:

8 723.061 Eviction; grounds, proceedings.--

9 (1) A mobile home park owner may evict a mobile home
10 owner or a mobile home only on one or more of the grounds
11 provided in this section.

12 (a) Nonpayment of lot rental amount. If a mobile home
13 owner fails to pay the lot rental amount when due and if the
14 default continues for 5 days after delivery of a written
15 demand by the mobile home park owner for payment of the lot
16 rental amount, the park owner may terminate the tenancy.
17 However, if the mobile home owner pays the lot rental amount
18 due, including any late charges, court costs, and attorney's
19 fees, the court may, for good cause, deny the order of
20 eviction, provided such nonpayment has not occurred more than
21 twice.

22 (b) Conviction of a violation of a federal or state
23 law or local ordinance, which violation may be deemed
24 detrimental to the health, safety, or welfare of other
25 residents of the mobile home park.

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

28 1. For the first violation of any properly promulgated
29 rule or regulation, rental agreement provision, or this
30 chapter which is found by any court having jurisdiction
31 thereof to have been an act which endangered the life, health,

1 safety, or property of the park residents or the peaceful
2 enjoyment of the mobile home park by its residents, the mobile
3 home park owner may terminate the rental agreement, and the
4 mobile home owner will have 7 days from the date that the
5 notice is delivered to vacate the premises.

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

27
28 No properly promulgated rule or regulation may be arbitrarily
29 applied and used as a ground for eviction.

30 (d) Change in use of the land comprising the mobile
31 home park, or the portion thereof from which mobile homes are

1 to be evicted, from mobile home lot rentals to some other use,
2 provided all tenants affected are given at least 6 months'
3 ~~year's~~ notice of the projected change of use and of their need
4 to secure other accommodations. The park owner may not give a
5 notice of increase in lot rental amount within 90 days before
6 giving notice of a change in land use.

7 (e) Failure of the purchaser of a mobile home situated
8 in the mobile home park to be qualified as, and to obtain
9 approval to become, a tenant, if such approval is required by
10 a properly promulgated rule.

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

18 ~~(a) Within 90 days from the time the park owner gives~~
19 ~~the 1-year notice, she or he shall notify the homeowner of her~~
20 ~~or his election to either buy the mobile home, relocate the~~
21 ~~mobile home to another park owned by the park owner, or pay to~~
22 ~~relocate the mobile home to another mobile home park, as~~
23 ~~follows:~~

24 ~~1. Pay as damages the actual cost, including setup~~
25 ~~fees, to move an evicted mobile home, with comparable and any~~
26 ~~required appurtenances, to a comparable mobile home park~~
27 ~~within a 50-mile radius of the mobile home park or other~~
28 ~~distance agreed upon by the park owner and mobile home owner.~~
29 ~~Since the amount of damages that a homeowner will suffer due~~
30 ~~to the change in land use by the park owner cannot be easily~~
31 ~~estimated and would be difficult and expensive to determine,~~

1 ~~it is the intent of the Legislature that the payment contained~~
2 ~~herein be considered in the nature of liquidated damages and~~
3 ~~not a penalty. It is the intent of the Legislature that the~~
4 ~~liquidated damages to which the mobile home owner is entitled~~
5 ~~be limited to the damages defined in this subparagraph only~~
6 ~~for so long as this subsection remains in effect. The~~
7 ~~liquidated damages apply only to the harm incurred by the~~
8 ~~homeowner for having to relocate, and this provision shall not~~
9 ~~preclude incidental damages that might occur in relocating the~~
10 ~~mobile home;~~

11 ~~2. Purchase the mobile home and all appurtenances~~
12 ~~thereto at a value to be determined as follows:~~

13 ~~a. A mutually agreed upon appraiser will assess the~~
14 ~~book value of the mobile home and cash value of all~~
15 ~~appurtenances thereto and the market value of the mobile home~~
16 ~~as situated immediately prior to the notice of change in land~~
17 ~~use. Any nationally recognized publication for valuation of~~
18 ~~mobile and manufactured homes shall be used as a guide for~~
19 ~~determining such value.~~

20 ~~b. The homeowner will be entitled to the book value of~~
21 ~~the mobile home and cash value of the appurtenances.~~

22 ~~c. The homeowner will also be entitled to the~~
23 ~~following portion of the difference between the book value and~~
24 ~~cash value of the appurtenances and the market value of the~~
25 ~~mobile home. If the homeowner has resided in the mobile home~~
26 ~~at the time of notice of land use change by the park owner:~~

27 ~~0 years up to 5 years.....40 percent~~
28 ~~5 years up to 15 years.....60 percent~~
29 ~~15 years up to 20 years.....80 percent~~
30 ~~20 years or more.....100 percent~~

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1 ~~d. The homeowner who has become a resident of the park~~
2 ~~within 0-5 years of the notice of change in land use shall be~~
3 ~~entitled, in addition to the compensation set forth above, to~~
4 ~~60 percent of the difference between the book value and the~~
5 ~~market value of the mobile home.~~

6 ~~e. Between the date of the appraisals referred to in~~
7 ~~this subsection and the delivery of title and possession of~~
8 ~~the mobile home and all appurtenances thereto to the park~~
9 ~~owner, the mobile home and the appurtenances shall be~~
10 ~~maintained by the homeowner in the condition existing on the~~
11 ~~date of the appraisals, ordinary wear and tear excepted; or~~

12 ~~3. Reach a mutually agreed to settlement between the~~
13 ~~park owner and the homeowner.~~

14 ~~(b) Either the mobile home owner or the park owner may~~
15 ~~apply to the circuit court in the county where the mobile home~~
16 ~~lot is located for purposes of selecting an appraiser to~~
17 ~~determine the value of the mobile home and appurtenances or~~
18 ~~for resolution of any other dispute arising under this~~
19 ~~subsection.~~

20 ~~(c) In any dispute in a circuit court regarding the~~
21 ~~value of the mobile home as appraised pursuant to this~~
22 ~~subsection, the court shall determine the amount to be~~
23 ~~deposited into the registry of the court as will fully secure~~
24 ~~and fully compensate the homeowner as ultimately determined by~~
25 ~~the final judgment. The court shall fix the time within which~~
26 ~~and the terms upon which the homeowner shall be required to~~
27 ~~surrender possession and title to the park owner. The order of~~
28 ~~the court shall not become effective unless the deposit of the~~
29 ~~required sum is made in the registry of the court.~~

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

4 ~~(4)(3)~~ A mobile home park owner applying for the
5 removal of a mobile home owner or a mobile home, or both,
6 shall file, in the county court in the county where the mobile
7 home lot is situated, a complaint describing the lot and
8 stating the facts that authorize the removal of the mobile
9 home owner and the mobile home. The park owner is entitled to
10 the summary procedure provided in s. 51.011, and the court
11 shall advance the cause on the calendar.

12 ~~(5)(4)~~ Any notice required by this section must be in
13 writing, and must be posted on the premises and sent to the
14 mobile home owner by certified or registered mail, return
15 receipt requested, addressed to the mobile home owner at her
16 or his last known address. Delivery of the mailed notice
17 shall be deemed given 5 days after the date of postmark.

18 Section 7. Section 723.0610, Florida Statutes, is
19 created to read:

20 723.0610 Change in land use; relocation expenses;
21 payments by park owner.--

22 (1) If a mobile home owner is required to move due to
23 a change in use of the land comprising the mobile home park as
24 set forth in s. 723.061(1)(d) and complies with the
25 requirements of this section, the mobile home owner is
26 entitled to payment from the Florida Mobile Home Relocation
27 Trust Fund, if created by law, of:

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
31

1 (b) The amount of \$5,000 for a single-section mobile
2 home or \$10,000 for a multisection mobile home,
3
4 whichever is less. Moving expenses include the cost of taking
5 down, moving, and setting up the mobile home in a new
6 location.
7 (2) Except as provided in subsection (3), upon the
8 occurrence of a change in use, the park owner shall pay to the
9 Florida Mobile Home Relocation Trust Fund, if created by law,
10 \$2,000 for each single-section mobile home and \$2,500 for each
11 multisection mobile home for which a mobile home owner has
12 made application for payment of moving expenses.
13 (3) A park owner is not required to make the payment
14 prescribed in subsection (2), nor is the mobile home owner
15 entitled to compensation under subsection (1), when:
16 (a) The park owner moves a mobile home owner to
17 another space in the mobile home park or to another mobile
18 home park at the park owner's expense;
19 (b) A mobile home owner is vacating the premises and
20 has informed the park owner or manager before notice of the
21 change in land use has been given; or
22 (c) A mobile home owner abandons the mobile home as
23 set forth in subsection (8).
24 (4) Except as provided in subsection (8), in order to
25 obtain payment from the Florida Mobile Home Relocation Trust
26 Fund, the mobile home owner shall submit to the Florida Mobile
27 Home Relocation Corporation, if created by law, with a copy to
28 the park owner, an application for payment which includes:
29 (a) A copy of the notice of eviction due to change in
30 land use; and
31

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

3 (5) The Florida Mobile Home Relocation Corporation
4 must approve payment from the Florida Mobile Home Relocation
5 Trust Fund within 15 days after receipt of the information set
6 forth in subsection (4), or payment is deemed approved. A copy
7 of the approval must be forwarded to the park owner with an
8 invoice for payment under subsection (2). Upon approval, the
9 corporation shall make payment immediately, but in any event
10 before the time of relocation.

11 (6) Actions of the Florida Mobile Home Relocation
12 Corporation under this section are not subject to the
13 provisions of chapter 120 but are reviewable only by writ of
14 certiorari in the circuit court in the county in which the
15 claimant resides in the manner and within the time provided by
16 the Florida Rules of Appellate Procedure.

17 (7) This section does not apply to any proceeding in
18 eminent domain under chapter 73 or chapter 74.

19 (8) In lieu of collecting payment from the Florida
20 Mobile Home Relocation Trust Fund as set forth in subsection
21 (1), a mobile home owner may abandon the mobile home in the
22 mobile home park and collect an amount equal to one-fourth of
23 the maximum allowable moving expenses from the trust fund as
24 long as the mobile home owner delivers to the park owner the
25 current title to the mobile home duly endorsed by the owner of
26 record and valid releases of all liens shown on the title. If
27 a mobile home owner chooses this option, the park owner shall
28 make payment to the trust fund in an amount equal to
29 one-fourth of the maximum allowable moving expenses.

30 (9) Neither the Florida Mobile Home Relocation
31 Corporation nor the Florida Mobile Home Relocation Trust Fund

1 shall be liable to any person for recovery if funds in the
2 trust fund are insufficient to pay the amounts claimed. In any
3 such event, the corporation shall keep a record of the time
4 and date of its approval of payment to a claimant. If
5 sufficient funds become available, the corporation shall pay
6 the claimant whose unpaid claim is the earliest by time and
7 date of approval.

8 (10) It is unlawful for any person or his or her agent
9 to file any notice, statement, or other document required
10 under this section which is false or contains any material
11 misstatement of fact. Any person who violates this subsection
12 commits a misdemeanor of the second degree, punishable as
13 provided in s. 775.082 or s. 775.083.

14 Section 8. This act shall take effect July 1, 2001.

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ADDITIONAL SPONSORS

20

Flanagan, Clarke, Bennett, Ross, Bowen, Russell, Harrington,
21 Gannon, Dockery, Meador, Cusack, Romeo, Johnson, Kosmas,
22 Gibson, Negron, Allen, Lynn, Justice and Wiles
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