

By Senators Latvala, Brown-Waite, Pruitt, Cowin, Posey, Carlton, Saunders, Campbell, Lee, Wasserman Schultz, Sullivan, Dyer, Burt, Geller, Sebesta, Miller, Mitchell, Constantine, Bronson and Crist

19-193B-01

1 A bill to be entitled
2 An act relating to the Florida Mobile Home Act;
3 creating s. 723.0025, F.S.; establishing the
4 mobile home owners' bill of rights; amending s.
5 723.003, F.S.; defining the term "proportionate
6 share"; amending s. 723.005, F.S.; providing
7 for regulation by the Division of Florida Land
8 Sales, Condominiums, and Mobile Homes; amending
9 s. 723.006, F.S.; providing for additional
10 duties of the division; amending s. 723.011,
11 F.S.; requiring park owners and the division to
12 maintain specified records; amending s.
13 723.012, F.S.; providing that additional
14 information be included in a prospectus;
15 creating s. 723.015, F.S.; providing for notice
16 of rental agreements, rules and regulations,
17 and prospectuses; amending s. 723.021, F.S.;
18 authorizing the division to impose a civil
19 penalty for failure to meet the obligation of
20 good-faith and fair dealings; amending s.
21 723.022, F.S.; requiring maintenance of trees
22 and other vegetation by a mobile home park
23 owner; amending s. 723.033, F.S.; declaring
24 certain rental increases to be unreasonable;
25 amending s. 723.035, F.S.; authorizing
26 injunctive relief and a civil penalty; amending
27 s. 723.037, F.S.; providing procedures for
28 meetings that determine the status of changes
29 in lot rentals, services, utilities, or rules
30 and regulations; authorizing homeowners or park
31 owners to petition the division to investigate

1 the obligation of good-faith and fair dealings;
2 amending s. 723.059, F.S.; providing for the
3 rights of a purchaser of a mobile home within a
4 mobile home park; amending s. 723.061, F.S.;
5 revising standards for determining a
6 homeowner's rights when there is an eviction
7 for change in land use; amending s. 723.071,
8 F.S.; providing procedures for the sale of
9 mobile home parks; amending s. 723.072, F.S.;
10 providing for an affidavit of compliance with
11 certain statutory requirements; amending s.
12 723.078, F.S.; providing quorum requirements
13 for homeowners' associations; amending s.
14 320.77, F.S.; redefining the term "mobile home
15 broker"; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 723.0025, Florida Statutes, is
20 created to read:

21 723.0025 Mobile home owners' bill of rights.--Mobile
22 home owners governed by this chapter are assured the following
23 basic rights as further set forth in this chapter:

24 (1) The right to have full and fair disclosure of the
25 terms and conditions governing the occupancy of a mobile home
26 lot in a mobile home park and the right of access to records
27 and disclosure documents setting forth the terms and
28 conditions of occupancy.

29 (2) The right to fair dealings in all leases, rental
30 increases, and rule changes and the right to full and fair
31

1 participation in all discussions and negotiations with the
2 owner of the mobile home park consistent with this act.

3 (3) The right to have full, fair, and accurate
4 disclosure of the current and future financial obligations
5 governing tenancy in the mobile home park.

6 (4) The right to protection of the personal property
7 of mobile homeowners located in the park, including the right
8 to just compensation if the use of the land is changed; the
9 right for the mobile home owner to sell the mobile home
10 without interference from the mobile home park owner; and the
11 option to purchase the mobile home park if the park is offered
12 for sale by the owner or is proposed to be sold by the park
13 owner to an unsolicited buyer.

14 (5) The right to use the common areas in the mobile
15 home park at reasonable times and for reasonable purposes free
16 from interference by the park owner and the right to organize
17 among mobile home owners without interference from the mobile
18 home park owner.

19 (6) The right to enjoy a safe and peaceful park
20 environment and the right to have rules and regulations
21 applied equally, uniformly, and impartially to all who are
22 entitled to occupy the park.

23 Section 2. Present subsections (11), (12), (13), and
24 (14) of section 723.003, Florida Statutes, are redesignated as
25 subsections (12), (13), (14), and (15), respectively, and a
26 new subsection (11) is added to that section to read:

27 723.003 Definitions.--As used in this chapter, the
28 following words and terms have the following meanings unless
29 clearly indicated otherwise:

30 (11) The term "proportionate share" as used in
31 subsection (10) means an amount calculated by dividing equally

1 among the developed lots in the park the total costs for the
2 necessary and actual direct costs and impact or hookup fees
3 incurred for governmentally mandated capital improvements
4 serving the recreational and common areas and all developed
5 lots in the park.

6 Section 3. Section 723.005, Florida Statutes, is
7 amended to read:

8 723.005 Regulation by division.--The division has the
9 power and duty to enforce and ensure compliance with the
10 provisions of this chapter and rules promulgated pursuant
11 hereto relating to the rental, development, and sale of mobile
12 home parks. However, the division does not have the power or
13 duty to enforce mobile home park rules and regulations or to
14 enforce the provisions of ss. 723.022 and, ~~723.023, and~~
15 ~~723.033.~~

16 Section 4. Subsection (10) of section 723.006, Florida
17 Statutes, is amended and subsection (12) is added to that
18 section to read:

19 723.006 Powers and duties of division.--In performing
20 its duties, the division has the following powers and duties:

21 (10) The division is authorized to require disclosures
22 to fully and fairly disclose all matters required by this
23 chapter. Among the disclosures, the division shall require
24 sample calculations of maximum rents to illustrate the
25 applicability of the prospectus provisions concerning rents on
26 a form provided by the division. If a park owner or operator,
27 in good faith, has attempted to comply with the requirements
28 of this chapter, and if, in fact, the park owner or operator
29 has substantially complied with the disclosure requirements of
30 this chapter, nonmaterial errors or omissions in the
31 disclosure materials shall not be actionable.

1 (12) The division shall make annual, on-site
2 inspections of the records of the park owner which are
3 required to be kept and filed under this chapter.

4 Section 5. Subsection (1) of section 723.011, Florida
5 Statutes, is amended to read:

6 723.011 Disclosure prior to rental of a mobile home
7 lot; prospectus, filing, approval.--

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

- 17 1. Filed a prospectus with the division prior to
18 entering into the lot rental agreement;
- 19 2. Made a good faith effort to correct deficiencies
20 cited by the division by responding within the time limit set
21 by the division, if one was set; and
- 22 3. Delivered the approved prospectus to the mobile
23 home owner within 45 days of approval by the division.

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

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

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

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

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

25 (d) The park owner shall maintain a copy of the rental
26 agreement, rules and regulations, and prospectus that applies
27 to each home owner or lot and shall maintain in the park a
28 copy of each prospectus for the park which is considered
29 adequate by the division and any amendments to the prospectus.

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1 (e) The division shall maintain copies of each
2 prospectus and all amendments to each prospectus which are
3 considered adequate by the division.

4 Section 6. Paragraph (d) is added to subsection (9) of
5 section 723.012, Florida Statutes, to read:

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

10 (9) An explanation of the manner in which the lot
11 rental amount will be raised, including, but not limited to:

12 (a) Notification of the mobile home owner at least 90
13 days in advance of the increase.

14 (b) Disclosure of any factors which may affect the lot
15 rental amount, including, but not limited to:

16 1. Water rates.

17 2. Sewer rates.

18 3. Waste disposal rates.

19 4. Maintenance costs, including costs of deferred
20 maintenance.

21 5. Management costs.

22 6. Property taxes.

23 7. Major repairs or improvements.

24 8. Any other fees, costs, entrance fees, or charges to
25 which the mobile home owner may be subjected.

26 (c) Disclosure of the manner in which the pass-through
27 charges will be assessed.

28 (d) A sample calculation of the maximum increases in
29 the lot rental amount permitted by the prospectus which may
30 occur over a 5-year period, commencing on the date that the
31 mobile home owner first occupies a lot in the mobile home

1 park. The sample calculations must be made on a form
2 prescribed by the division.

3 Section 7. Section 723.015, Florida Statutes, is
4 created to read:

5 723.015 Notice of rental agreement, rules, and
6 prospectus.--

7 (1) Before January 1, 2002, and permanently
8 thereafter, a copy of the applicable rental agreement, rules
9 and regulations, and prospectus as to each home owner or lot
10 must be maintained by the park owner and be available for
11 inspection in the park office or in a central information
12 site, such as the recreation hall or club house.

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

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

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

1 prospectus, rental agreement, and rules and regulations
2 delivered under s. 723.011(2) or that the park owner agrees in
3 part or disagrees with the home owner's position.

4 (5) This section is intended to correct problems
5 concerning prospectus recordkeeping experienced by the
6 division, park owners, and home owners.

7 (6) The division, park owners, and home owners shall
8 cooperate to assure that a complete and accurate copy of the
9 prospectus, rental agreement, and rules and regulations
10 applicable to each lot is obtained by the park owner, is
11 available to the home owner, and is filed with the division.

12 Section 8. Section 723.021, Florida Statutes, is
13 amended to read:

14 723.021 Obligation of good faith and fair dealings;
15 civil penalty.--Every rental agreement or duty within this
16 chapter imposes an obligation of good faith and fair dealings
17 in its performance or enforcement. If the division determines
18 that a party has failed to meet the obligation of good-faith
19 and fair dealings as required by this section, it may impose a
20 civil penalty against the party failing to meet the obligation
21 in an amount not to exceed \$5,000. If either party to a
22 dispute under this chapter seeks ~~may seek~~ an order from a
23 court of competent jurisdiction finding the other party has
24 not complied with the obligations of good faith and fair
25 dealings and if there is. ~~Upon~~ such a finding, the court shall
26 award reasonable costs and attorney's fees to the prevailing
27 party for proving the noncompliance.

28 Section 9. Subsection (2) of section 723.022, Florida
29 Statutes, is amended to read:

30 723.022 Mobile home park owner's general
31 obligations.--A mobile home park owner shall at all times:

1 (2) Maintain buildings and improvements in common
2 areas in a good state of repair and maintenance and maintain
3 the common areas in a good state of appearance, safety, and
4 cleanliness. Maintain the trees and other vegetation not
5 planted by a mobile home owner and assume responsibility for
6 the removal of any vegetation or trees that threaten the
7 safety of a mobile home.

8 Section 10. Subsection (5) of section 723.033, Florida
9 Statutes, is amended to read:

10 723.033 Unreasonable lot rental agreements; increases,
11 changes.--

12 (5) In determining market rent, the court may consider
13 rents charged by comparable mobile home parks in its
14 competitive area. To be comparable, a mobile home park may
15 not be owned by the same park owner, and the park must offer
16 similar facilities, services, amenities, and management. A
17 rental increase that is not authorized by this section is
18 unreasonable, and if it is determined that the rental increase
19 was based upon a corporate policy, directive, or decision of
20 the park owner not authorized by this section, the increase
21 must be considered unreasonable.

22 Section 11. Section 723.035, Florida Statutes, is
23 amended to read:

24 723.035 Rules and regulations; injunctive relief;
25 civil penalty.--

26 (1) A copy of all rules and regulations shall be
27 posted in the recreation hall, if any, or in some other
28 conspicuous place in the park.

29 (2) No rule or regulation shall provide for payment of
30 any fee, fine, assessment, or charge, except as otherwise
31 provided in the prospectus or offering circular filed under s.

1 723.012, if one is required to be provided, and until after
2 the park owner has complied with the procedure set forth in s.
3 723.037.

4 (3) A mobile home owner, a mobile home homeowners'
5 association, or a park owner may seek an injunction from the
6 county court to prohibit a park owner, a mobile home owner, or
7 a mobile home homeowners' association from violating the park
8 rules and regulations. For purposes of this section, a mobile
9 home owner, a mobile homeowners' association, or park owner is
10 not required to prove irreparable harm in order to obtain the
11 injunction, and the court may dispense with the requirement
12 for posting a bond. The injunction may be enforced by a civil
13 penalty of up to \$100 per day and by contempt of court. This
14 section does not preclude a party to such an action from
15 seeking any other civil or criminal remedy available at law.

16 Section 12. Subsections (4) and (5) of section
17 723.037, Florida Statutes, are amended to read:

18 723.037 Lot rental increases; reduction in services or
19 utilities; change in rules and regulations; mediation.--

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

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

30 (c) If the committee disagrees with the park owner,
31 the committee shall provide a written response to the park

1 owner identifying those matters that the committee has relied
2 upon to determine that the lot rental amount increase is
3 unreasonable, the change in the rules and regulations is
4 unreasonable, or the reduction in services or utilities is
5 unreasonable. If the committee based its decision on
6 comparable mobile home parks, the committee shall disclose the
7 name, address, lot rental amount, facilities, services,
8 amenities, management, and any other relevant factors
9 concerning the mobile home parks relied upon by the committee.
10 The committee shall provide the disclosure and written
11 responses to the park owner within 30 days after the meeting
12 with the park owner and request a second meeting with the park
13 owner, which must be held within 15 days after the park
14 owner's receipt of the committee's written response.

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 (b) A park owner, within the same time period, may
29 also petition the division to initiate mediation of the
30 dispute.

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1 (c) When a dispute involves a rental increase for
2 different home owners and there are different rates or
3 different rental terms for those home owners, all such rent
4 increases in a calendar year for one mobile home park may be
5 considered in one mediation proceeding.

6 (d) The homeowner or the park owner may petition the
7 division to initiate an investigation to determine whether the
8 other party has failed to meet its obligation of good-faith
9 and fair dealings, and upon a determination that such
10 obligation has not been fulfilled, levy a fine as provided in
11 s. 723.021.

12 Section 13. Subsections (1) and (3) of 723.059,
13 Florida Statutes, are amended to read:

14 723.059 Rights of purchaser.--

15 (1) The purchaser of a mobile home within a mobile
16 home park may become a tenant of the park if such purchaser
17 would otherwise qualify with the requirements of entry into
18 the park under the park rules and regulations, ~~subject to the~~
19 ~~approval of the park owner, but such approval may not be~~
20 ~~unreasonably withheld.~~

21 (3) The purchaser of a mobile home who becomes a
22 resident of the mobile home park in accordance with this
23 section has the right to assume the remainder of the term of
24 any rental agreement then in effect between the mobile home
25 park owner and the seller and shall be entitled to rely on the
26 terms and conditions of the prospectus or offering circular as
27 delivered to the initial recipient. The seller shall provide
28 to the purchaser a prospectus governing the rental agreement
29 in effect on the date of the sale.

30 Section 14. Paragraph (a) of subsection (2) of section
31 723.061, Florida Statutes, is amended to read:

1 723.061 Eviction; grounds, proceedings.--

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

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1 preclude incidental damages that might occur in relocating the
2 mobile home;

3 2. Purchase the mobile home and all appurtenances
4 thereto at a value to be determined as follows:

5 a. A mutually agreed upon appraiser will assess the
6 book value of the mobile home and cash value of all
7 appurtenances thereto and the market value of the mobile home
8 as situated immediately prior to the notice of change in land
9 use. Any nationally recognized publication for valuation of
10 mobile and manufactured homes shall be used as a guide for
11 determining such value.

12 b. The homeowner will be entitled to the book value of
13 the mobile home and cash value of the appurtenances.

14 c. The homeowner will also be entitled to the
15 following portion of the difference between the book value and
16 cash value of the appurtenances and the market value of the
17 mobile home. If the homeowner has resided in the mobile home
18 at the time of notice of land use change by the park owner:

19 0 years up to 5 years.....40 percent
20 5 years up to 15 years.....60 percent
21 15 years up to 20 years.....80 percent
22 20 years or more.....100 percent

23 ~~d. The homeowner who has become a resident of the park~~
24 ~~within 0-5 years of the notice of change in land use shall be~~
25 ~~entitled, in addition to the compensation set forth above, to~~
26 ~~60 percent of the difference between the book value and the~~
27 ~~market value of the mobile home.~~

28 ~~e. Between the date of the appraisals referred to in~~
29 ~~this subsection and the delivery of title and possession of~~
30 ~~the mobile home and all appurtenances thereto to the park~~
31 ~~owner, the mobile home and the appurtenances shall be~~

1 ~~maintained by the homeowner in the condition existing on the~~
2 ~~date of the appraisals, ordinary wear and tear excepted; or~~

3 3. Reach a mutually agreed to settlement between the
4 park owner and the homeowner.

5 Section 15. Section 723.071, Florida Statutes, is
6 amended to read:

7 723.071 Sale of mobile home parks.--

8 (1)(a) If a mobile home park owner offers a mobile
9 home park for sale, or receives a bona fide offer to purchase
10 the park which the owner intends to consider or make a
11 counteroffer to, she or he shall notify the officers of the
12 homeowners' association created pursuant to ss.
13 723.075-723.079 of the offer, stating the price and the terms
14 and conditions of sale.

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

30 (c) If the bona fide offer of purchase includes other
31 property or more than one mobile home park, the mobile home

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

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

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

27 (3)(a) As used in subsection ~~subsections~~ (1) and ~~(2)~~,
28 the term "notify" means the mailing ~~placing~~ of a notice by
29 certified ~~in the United States~~ mail addressed to the officers
30 of the homeowners' association. Each such notice is considered
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1 ~~shall be deemed~~ to have been given upon the deposit of the
2 notice in the United States mail.

3 (b) As used in subsection (1), the term "offer" means
4 any solicitation by the park owner to the general public.

5 (4) This section does not apply to:

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

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

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

17 (d) Any transfer by a partnership to any of its
18 partners.

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

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

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

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

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

1 Section 16. Subsection (1) of section 723.072, Florida
2 Statutes, is amended to read:

3 723.072 Affidavit of compliance with statutory
4 requirements.--

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

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

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

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

21 (d) The provisions of subsections (1) and (2) of s.
22 723.071 are inapplicable to a particular sale or transfer of
23 such park by him or her, and compliance with such subsections
24 is not required; or

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

27
28 Any party acquiring an interest in a mobile home park, and any
29 and all title insurance companies and attorneys preparing,
30 furnishing, or examining any evidence of title, have the
31 absolute right to rely on the truth and accuracy of all

1 statements appearing in such affidavit and are under no
2 obligation to inquire further as to any matter or fact
3 relating to the park owner's compliance with the provisions of
4 s. 723.071.

5 Section 17. Paragraph (b) of subsection (2) of section
6 723.078, Florida Statutes, is amended to read:

7 723.078 Bylaws of homeowners' associations.--In order
8 for a homeowners' association to exercise the rights provided
9 in s. 723.071, the bylaws of the association shall provide for
10 the following:

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

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

26 Section 18. Paragraph (b) of subsection (1) of section
27 320.77, Florida Statutes, is amended to read:

28 320.77 License required of mobile home dealers.--

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

30 (b) "Mobile home broker" means any person who is
31 licensed under chapter 475 or is engaged in the business of

1 offering to procure or procuring used mobile homes for the
2 general public; who holds himself or herself out through
3 solicitation, advertisement, or otherwise as one who offers to
4 procure or procures used mobile homes for the general public;
5 or who acts as the agent or intermediary on behalf of the
6 owner or seller of a used mobile home which is for sale or who
7 assists or represents the seller in finding a buyer for the
8 mobile home.

9 Section 19. This act shall take effect July 1, 2001.

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SENATE SUMMARY

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Creates a mobile home owners' bill of rights within the
14 Florida Mobile Home Act and amends various sections of
the act to comply with the bill of rights.

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