

By the Committees on Comprehensive Planning, Local and Military Affairs; Regulated Industries; and Senators Latvala, Brown-Waite, Pruitt, Cowin, Posey, Carlton, Saunders, Campbell, Lee, Wasserman Schultz, Sullivan, Dyer, Burt, (Additional Sponsors on Last Printed Page)

316-1571-01

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. 723.011,

5           F.S.; requiring the division to maintain

6           specified records; requiring that copies be

7           provided within a specified time after written

8           request; amending s. 723.012, F.S.; revising

9           provisions relating to statements in a

10          prospectus; amending s. 723.037, F.S.; revising

11          procedures for committee meetings that

12          determine the status of changes in lot rentals;

13          amending s. 723.061, F.S.; revising timeframes

14          for giving notice of changes in lot rental

15          amounts and use of mobile home parks; creating

16          s. 723.0611, F.S.; creating the Florida Mobile

17          Home Relocation Corporation; providing for a

18          board of directors; authorizing the board to

19          borrow from private finance sources; creating

20          s. 723.0612, F.S.; providing for the payment of

21          relocation expenses if a mobile home owner is

22          required to move due to a change in use of the

23          park; providing certain exceptions; specifying

24          procedures for payments upon approval of the

25          corporation; providing a penalty; providing an

26          effective date.

27

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

29

30           Section 1. Present subsections (11), (12), (13), and

31 (14) of section 723.003, Florida Statutes, are redesignated as

1 subsections (12), (13), (14), and (15), respectively, and a  
2 new subsection (11) is added to that section, to read:

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

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

13           Section 2. Subsection (1) of section 723.011, Florida  
14 Statutes, is amended to read:

15           723.011 Disclosure prior to rental of a mobile home  
16 lot; prospectus, filing, approval.--

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

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

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

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

3  
4 This paragraph does ~~shall~~ not preclude the finding that a lot  
5 rental agreement is invalid on other grounds and does ~~shall~~  
6 not ~~be construed to~~ limit any rights of a mobile home owner or  
7 ~~to~~ preclude a mobile home owner from seeking any remedies  
8 allowed by this chapter, including a determination that the  
9 lot rental agreement or any part thereof is unreasonable.

10           (b) The division shall determine whether the proposed  
11 prospectus or offering circular is adequate to meet the  
12 requirements of this chapter and shall notify the park owner  
13 by mail, within 45 days after ~~of~~ receipt of the document, that  
14 the division has found that ~~either approved~~ the prospectus or  
15 offering circular is adequate or has found specified  
16 deficiencies. If ~~In the event~~ the division does not make  
17 either finding approve the prospectus or advise the park owner  
18 of deficiencies within 45 days, the prospectus shall be deemed  
19 to have been found adequate ~~be approved~~.

20           (c)1. Filings for mobile home parks in which lots have  
21 not been offered for lease prior to June 4, 1984, shall be  
22 accompanied by a filing fee of \$10 per lot offered for lease  
23 by the park owner; however, the fee shall not be less than  
24 \$100.

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

- 28           a. For a park in which there are 26-50 lots: \$100.  
29           b. For a park in which there are 51-100 lots: \$150.  
30           c. For a park in which there are 101-150 lots: \$200.  
31           d. For a park in which there are 151-200 lots: \$250.

1 e. For a park in which there are 201 or more lots:  
2 \$300.

3 (d) The division shall maintain copies of each  
4 prospectus and all amendments to each prospectus which are  
5 considered adequate by the division. The division shall  
6 provide copies of documents requested in writing under this  
7 subsection within 10 days after the written request is  
8 received.

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

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

15 (1) The front cover or the first page must contain  
16 only:

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

18 (b) The following statements in conspicuous type:

19 1. THIS PROSPECTUS CONTAINS VERY IMPORTANT INFORMATION  
20 REGARDING YOUR LEGAL RIGHTS AND YOUR FINANCIAL OBLIGATIONS IN  
21 LEASING A MOBILE HOME LOT. MAKE SURE THAT YOU READ THE ENTIRE  
22 DOCUMENT AND SEEK LEGAL ADVICE IF YOU HAVE ANY QUESTIONS  
23 REGARDING THE INFORMATION SET FORTH IN THIS DOCUMENT~~(OFFERING~~  
24 ~~CIRCULAR) CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN~~  
25 ~~LEASING A MOBILE HOME LOT.~~

26 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
27 NATURE. A PROSPECTIVE LESSEE SHOULD REFER TO ALL REFERENCES,  
28 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
29 MATERIALS.

30 3. ORAL REPRESENTATIONS SHOULD NOT BE RELIED UPON AS  
31 CORRECTLY STATING THE REPRESENTATIONS OF THE PARK OWNER OR

1 OPERATOR. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND  
2 ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

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

6 Section 4. Subsection (4) and paragraph (a) of  
7 subsection (5) of section 723.037, Florida Statutes, are  
8 amended to read:

9 723.037 Lot rental increases; reduction in services or  
10 utilities; change in rules and regulations; mediation.--

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

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

1 amount of the increase, any similar item or items which have  
2 decreased, and the amount of the decrease. If an increase is  
3 based upon the lot rental amount charged by comparable mobile  
4 home parks, the park owner shall disclose, and provide in  
5 writing to the committee at or before the meeting, the name,  
6 address, lot rental amount, and any other relevant factors  
7 relied upon by the park owner such as, facilities, services,  
8 and amenities concerning the comparable mobile home parks  
9 ~~relied upon by the park owner~~. The park owner shall prepare a  
10 written summary of the material factors and retain a copy for  
11 3 years. The park owner shall provide the committee a copy of  
12 the summary at or before the meeting.

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

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

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

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

- 3 1. The rental increase is unreasonable;
- 4 2. The rental increase has made the lot rental amount  
5 unreasonable;
- 6 3. The decrease in services or utilities is not  
7 accompanied by a corresponding decrease in rent or is  
8 otherwise unreasonable; or
- 9 4. The change in the rules and regulations is  
10 unreasonable.

11 Section 5. Section 723.061, Florida Statutes, is  
12 amended to read:

13 723.061 Eviction; grounds, proceedings.--

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

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

27 (b) Conviction of a violation of a federal or state  
28 law or local ordinance, which violation may be deemed  
29 detrimental to the health, safety, or welfare of other  
30 residents of the mobile home park.

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

3 1. For the first violation of any properly promulgated  
4 rule or regulation, rental agreement provision, or this  
5 chapter which is found by any court having jurisdiction  
6 thereof to have been an act which endangered the life, health,  
7 safety, or property of the park residents or the peaceful  
8 enjoyment of the mobile home park by its residents, the mobile  
9 home park owner may terminate the rental agreement, and the  
10 mobile home owner will have 7 days from the date that the  
11 notice is delivered to vacate the premises.

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

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1 chapter does not constitute a ground for eviction under this  
2 section.

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4 No properly promulgated rule or regulation may be arbitrarily  
5 applied and used as a ground for eviction.

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

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

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

25 ~~(a) Within 90 days from the time the park owner gives~~  
26 ~~the 1-year notice, she or he shall notify the homeowner of her~~  
27 ~~or his election to either buy the mobile home, relocate the~~  
28 ~~mobile home to another park owned by the park owner, or pay to~~  
29 ~~relocate the mobile home to another mobile home park, as~~  
30 ~~follows:~~

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1           ~~1. Pay as damages the actual cost, including setup~~  
2 ~~fees, to move an evicted mobile home, with comparable and any~~  
3 ~~required appurtenances, to a comparable mobile home park~~  
4 ~~within a 50-mile radius of the mobile home park or other~~  
5 ~~distance agreed upon by the park owner and mobile home owner.~~  
6 ~~Since the amount of damages that a homeowner will suffer due~~  
7 ~~to the change in land use by the park owner cannot be easily~~  
8 ~~estimated and would be difficult and expensive to determine,~~  
9 ~~it is the intent of the Legislature that the payment contained~~  
10 ~~herein be considered in the nature of liquidated damages and~~  
11 ~~not a penalty. It is the intent of the Legislature that the~~  
12 ~~liquidated damages to which the mobile home owner is entitled~~  
13 ~~be limited to the damages defined in this subparagraph only~~  
14 ~~for so long as this subsection remains in effect. The~~  
15 ~~liquidated damages apply only to the harm incurred by the~~  
16 ~~homeowner for having to relocate, and this provision shall not~~  
17 ~~preclude incidental damages that might occur in relocating the~~  
18 ~~mobile home;~~

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

21           ~~a. A mutually agreed upon appraiser will assess the~~  
22 ~~book value of the mobile home and cash value of all~~  
23 ~~appurtenances thereto and the market value of the mobile home~~  
24 ~~as situated immediately prior to the notice of change in land~~  
25 ~~use. Any nationally recognized publication for valuation of~~  
26 ~~mobile and manufactured homes shall be used as a guide for~~  
27 ~~determining such value.~~

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

30           ~~c. The homeowner will also be entitled to the~~  
31 ~~following portion of the difference between the book value and~~

1 ~~cash value of the appurtenances and the market value of the~~  
2 ~~mobile home. If the homeowner has resided in the mobile home~~  
3 ~~at the time of notice of land use change by the park owner:~~  
4       ~~0 years up to 5 years.....40 percent~~  
5       ~~5 years up to 15 years.....60 percent~~  
6       ~~15 years up to 20 years.....80 percent~~  
7       ~~20 years or more.....100 percent~~  
8       ~~d. The homeowner who has become a resident of the park~~  
9 ~~within 0-5 years of the notice of change in land use shall be~~  
10 ~~entitled, in addition to the compensation set forth above, to~~  
11 ~~60 percent of the difference between the book value and the~~  
12 ~~market value of the mobile home.~~  
13       ~~e. Between the date of the appraisals referred to in~~  
14 ~~this subsection and the delivery of title and possession of~~  
15 ~~the mobile home and all appurtenances thereto to the park~~  
16 ~~owner, the mobile home and the appurtenances shall be~~  
17 ~~maintained by the homeowner in the condition existing on the~~  
18 ~~date of the appraisals, ordinary wear and tear excepted; or~~  
19       ~~3. Reach a mutually agreed to settlement between the~~  
20 ~~park owner and the homeowner.~~  
21       ~~(b) Either the mobile home owner or the park owner may~~  
22 ~~apply to the circuit court in the county where the mobile home~~  
23 ~~lot is located for purposes of selecting an appraiser to~~  
24 ~~determine the value of the mobile home and appurtenances or~~  
25 ~~for resolution of any other dispute arising under this~~  
26 ~~subsection.~~  
27       ~~(c) In any dispute in a circuit court regarding the~~  
28 ~~value of the mobile home as appraised pursuant to this~~  
29 ~~subsection, the court shall determine the amount to be~~  
30 ~~deposited into the registry of the court as will fully secure~~  
31 ~~and fully compensate the homeowner as ultimately determined by~~

1 ~~the final judgment. The court shall fix the time within which~~  
2 ~~and the terms upon which the homeowner shall be required to~~  
3 ~~surrender possession and title to the park owner. The order of~~  
4 ~~the court shall not become effective unless the deposit of the~~  
5 ~~required sum is made in the registry of the court.~~

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

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

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

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

25 723.0611 Florida Mobile Home Relocation  
26 Corporation.--There is created the Florida Mobile Home  
27 Relocation Corporation. The corporation shall be administered  
28 by a board of directors made up of six members, three members  
29 appointed by the largest nonprofit association representing  
30 mobile home owners in this state and three members appointed  
31 by the largest nonprofit association representing the

1 manufactured housing industry in this state. The corporation  
2 may borrow from private finance sources in order to meet the  
3 demands of the relocation program established in s. 723.0612.

4 Section 7. Section 723.0612, Florida Statutes, is  
5 created to read:

6 723.0612 Change in land use; relocation expenses;  
7 payments by park owner.--

8 (1) If a mobile home owner is required to move due to  
9 a change in use of the park as set forth in 723.061(1)(d) and  
10 the mobile home owner complies with the requirements of this  
11 section, the mobile home owner is entitled to payment from the  
12 Mobile Home Relocation Corporation as follows:

13 (a) The amount of actual moving expenses of relocating  
14 the mobile home to a new location within a 50-mile radius of  
15 the vacated park, or the amount of \$5,000 for a single-section  
16 mobile home, or \$10,000 for a multisection home, whichever is  
17 less.

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

20 (2) Except as provided in subsection (3), upon the  
21 occurrence of a change in use, the park owner shall pay to the  
22 corporation \$2,000 for each single-section home and \$2,500 for  
23 each multisection home for which a homeowner has made  
24 application for payment of moving expenses.

25 (3) A park owner is not required to make the payment  
26 prescribed in subsection (2) nor is the homeowner entitled to  
27 compensation under subsection (1) when:

28 (a) The park owner moves a homeowner to another space  
29 in the mobile home park or to another mobile home park at the  
30 park owner's expense;

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

4           (c) A homeowner abandons the mobile home as set forth  
5 in subsection (8).

6           (4) Except as provided in subsection (8), in order to  
7 obtain payment from the corporation, the homeowner shall  
8 submit to the Florida Mobile Home Relocation Corporation, with  
9 a copy to the mobile home park owner, an application for  
10 payment which includes:

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

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

15           (5) The corporation must approve payment within 15  
16 days after receipt of the information set forth in subsection  
17 (4) or payment is deemed approved. A copy of the approval must  
18 be forwarded to the mobile home park owner with an invoice for  
19 payment under subsection (2). Upon approval, the corporation  
20 shall issue a voucher in the amount of the contract price for  
21 relocating the mobile home. The moving contractor may redeem  
22 the voucher from the corporation following completion of the  
23 relocation and upon approval of the relocation by the  
24 homeowner.

25           (6) Actions by the corporation under this section are  
26 not subject to the provisions of chapter 120, but are  
27 reviewable only by writ or certiorari in the circuit court in  
28 the county in which the claimant resides in the manner and  
29 within the time provided by the Florida Rules of Appellate  
30 Procedure.

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

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

14           (9) The corporation is not liable to any person for  
15 recovery if it does not have available the money necessary to  
16 pay the amounts claimed. If the corporation does not have  
17 sufficient funds to pay the claimant, it shall keep a record  
18 of the time and date of its determination for payment to a  
19 claimant. If money becomes available, the corporation shall  
20 pay the claimant whose unpaid claim is the earliest by time  
21 and date of determination.

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

28           Section 8. This act shall take effect July 1, 2001.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
CS/SB 442

Deletes an annual \$1 surcharge levied on mobile home park owners for each mobile home offered for lease within a Mobile Home Park;

Changes the method of payment of relocation expenses to displaced mobile home park tenants from receiving payment from the Mobile Home Relocation Trust Fund to receiving payment from the Florida Mobile Home Relocation Corporation; and

Provides for the creation of the Florida Mobile Home Relocation Corporation.

\*\*\*\*\*

ADDITIONAL SPONSORS

Geller, Sebesta, Miller, Mitchell, Constantine, Bronson, Crist, Dawson, King and Sanderson