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DATE: February 26, 2002

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY
COUNCIL FOR COMPETITIVE COMMERCE
ANALYSIS**

BILL #: CS/CS/HB 399

RELATING TO: Florida Mobile Home Act

SPONSOR(S): Council for Competitive Commerce; Committee on Agriculture & Consumer Affairs;
Representative Bennett & Others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS (CCC) YEAS 7 NAYS 0
 - (2) FISCAL POLICY AND RESOURCES YEAS 14 NAYS 0
 - (3) COUNCIL FOR COMPETITIVE COMMERCE YEAS 12 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

In the 2001 legislative session, two related bills regarding mobile home park tenancies passed. This "glitch bill" creates a 30-day time limit for convening a required meeting between a park owner and the committee representing park tenants; corrects a cross-reference; and specifies certain payment procedures.

This bill does not appear to have a fiscal impact on state or local government.

Please see section VI of this analysis regarding detail of the amendments and committee substitute changes.

The bill will take effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill requires that the parties to a potential dispute conduct a meeting.

B. PRESENT SITUATION:

Florida Mobile Home Park Regulation – In General

The landlord-tenant relationship between a mobile home park owner and a mobile home owner in the mobile home park is a unique relationship. Because of the high cost of moving a mobile home, traditional landlord-tenant concepts are thought inapplicable. Chapter 723, F.S, governs the relationship between mobile home park owners and mobile home owners. Section 723.004(1), F.S, provides:

The Legislature finds that there are factors unique to the relationship between a mobile home owner and a mobile home park owner. Once occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and substantial differences in the relationship, which distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights, which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected. This chapter is created for the purpose of regulating the factors unique to the relationship between mobile home owners and mobile home park owners in the circumstances described herein. It recognizes that when such inequalities exist between mobile home owners and mobile home park owners as a result of such unique factors, regulation to protect those parties to the extent that they are affected by the inequalities, while preserving and protecting the rights of both parties, is required.

The Florida Supreme Court, in addressing mobile home park issues, states that

A hybrid type of property relationship exists between the mobile home owner and the park owner and that the relationship is not simply one of landowner and tenant. Each has basic property rights, which must reciprocally accommodate and harmonize. Separate and distinct mobile home laws are necessary to define the relationships and protect the interests of the persons involved. *Stewart v. Green*, 300 So.2d 889, 892 (Fla. 1974).

Chapter 723, F.S., does not regulate a mobile home park of nine or fewer lots. In fiscal year 1998-1999, there were 315,991 mobile home lots in regulated mobile home parks in Florida.¹

2001 Legislative Session

CS/CS/HB 411, 2nd Eng., was enacted as ch. 2001-227, L.O.F., effective July 1, 2001. That act amends various provisions of Chapter 723, F.S., regarding Mobile Home Park Lot Tenancies, as follows:

- Defines the term "proportionate share" used in the formula for calculating an allowable pass-through charge.
- Deletes the provisions requiring a mobile home park owner to pay moving expenses, or to purchase the mobile homes, of tenants who are being displaced due to a change in use (a closing of the mobile home park).
- Provides for the creation of the Florida Mobile Home Relocation Corporation, which corporation will reimburse a mobile home owner up to \$10,000 for moving expenses incurred as a result of closing the mobile home park in which the mobile home owner resides.
- Requires the Department of Business and Professional Regulation to maintain copies of all mobile home park prospectuses, and amendments thereto, and to provide a copy upon request within ten days.
- Provides additional meeting and disclosure requirements related to proposed lot rental increases.

The act also extends the automatic repeal of the Hurricane Loss Mitigation Program from 2002 to 2006, and fixes the funding of mobile home tie down program that was scheduled to be phased out.

Section 723.037(4)(c), F.S., added by ch. 2001-227, L.O.F., provides that, if the committee representing the park tenants disagrees with the park owner's lot rental increase, which the increase is based on a comparison to comparable parks, the committee must provide certain information to the park owner, together with a request for a second meeting regarding the lot rental increase. The statute does not provide any deadline for conducting such second meeting.

A related trust fund bill, HB 1265, 2nd Eng., passed as ch. 2001-231, L.O.F. Among other changes, that act created s. 723.06116, F.S., regarding payments into the Florida Mobile Home Relocation Trust Fund. Section 723.06116(2)(c), F.S., provides that a mobile home park owner is not required to pay into the relocation trust fund should the mobile home owner abandon the mobile home, as set forth in s. 723.0612(8), F.S. This reference to subsection (8) is a mistake.

C. EFFECT OF PROPOSED CHANGES:

This bill creates a 30 day time limit for convening a required meeting between a park owner and the committee representing park tenants regarding a lot rental fee increase. The bill requires the mobile home park owner to make payment directly to the Florida Mobile Home Relocation Corporation rather than the Department of Business and Professional Regulation in the case where a mobile home owner is required to move as a result of a change in the use of land comprising a

¹ Information provided by the Department of Business and Professional Regulation, February 29, 2000.

mobile home park. This change results in easier administration of the payment, which is to be deposited into the Florida Mobile Home Relocation Trust Fund. Park owners must make this payment within 30 days of receiving the invoice from the corporation. The corporation may go to court to enforce payment provisions if required. Finally, the bill increases the time in which the corporation is allowed to issue relocation costs from 15 days to 45 days.

SECTION-BY-SECTION ANALYSIS:

See "Present Situation" and "Effect of Proposed Changes".

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

CS/CS/HB399 incorporates all of the changes described below.

On January 23, 2002, the Agriculture and Consumer Affairs Committee adopted two amendments that were engrossed into the committee substitute. The first amendment corrected a cross-reference. The second removed unnecessary language to clarify that a mobile home park owner is not required to make certain payments to the Florida Mobile Home Relocation Trust Fund when a mobile home is abandoned by its owner.

On February 26, 2002, the Council for Competitive Commerce adopted one amendment that was incorporated into the council substitute. The amendment requires that the mobile home park owner must pay directly to the Florida Mobile Home Corporation rather than the Department of Business and Professional Regulation when a mobile home owner is required to move as a result of change in the use of the land comprising the mobile home park. The amendment requires the mobile home park to make payment to the corporation within 30 days of receipt of the invoice for payment and justifies that the corporation may go to court to enforce payment provisions if required. Finally, the amendment increases the time period that the corporation may have to issue payment for relocation costs from 15 to 45 days.

VII. SIGNATURES:

COMMITTEE ON COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

Staff Director:

Susan D. Reese

Susan D. Reese

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