

By the Committee on Regulated Industries; and Senators
Haridopolos and Fasano

580-1759-05

1 A bill to be entitled
2 An act relating to mobile homes; amending s.
3 723.037, F.S.; providing intent, requirements,
4 and restrictions regarding information
5 exchanged in meetings between park owners and
6 homeowners' committees and at mediation;
7 providing exceptions; amending s. 723.0611,
8 F.S.; designating the Florida Mobile Home
9 Relocation Corporation as an agency of the
10 state and certain other persons as officers,
11 employees, or agents of the state for
12 application of sovereign immunity provisions;
13 providing rulemaking authority to administer
14 provisions involving the corporation; amending
15 s. 723.0612, F.S.; providing that mobile home
16 owners are not eligible for compensation in
17 certain circumstances involving change in use
18 of the land comprising the mobile home park;
19 providing entitlement to attorney's fees and
20 costs in certain enforcement actions; providing
21 an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsections (4) and (5) of section 723.037,
26 Florida Statutes, are amended to read:

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

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

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

6 (b)1. At the meeting, the park owner or subdivision
7 developer shall in good faith disclose and explain all
8 material factors resulting in the decision to increase the lot
9 rental amount, reduce services or utilities, or change rules
10 and regulations, including how those factors justify the
11 specific change proposed. The park owner or subdivision
12 developer may not limit the discussion of the reasons for the
13 change to generalities only, such as, but not limited to,
14 increases in operational costs, changes in economic
15 conditions, or rents charged by comparable mobile home parks.
16 For example, if the reason for an increase in lot rental
17 amount is an increase in operational costs, the park owner
18 must disclose the item or items which have increased, the
19 amount of the increase, any similar item or items which have
20 decreased, and the amount of the decrease. If an increase is
21 based upon the lot rental amount charged by comparable mobile
22 home parks, the park owner shall disclose, and provide in
23 writing to the committee at or before the meeting, the name,
24 address, lot rental amount, and any other relevant factors
25 relied upon by the park owner, such as facilities, services,
26 and amenities, concerning the comparable mobile home parks.
27 The information concerning comparable mobile home parks to be
28 exchanged by the parties is to encourage a dialogue concerning
29 the reasons used by the park owner for the increase in lot
30 rental amount and to encourage the homeowners to evaluate and
31 discuss the reasons for those changes with the park owner. The

1 park owner shall prepare a written summary of the material
2 factors and retain a copy for 3 years. The park owner shall
3 provide the committee a copy of the summary at or before the
4 meeting.

5 2. The park owner shall not limit the comparable
6 mobile home park disclosure to those mobile home parks that
7 are owned or operated by the same owner or operator as the
8 subject park, except in certain circumstances, which include,
9 but are not limited to:

10 a. That the market area for comparable mobile home
11 parks includes mobile home parks owned or operated by the same
12 entity that have similar facilities, services, and amenities;

13 b. That the subject mobile home park has unique
14 attributes that are shared with similar mobile home parks;

15 c. That the mobile home park is located in a
16 geographic or market area that contains few comparable mobile
17 home parks; or

18 d. That there are similar considerations or factors
19 that would be considered in such a market analysis by a
20 competent professional and would be considered in determining
21 the valuation of the market rent.

22 (c) If the committee disagrees with a park owner's lot
23 rental amount increase based upon comparable mobile home
24 parks, the committee shall disclose to the park owner the
25 name, address, lot rental amount, and any other relevant
26 factors relied upon by the committee, such as facilities,
27 services, and amenities, concerning the comparable mobile home
28 parks. The committee shall provide to the park owner the
29 disclosure, in writing, within 15 days after the meeting with
30 the park owner, together with a request for a second meeting.
31 The park owner shall meet with the committee at a mutually

1 convenient time and place within 30 days after receipt by the
2 park owner of the request from the committee to discuss the
3 disclosure provided by the committee. At the second meeting,
4 the park owner may take into account the information on
5 comparable parks provided by the committee, may supplement the
6 information provided to the committee at the first meeting,
7 and may modify his or her position, but the park owner may not
8 change the information provided to the committee at the first
9 meeting.

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

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

16
17 This subsection is not intended to be enforced by civil or
18 administrative action. Rather, the meetings and discussions
19 are intended to be in the nature of settlement discussions
20 prior to the parties proceeding to mediation of any dispute.

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

- 26 1. The rental increase is unreasonable;
- 27 2. The rental increase has made the lot rental amount
28 unreasonable;
- 29 3. The decrease in services or utilities is not
30 accompanied by a corresponding decrease in rent or is
31 otherwise unreasonable; or

1 4. The change in the rules and regulations is
2 unreasonable.

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

6 (c) When a dispute involves a rental increase for
7 different home owners and there are different rates or
8 different rental terms for those home owners, all such rent
9 increases in a calendar year for one mobile home park may be
10 considered in one mediation proceeding.

11 (d) At mediation, the park owner and the homeowners'
12 committee may supplement the information provided to each
13 other at the meetings described in subsection (4) and may
14 modify their position, but they may not change the information
15 provided to each other at the first and second meetings.

16
17 The purpose of this subsection is to encourage discussion and
18 evaluation by the parties of the comparable mobile home parks
19 in the competitive market area. The requirements of this
20 subsection are not intended to be enforced by civil or
21 administrative action. Rather, the meetings and discussions
22 are intended to be in the nature of settlement discussions
23 prior to the parties proceeding to litigation of any dispute.

24 Section 2. Paragraph (c) of subsection (2) and
25 paragraph (a) of subsection (3) of section 723.0611, Florida
26 Statutes, are amended to read:

27 723.0611 Florida Mobile Home Relocation Corporation.--

28 (2)

29 (c) The corporation shall, for purposes of s. 768.28,
30 be considered an agency of the state. Agents or employees of
31 the corporation, members of the board of directors of the

1 corporation, or representatives of the Division of Florida
2 Land Sales, Condominiums, and Mobile Homes shall be considered
3 officers, employees, or agents of the state, and actions
4 against them and the corporation shall be governed by s.
5 768.28. There shall be no liability on the part of, and no
6 cause of action of any nature shall arise against, agents or
7 employees of the corporation, members of the board of
8 directors of the corporation, or representatives of the
9 Division of Florida Land Sales, Condominiums, and Mobile Homes
10 for any act or omission of the board of directors in the
11 performance of their powers and duties under this section,
12 unless such act or omission by such person is in intentional
13 disregard of the rights of the claimant.

14 (3) The board of directors shall:

15 (a) Adopt a plan of operation and articles, bylaws,
16 and operating rules pursuant to the provisions of ss. 120.536
17 and 120.54 to administer the provisions of this section and
18 ss. 723.06115, 723.06116, and 723.0612.

19 Section 3. Subsection (7) of section 723.0612, Florida
20 Statutes, is amended, and section (11) is added to that
21 section, to read:

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

24 (7) In lieu of collecting payment from the Florida
25 Mobile Home Relocation Corporation as set forth in subsection
26 (1), a mobile home owner may abandon the mobile home in the
27 mobile home park and collect \$1,375 for a single section and
28 \$2,750 for a multisection from the corporation as long as the
29 mobile home owner delivers to the park owner the current title
30 to the mobile home duly endorsed by the owner of record and
31 valid releases of all liens shown on the title. If a mobile

1 | home owner chooses this option, the park owner shall make
2 | payment to the corporation in an amount equal to the amount
3 | the mobile home owner is entitled to under this subsection.
4 | The mobile home owner's application for funds under this
5 | subsection shall require the submission of a document signed
6 | by the park owner stating that the home has been abandoned
7 | under this subsection and that the park owner agrees to make
8 | payment to the corporation in the amount provided to the home
9 | owner under this subsection. However, in the event that the
10 | required documents are not submitted with the application, the
11 | corporation may consider the facts and circumstances
12 | surrounding the abandonment of the home to determine whether
13 | the mobile home owner is entitled to payment pursuant to this
14 | subsection. The mobile home owner is not entitled to any
15 | compensation under this subsection if there is a pending
16 | eviction action for nonpayment of lot rental amount pursuant
17 | to s. 723.061(1)(a) which was filed against him or her prior
18 | to the mailing date of the notice of change in the use of the
19 | mobile home park given pursuant to s. 723.061(1)(d).

20 | (11) In an action to enforce the provisions of this
21 | section and ss. 723.0611, 723.06115, and 723.06116, the
22 | prevailing party is entitled to reasonable attorney's fees and
23 | costs.

24 | Section 4. This act shall take effect upon becoming a
25 | law.

26 |
27 | STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
28 | COMMITTEE SUBSTITUTE FOR
29 | Senate Bill 1124

30 | The committee substitute conforms the bill to appropriate
31 | rulemaking language and changes the effective date from July
1, 2005 or upon becoming a law.