

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

18  
 19   Be It Enacted by the Legislature of the State of Florida:

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

23           723.037 Lot rental increases; reduction in services or  
 24           utilities; change in rules and regulations; mediation.--

25           (4)(a) A committee, not to exceed five in number,  
 26           designated by a majority of the affected mobile home owners or  
 27           by the board of directors of the homeowners' association, if  
 28           applicable, and the park owner shall meet, at a mutually

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

29 convenient time and place within 30 days after receipt by the  
30 homeowners of the notice of change, to discuss the reasons for  
31 the increase in lot rental amount, reduction in services or  
32 utilities, or change in rules and regulations.

33 (b)1. At the meeting, the park owner or subdivision  
34 developer shall in good faith disclose and explain all material  
35 factors resulting in the decision to increase the lot rental  
36 amount, reduce services or utilities, or change rules and  
37 regulations, including how those factors justify the specific  
38 change proposed. The park owner or subdivision developer may not  
39 limit the discussion of the reasons for the change to  
40 generalities only, such as, but not limited to, increases in  
41 operational costs, changes in economic conditions, or rents  
42 charged by comparable mobile home parks. For example, if the  
43 reason for an increase in lot rental amount is an increase in  
44 operational costs, the park owner must disclose the item or  
45 items which have increased, the amount of the increase, any  
46 similar item or items which have decreased, and the amount of  
47 the decrease. If an increase is based upon the lot rental amount  
48 charged by comparable mobile home parks, the park owner shall  
49 disclose, and provide in writing to the committee at or before  
50 the meeting, the name, address, lot rental amount, and any other  
51 relevant factors relied upon by the park owner, such as  
52 facilities, services, and amenities, concerning the comparable  
53 mobile home parks. The information concerning comparable mobile  
54 home parks to be exchanged by the parties is to encourage a  
55 dialogue concerning the reasons used by the park owner for the  
56 increase in lot rental amount and to encourage the home owners

57 to evaluate and discuss the reasons for those changes with the  
58 park owner. The park owner shall prepare a written summary of  
59 the material factors and retain a copy for 3 years. The park  
60 owner shall provide the committee a copy of the summary at or  
61 before the meeting.

62 2. The park owner shall not limit the comparable mobile  
63 home park disclosure to those mobile home parks that are owned  
64 or operated by the same owner or operator as the subject park,  
65 except in certain circumstances, which include, but are not  
66 limited to:

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

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

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

74 d. That there are similar considerations or factors that  
75 would be considered in such a market analysis by a competent  
76 professional and would be considered in determining the  
77 valuation of the market rent.

78 (c) If the committee disagrees with a park owner's lot  
79 rental amount increase based upon comparable mobile home parks,  
80 the committee shall disclose to the park owner the name,  
81 address, lot rental amount, and any other relevant factors  
82 relied upon by the committee, such as facilities, services, and  
83 amenities, concerning the comparable mobile home parks. The  
84 committee shall provide to the park owner the disclosure, in

85 writing, within 15 days after the meeting with the park owner,  
 86 together with a request for a second meeting. The park owner  
 87 shall meet with the committee at a mutually convenient time and  
 88 place within 30 days after receipt by the park owner of the  
 89 request from the committee to discuss the disclosure provided by  
 90 the committee. At the second meeting, the park owner may take  
 91 into account the information on comparable parks provided by the  
 92 committee, may supplement the information provided to the  
 93 committee at the first meeting, and may modify his or her  
 94 position, but the park owner may not change the information  
 95 provided to the committee at the first meeting.

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

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

102  
 103 This subsection is not intended to be enforced by civil or  
 104 administrative action. Rather, the meetings and discussions are  
 105 intended to be in the nature of settlement discussions prior to  
 106 the parties proceeding to mediation of any dispute.

107 (5)(a) Within 30 days after the date of the last scheduled  
 108 meeting described in subsection (4), the homeowners may petition  
 109 the division to initiate mediation of the dispute pursuant to s.  
 110 723.038 if a majority of the affected homeowners have  
 111 designated, in writing, that:

- 112 1. The rental increase is unreasonable;

113           2. The rental increase has made the lot rental amount  
114 unreasonable;

115           3. The decrease in services or utilities is not  
116 accompanied by a corresponding decrease in rent or is otherwise  
117 unreasonable; or

118           4. The change in the rules and regulations is  
119 unreasonable.

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

122           (c) When a dispute involves a rental increase for  
123 different home owners and there are different rates or different  
124 rental terms for those home owners, all such rent increases in a  
125 calendar year for one mobile home park may be considered in one  
126 mediation proceeding.

127           (d) At mediation, the park owner and the homeowners  
128 committee may supplement the information provided to each other  
129 at the meetings described in subsection (4) and may modify their  
130 position, but they may not change the information provided to  
131 each other at the first and second meetings.

132  
133 The purpose of this subsection is to encourage discussion and  
134 evaluation by the parties of the comparable mobile home parks in  
135 the competitive market area. The requirements of this subsection  
136 are not intended to be enforced by civil or administrative  
137 action. Rather, the meetings and discussions are intended to be  
138 in the nature of settlement discussions prior to the parties  
139 proceeding to litigation of any dispute.

140 Section 2. Paragraph (c) of subsection (2) and paragraph  
 141 (a) of subsection (3) of section 723.0611, Florida Statutes, are  
 142 amended to read:

143 723.0611 Florida Mobile Home Relocation Corporation.--  
 144 (2)

145 (c) The corporation shall, for purposes of s. 768.28, be  
 146 considered an agency of the state. Agents or employees of the  
 147 corporation, members of the board of directors of the  
 148 corporation, or representatives of the Division of Florida Land  
 149 Sales, Condominiums, and Mobile Homes shall be considered  
 150 officers, employees, or agents of the state, and actions against  
 151 them and the corporation shall be governed by s. 768.28. There  
 152 ~~shall be no liability on the part of, and no cause of action of~~  
 153 ~~any nature shall arise against, agents or employees of the~~  
 154 ~~corporation, members of the board of directors of the~~  
 155 ~~corporation, or representatives of the Division of Florida Land~~  
 156 ~~Sales, Condominiums, and Mobile Homes for any act or omission of~~  
 157 ~~the board of directors in the performance of their powers and~~  
 158 ~~duties under this section, unless such act or omission by such~~  
 159 ~~person is in intentional disregard of the rights of the~~  
 160 ~~claimant.~~

161 (3) The board of directors shall:

162 (a) Adopt a plan of operation and articles, bylaws, and  
 163 operating rules pursuant to the provisions of chapter 120 to  
 164 administer the provisions of this section and ss. 723.06115,  
 165 723.06116, and 723.0612.

166 Section 3. Subsection (7) of section 723.0612, Florida  
 167 Statutes, is amended, and section (11) is added to said section,  
 168 to read:

169 723.0612 Change in use; relocation expenses; payments by  
 170 park owner.--

171 (7) In lieu of collecting payment from the Florida Mobile  
 172 Home Relocation Corporation as set forth in subsection (1), a  
 173 mobile home owner may abandon the mobile home in the mobile home  
 174 park and collect \$1,375 for a single section and \$2,750 for a  
 175 multisection from the corporation as long as the mobile home  
 176 owner delivers to the park owner the current title to the mobile  
 177 home duly endorsed by the owner of record and valid releases of  
 178 all liens shown on the title. If a mobile home owner chooses  
 179 this option, the park owner shall make payment to the  
 180 corporation in an amount equal to the amount the mobile home  
 181 owner is entitled to under this subsection. The mobile home  
 182 owner's application for funds under this subsection shall  
 183 require the submission of a document signed by the park owner  
 184 stating that the home has been abandoned under this subsection  
 185 and that the park owner agrees to make payment to the  
 186 corporation in the amount provided to the home owner under this  
 187 subsection. However, in the event that the required documents  
 188 are not submitted with the application, the corporation may  
 189 consider the facts and circumstances surrounding the abandonment  
 190 of the home to determine whether the mobile home owner is  
 191 entitled to payment pursuant to this subsection. The mobile home  
 192 owner is not entitled to any compensation under this subsection  
 193 if there is a pending eviction action for nonpayment of lot

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194 rental amount pursuant to s. 723.061(1)(a) which was filed  
195 against him or her prior to the mailing date of the notice of  
196 change in the use of the mobile home park given pursuant to s.  
197 723.061(1)(d).

198 (11) In an action to enforce the provisions of this  
199 section and ss. 723.0611, 723.06115, and 723.06116, the  
200 prevailing party is entitled to reasonable attorney's fees and  
201 costs.

202 Section 4. This act shall take effect July 1, 2005.