

CHAMBER ACTION

1 The Business Regulation Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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

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

37 (b)1. At the meeting, the park owner or subdivision
38 developer shall in good faith disclose and explain all material
39 factors resulting in the decision to increase the lot rental
40 amount, reduce services or utilities, or change rules and
41 regulations, including how those factors justify the specific
42 change proposed. The park owner or subdivision developer may not
43 limit the discussion of the reasons for the change to
44 generalities only, such as, but not limited to, increases in
45 operational costs, changes in economic conditions, or rents
46 charged by comparable mobile home parks. For example, if the
47 reason for an increase in lot rental amount is an increase in
48 operational costs, the park owner must disclose the item or
49 items which have increased, the amount of the increase, any
50 similar item or items which have decreased, and the amount of
51 the decrease. If an increase is based upon the lot rental amount

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52 | charged by comparable mobile home parks, the park owner shall
53 | disclose, and provide in writing to the committee at or before
54 | the meeting, the name, address, lot rental amount, and any other
55 | relevant factors relied upon by the park owner, such as
56 | facilities, services, and amenities, concerning the comparable
57 | mobile home parks. The information concerning comparable mobile
58 | home parks to be exchanged by the parties is to encourage a
59 | dialogue concerning the reasons used by the park owner for the
60 | increase in lot rental amount and to encourage the home owners
61 | to evaluate and discuss the reasons for those changes with the
62 | park owner. The park owner shall prepare a written summary of
63 | the material factors and retain a copy for 3 years. The park
64 | owner shall provide the committee a copy of the summary at or
65 | before the meeting.

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

71 | a. That the market area for comparable mobile home parks
72 | includes mobile home parks owned or operated by the same entity
73 | that have similar facilities, services, and amenities;

74 | b. That the subject mobile home park has unique attributes
75 | that are shared with similar mobile home parks;

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

78 | d. That there are similar considerations or factors that
79 | would be considered in such a market analysis by a competent

80 professional and would be considered in determining the
 81 valuation of the market rent.

82 (c) If the committee disagrees with a park owner's lot
 83 rental amount increase based upon comparable mobile home parks,
 84 the committee shall disclose to the park owner the name,
 85 address, lot rental amount, and any other relevant factors
 86 relied upon by the committee, such as facilities, services, and
 87 amenities, concerning the comparable mobile home parks. The
 88 committee shall provide to the park owner the disclosure, in
 89 writing, within 15 days after the meeting with the park owner,
 90 together with a request for a second meeting. The park owner
 91 shall meet with the committee at a mutually convenient time and
 92 place within 30 days after receipt by the park owner of the
 93 request from the committee to discuss the disclosure provided by
 94 the committee. At the second meeting, the park owner may take
 95 into account the information on comparable parks provided by the
 96 committee, may supplement the information provided to the
 97 committee at the first meeting, and may modify his or her
 98 position, but the park owner may not change the information
 99 provided to the committee at the first meeting.

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

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

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107 This subsection is not intended to be enforced by civil or
 108 administrative action. Rather, the meetings and discussions are
 109 intended to be in the nature of settlement discussions prior to
 110 the parties proceeding to mediation of any dispute.

111 (5)(a) Within 30 days after the date of the last scheduled
 112 meeting described in subsection (4), the homeowners may petition
 113 the division to initiate mediation of the dispute pursuant to s.
 114 723.038 if a majority of the affected homeowners have
 115 designated, in writing, that:

116 1. The rental increase is unreasonable;

117 2. The rental increase has made the lot rental amount
 118 unreasonable;

119 3. The decrease in services or utilities is not
 120 accompanied by a corresponding decrease in rent or is otherwise
 121 unreasonable; or

122 4. The change in the rules and regulations is
 123 unreasonable.

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

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

131 (d) At mediation, the park owner and the homeowners
 132 committee may supplement the information provided to each other
 133 at the meetings described in subsection (4) and may modify their

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134 position, but they may not change the information provided to
 135 each other at the first and second meetings.

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

144 Section 2. Paragraph (c) of subsection (2) and paragraph
 145 (a) of subsection (3) of section 723.0611, Florida Statutes, are
 146 amended to read:

147 723.0611 Florida Mobile Home Relocation Corporation.--

148 (2)

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

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162 ~~duties under this section, unless such act or omission by such~~
 163 ~~person is in intentional disregard of the rights of the~~
 164 ~~claimant.~~

165 (3) The board of directors shall:

166 (a) Adopt a plan of operation and articles, bylaws, and
 167 operating rules pursuant to the provisions of ss. 120.536 and
 168 120.54 to administer the provisions of this section and ss.
 169 723.06115, 723.06116, and 723.0612.

170 Section 3. Subsection (7) of section 723.0612, Florida
 171 Statutes, is amended, and section (11) is added to said section,
 172 to read:

173 723.0612 Change in use; relocation expenses; payments by
 174 park owner.--

175 (7) In lieu of collecting payment from the Florida Mobile
 176 Home Relocation Corporation as set forth in subsection (1), a
 177 mobile home owner may abandon the mobile home in the mobile home
 178 park and collect \$1,375 for a single section and \$2,750 for a
 179 multisection from the corporation as long as the mobile home
 180 owner delivers to the park owner the current title to the mobile
 181 home duly endorsed by the owner of record and valid releases of
 182 all liens shown on the title. If a mobile home owner chooses
 183 this option, the park owner shall make payment to the
 184 corporation in an amount equal to the amount the mobile home
 185 owner is entitled to under this subsection. The mobile home
 186 owner's application for funds under this subsection shall
 187 require the submission of a document signed by the park owner
 188 stating that the home has been abandoned under this subsection
 189 and that the park owner agrees to make payment to the

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190 corporation in the amount provided to the home owner under this
191 subsection. However, in the event that the required documents
192 are not submitted with the application, the corporation may
193 consider the facts and circumstances surrounding the abandonment
194 of the home to determine whether the mobile home owner is
195 entitled to payment pursuant to this subsection. The mobile home
196 owner is not entitled to any compensation under this subsection
197 if there is a pending eviction action for nonpayment of lot
198 rental amount pursuant to s. 723.061(1)(a) which was filed
199 against him or her prior to the mailing date of the notice of
200 change in the use of the mobile home park given pursuant to s.
201 723.061(1)(d).

202 (11) In an action to enforce the provisions of this
203 section and ss. 723.0611, 723.06115, and 723.06116, the
204 prevailing party is entitled to reasonable attorney's fees and
205 costs.

206 Section 4. This act shall take effect upon becoming a law.