

ENROLLED

HB 565, Engrossed 1

2005 Legislature

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:

20
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

ENROLLED

HB 565, Engrossed 1

2005 Legislature

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

ENROLLED

HB 565, Engrossed 1

2005 Legislature

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

ENROLLED

HB 565, Engrossed 1

2005 Legislature

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;

ENROLLED

HB 565, Engrossed 1

2005 Legislature

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.

ENROLLED

HB 565, Engrossed 1

2005 Legislature

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 ss. 120.536 and
 164 120.54 to administer the provisions of this section and ss.
 165 723.06115, 723.06116, and 723.0612.

ENROLLED

HB 565, Engrossed 1

2005 Legislature

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

ENROLLED

HB 565, Engrossed 1

2005 Legislature

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 upon becoming a law.