

By Senator Fasano

11-956B-06

1 A bill to be entitled
 2 An act relating to mobile home park lot
 3 tenancies; amending s. 723.0381, F.S.;
 4 authorizing the court to refer actions to
 5 binding arbitration rather than nonbinding
 6 arbitration; requiring that the judge be
 7 notified before entering an order if a party
 8 files for a trial de novo; amending s. 723.071,
 9 F.S.; requiring mobile home park owners
 10 receiving a bona fide offer for purchase to
 11 notify the officers of the homeowners'
 12 association; providing that a homeowners'
 13 association purchasing a mobile home park may
 14 execute a contract for only the park that it
 15 represents; authorizing a time extension for
 16 home owners when a park owner changes the terms
 17 and conditions of the offer to purchase the
 18 park; revising requirements with respect to
 19 unsolicited offers; providing the homeowners'
 20 association with the right of first refusal to
 21 purchase the park in the event of an
 22 unsolicited offer; encouraging mobile home
 23 owners to organize as homeowners' associations
 24 to negotiate a right of first refusal with a
 25 park owner; redefining the term "offer" for
 26 such purposes; providing a limitation on an
 27 exception relating to transfers by
 28 partnerships; amending s. 723.083, F.S.;
 29 revising procedures providing for the removal
 30 or relocation of mobile home owners; providing
 31 an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Subsection (2) of section 723.0381, Florida
4 Statutes, is amended to read:

5 723.0381 Civil actions; arbitration.--

6 (2) The court may refer the action to binding
7 ~~nonbinding~~ arbitration pursuant to s. 44.104 ~~s. 44.103~~ and the
8 Florida Rules of Civil Procedure. The court shall order the
9 hearing to be held informally with presentation of testimony
10 kept to a minimum and matters presented to the arbitrators
11 primarily through the statements and arguments of counsel. The
12 court shall assess the parties equally to pay the compensation
13 awarded to the arbitrators if neither party requests a trial
14 de novo. If a party has filed for a trial de novo, the party
15 shall be assessed the arbitration costs, court costs, and
16 other reasonable costs of the opposing party, including
17 attorney's fees, investigation expenses, and expenses for
18 expert or other testimony or evidence incurred after the
19 arbitration hearing if the judgment upon the trial de novo is
20 not more favorable than the arbitration decision. If
21 subsequent to arbitration a party files for a trial de novo,
22 the arbitration decision shall ~~may~~ be made known to the judge
23 before ~~only after~~ he or she enters ~~has entered~~ his or her
24 order on the merits.

25 Section 2. Subsections (1) through (3) and paragraph
26 (d) of subsection (4) of section 723.071, Florida Statutes,
27 are amended to read:

28 723.071 Sale of mobile home parks.--

29 (1)(a) If a mobile home park owner offers a mobile
30 home park for sale or receives a bona fide offer for purchase,
31 she or he shall notify the officers of the homeowners'

1 association created pursuant to ss. 723.075-723.079 of the
2 offer, stating the price and the terms and conditions of sale.

3 (b) The mobile home owners, by and through the
4 association defined in s. 723.075, shall have the right to
5 purchase the park, provided the home owners meet the price and
6 terms and conditions of the mobile home park owner by
7 executing a contract with the park owner within 45 days,
8 unless agreed to otherwise, from the date of mailing of the
9 notice and provided they have complied with ss.

10 723.075-723.079. To exercise its right to purchase the park,
11 the homeowners' association shall be required to execute a
12 contract for only the mobile home park that the homeowners'
13 association represents. If a contract between the park owner
14 and the association is not executed within such 45-day period,
15 then, unless the park owner thereafter elects to offer the
16 park at a price lower than the price specified in her or his
17 notice to the officers of the homeowners' association or to
18 change the terms and conditions of the offer, the park owner
19 has no further obligations under this subsection, ~~and her or~~
20 ~~his only obligation shall be as set forth in subsection (2).~~

21 (c) If the park owner thereafter elects to offer the
22 park at a price lower than the price specified in her or his
23 notice to the home owners or to change the terms and
24 conditions of the offer, the home owners, by and through the
25 association, will have an additional 10 days to meet the price
26 and terms and conditions of the park owner by executing a
27 contract.

28 (2) If a mobile home park owner receives a bona fide
29 offer to purchase the park that she or he intends to consider
30 or make a counteroffer to, the mobile home park owner must
31 first comply with subsection (1) ~~park owner's only obligation~~

1 ~~shall be to notify the officers of the homeowners' association~~
2 ~~that she or he has received an offer and disclose the price~~
3 ~~and material terms and conditions upon which she or he would~~
4 ~~consider selling the park and consider any offer made by the~~
5 ~~home owners, provided the home owners have complied with ss.~~
6 ~~723.075 723.079. The park owner shall be under no obligation~~
7 ~~to sell to the home owners or to interrupt or delay other~~
8 ~~negotiations and shall be free at any time to execute a~~
9 ~~contract for the sale of the park to a party or parties other~~
10 ~~than the home owners or the association. Within 45 days after~~
11 ~~the date the mobile home park owner mails notification of a~~
12 ~~bona fide offer for purchase, the homeowners' association must~~
13 ~~be given the right of first refusal to meet the price and~~
14 ~~terms and conditions required to execute a contract with~~
15 ~~identical price and terms and conditions made in the~~
16 ~~unsolicited offer for the mobile home park. The Legislature~~
17 ~~encourages mobile home owners to organize as homeowners'~~
18 ~~associations pursuant to s. 723.075 for the purpose of~~
19 ~~negotiating a right of first refusal with a park owner.~~

20 (3) As used in this section, the term:

21 (a) ~~As used in subsections (1) and (2), the term~~
22 "Notify" means the placing of a notice in the United States
23 mail addressed to the officers of the homeowners' association.
24 Each such notice shall be deemed to have been given upon the
25 deposit of the notice in the United States mail.

26 (b) ~~As used in subsection (1), the term "Offer" means~~
27 any solicitation by the park owner to the general public or
28 any unsolicited offer to purchase the mobile home park.

29 (4) This section does not apply to:
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1 (d) Any transfer by a partnership to any of its
2 partners. However, this exception may not be used to avoid
3 sale to the homeowners' association.

4 Section 3. Section 723.083, Florida Statutes, is
5 amended to read:

6 723.083 Governmental action affecting removal of
7 mobile home owners.--No agency of municipal, local, county, or
8 state government shall approve any application for rezoning,
9 or take any other official action, which would result in the
10 removal or relocation of mobile home owners residing in a
11 mobile home park without first determining that affordable and
12 comparable, adequate mobile home parks or other suitable
13 facilities exist for the relocation of the mobile home owners.
14 An adequate mobile home park or other suitable facility
15 selected for the relocation of the mobile home owners must be
16 affordable based on the income of very-low-income, low-income,
17 or moderate-income persons, as defined in s. 420.0004, and
18 must be situated within the same county.

19 Section 4. This act shall take effect July 1, 2006.

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22 SENATE SUMMARY

23 Provides for the court to refer a dispute involving a
24 mobile home park tenancy to binding arbitration rather
25 than nonbinding arbitration. Revises certain restrictions
26 on the sale of a mobile home park. Provides for the
27 homeowners' association of a mobile home park to have the
28 right of first refusal following a bona fide offer of
29 purchase. Requires that affordable facilities within the
30 same county be selected when relocating a mobile home
31 park. (See bill for details.)