

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Community Affairs Committee

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BILL: CS/SB 934

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Mobile Homes and Affordable Housing

DATE: January 24, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herrin</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	_____	_____	<u>RI</u>	_____
3.	_____	_____	<u>JU</u>	_____
4.	_____	_____	<u>GA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The committee substitute (CS) recognizes the loss of affordable housing which results when the land use for a mobile home park changes and its residents are forced to relocate. It requires a local government or community redevelopment agency (CRA) with a mobile home park within its jurisdiction which is closing to due a change in land use to use available funding sources to relocate those home owners displaced by the change in use. It authorizes the use of all funding and revenue sources to assist with relocation expenses. It encourages local governments to approve new mobile home parks to accommodate displaced residents and provide affordable housing. Also, the CS encourages local governments to use regulatory and financial incentives for the continued operation of mobile home parks.

This CS imposes a late fee on mobile home park owners who change the use of land for a mobile home park, but fail to make the required payment to the Florida Mobile Home Relocation Corporation. It limits the period for filing an application for funding moving expenses to 1 year after the expiration of the eviction period as established in the notice of the change of land use. The CS also encourages mobile home park owners to organize as a homeowners' association for the purpose of negotiating a right of first refusal with the park owner.

Under this CS, a local government is required provide a written document to substantiate its determination that adequate mobile home parks or other suitable facilities exist for the relocation of the home owners before approving a rezoning application for a mobile home park. It also requires the governmental entity considering the rezoning application to prepare a good-faith estimate of the fiscal benefits of such a change in land use.

This CS amends the following sections of the Florida Statutes: 723.06116, 723.0612, 723.071, 723.072, and 723.083. The CS also creates section 163.31772, Florida Statutes.

## II. Present Situation:

### *Change in Land Use for Mobile Home Parks*

Many mobile homes in Florida are located in mobile home parks for which the land use designation may change in the future and park residents will be forced to relocate. Mobile home parks often provide housing for those who are unable to afford site-built housing but no longer wish to be a renter. There are also many retirees living in mobile home parks. The active real estate market in Florida and more severe hurricane seasons have placed even greater pressure on mobile home park owners to redevelop or sell their parks.

In order to evict mobile home owners due to a change in the use of the land on which the mobile home park is located, the park owner is required to give the tenants affected by the change at least 6 months' notice of the projected change in land use in order to give tenants time to find other accommodations.<sup>1</sup> The notice of a change in land use must be in writing and posted on the premises and sent to the mobile home tenant or occupant.<sup>2</sup> The mobile home park owner does not have to disclose the proposed land use designation for the park.<sup>3</sup>

In addition to the notice required for a proposed change in the use of land, a park owner must provide notice of filing for a zoning change to each mobile home owner or the directors of the homeowners' association, if one has been established, within 5 days after submitting the application to the zoning authority.<sup>4</sup> Local governments and state agencies are prohibited from approving an application for rezoning or taking any other official action that results in the removal or relocation of homeowners from a mobile home park unless it is first determined whether adequate mobile home parks or other suitable facilities exist for the displaced homeowners.<sup>5</sup> The term "or other suitable facilities" does not have a statutory definition.

### *Florida Mobile Home Relocation Corporation*

If a mobile home owner is required to move due to a change in the use of land for a mobile home park and the home owner meets certain conditions, there are statutory provisions in place to assist with relocation. The Florida Mobile Home Relocation Corporation (corporation), established in s. 723.0611, F.S., governs the collection and payment of relocation expenses for mobile home owners displaced by a change in land use for a mobile home park. Specifically, s. 723.0612, F.S., provides for relocation expenses or a specified sum to be paid from the corporation to the mobile home owner.

The amount of the payment is the actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or \$3,000 for a single-section mobile home, or \$6,000 for a multi-section mobile home, whichever is less. Moving expenses are

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<sup>1</sup> S. 723.061(1)(d), Fla. Stat. (2005).

<sup>2</sup> S. 723.061(5), Fla. Stat. (2005).

<sup>3</sup> See *Harris v. Martin Regency, Ltd.*, 576 So. 2d 1294, 1296 (Fla. 1991).

<sup>4</sup> S. 723.081, Fla. Stat. (2005).

<sup>5</sup> S. 723.083, Fla. Stat. (2005).

defined to include the cost of taking down, moving, and setting up the mobile home in a new location.<sup>6</sup>

The mobile home park owner is required to make payment to the corporation in the amount of \$2,750 per single-section mobile home and \$3,750 per multi-section mobile home for each application for moving expenses due to a change in land use.<sup>7</sup> These payments are due within 30 days after receipt of the invoice from the corporation. Payments received by the corporation are deposited in the Florida Mobile Home Relocation Trust Fund.<sup>8</sup> The mobile home park owner is not required to make the payments, nor is the mobile home owner entitled to compensation, if:

- The mobile home owner is moved to another space in the park or to another mobile park at the park owner's expense;
- The mobile home owner notified the mobile home park owner, before the notice of a change in land use, that he or she was vacating the premises;
- A mobile home owner abandons the home as provided for in s. 723.0612(7), F.S.; or
- The mobile home owner had an eviction action filed against him or her prior to the mailing date of the change in the use of land.<sup>9</sup>

The corporation has statutory authority to seek judicial enforcement of these provisions.<sup>10</sup>

In addition to the above payments, the mobile home park owners pay a \$1 surcharge on the annual fee that is remitted to the Division of Florida Land Sales, Condominiums, and Mobile Homes within the Department of Business and Professional Regulation for each lot within a mobile home park that he or she owns.<sup>11</sup> The surcharge payments are deposited in the Florida Mobile Home Relocation Trust Fund and may or may not be imposed depending on the balance in the trust fund. The thresholds for imposing the surcharge are found in s. 723.007(2), F.S.

#### *Applications for Funding Moving Expenses*

In order to obtain payment for moving expenses, the home owner is required to submit an application for payment to the corporation which includes a copy of the notice of change in use and a contract with a moving or towing company for relocation of the mobile home.<sup>12</sup> The corporation must approve payment within 45 days after receiving the information or the payment is deemed approved. A copy of the approval must be forwarded to the mobile home park owner with an invoice for payment. Upon approval, the corporation will issue a voucher in the amount of the contract price for relocating the mobile home, which the moving contractor may redeem upon completion of the move and approval of the relocation by the mobile home owner.<sup>13</sup>

In lieu of collecting moving expenses from the corporation, a home owner may elect to abandon the mobile home and collect payment from the corporation in the amount of \$1,375 for a single

<sup>6</sup> S. 723.0612(1), Fla. Stat. (2005).

<sup>7</sup> S. 723.06116(1), Fla. Stat. (2005).

<sup>8</sup> S. 723.06116(1), Fla. Stat. (2005).

<sup>9</sup> S. 723.06116(2), Fla. Stat. (2005).

<sup>10</sup> The corporation received \$514,915 in total payments from park owners for fiscal year 2004-2005. Twenty-five percent of those payments, or \$128,729, was received more than 30 days after the due date. This figure does not include 3 mobile home communities with whom the corporation is negotiating or litigating against for payment for the 2004-2005 fiscal year.

<sup>11</sup> S. 723.007(1), Fla. Stat. (2005).

<sup>12</sup> S. 723.0612(3), Fla. Stat. (2005).

<sup>13</sup> S. 723.0612(3)-(4), Fla. Stat. (2005).

section mobile home and \$2,750 for a multi-section mobile home.<sup>14</sup> Upon election of abandonment, the home owner must deliver to the park owner an endorsed title with a valid release of all liens on the title to the mobile home.<sup>15</sup>

Mobile home owners are prohibited from seeking funding from the corporation for moving expenses if the home owner may recover some funding through legal action against the corporation or the park owner. Specifically, a mobile home owner whose application for funding has been approved by the corporation is barred from filing a claim or cause of action under ch. 723, F.S., directly relating to or arising from the proposed change in land use of the mobile home park against the corporation, the park owner, or the park owner's successors in interest.<sup>16</sup> Also, the corporation may not approve an application for funding if the applicant has either filed a claim or cause of action, is actively pursuing such claim or cause of action, or has a judgment against the corporation, the park owner, or the park owner's successors in interest unless the claim or cause of action is dismissed with prejudice.<sup>17</sup>

#### *Right of First Refusal and Mobile Home Parks*

A mobile home park owner who offers his or her park for sale to the general public must notify the officers of the homeowners' association of the offer, asking prices, and the terms and conditions of sale.<sup>18</sup> The mobile homeowners' association must be given 45 days from the date the notice is mailed to meet the price and terms and conditions through the execution of a contract with the park owner. If the homeowners' association and the park owner fail to execute a contract within the 45-day timeframe, the park owner has no further obligation unless he or she agrees to accept a lower price.<sup>19</sup> However, if the park owner agrees to sell the park at a lower price than specified in the notice to the association, then the homeowners' association has an additional 10 days to execute a contract.<sup>20</sup>

If a mobile home park owner receives an unsolicited offer to purchase the park that he or she wishes to consider or make a counteroffer to, the park owner is required to notify the mobile homeowners' association of the offer and disclose the price and material terms and conditions upon which the park owner would consider selling the park.<sup>21</sup> Although the park owner shall consider subsequent offers by the homeowners' association, he or she is free to execute a contract to sell the park to a party other than the association at any time.<sup>22</sup>

### **III. Effect of Proposed Changes:**

**Section 1** creates s. 163.31772, F.S., to provide legislative intent and findings regarding mobile homes and affordable housing. It defines terms. This CS requires a local government or CRA with a mobile home park within its jurisdiction which is closing due to a change in the use of land to use available funding and revenue sources to:

<sup>14</sup> S. 723.0612(7), Fla. Stat. (2005).

<sup>15</sup> S. 723.0612(7), Fla. Stat. (2005).

<sup>16</sup> S. 723.0612(9), Fla. Stat. (2005).

<sup>17</sup> S. 723.0612(9), Fla. Stat. (2005).

<sup>18</sup> S. 723.071(1)(a), Fla. Stat. (2005).

<sup>19</sup> S. 723.071(1)(b), Fla. Stat. (2005).

<sup>20</sup> S. 723.071(1)(c), Fla. Stat. (2005).

<sup>21</sup> S. 723.071(2), Fla. Stat. (2005).

<sup>22</sup> S. 723.071(2), Fla. Stat. (2005).

- Assist with the cost of relocating the mobile home;
- Assist with the purchase of a new mobile or manufactured home if the homeowner if relocation of the existing home is not possible;
- Assist the homeowner in relocating to housing other than a mobile or manufactured home; and
- Relocate the mobile or manufactured home, whenever possible, within the same neighborhood or community.

Under this CS, a local government or CRA is specifically authorized to use tax increment financing, urban infill and redevelopment funds, general revenue, housing loan assistance program funds, documentary stamp tax revenues from the redevelopment of the mobile home park property which is available to the local government, and impact and permit fees derived from the redevelopment of the property. The local government or CRA may also use available revenue sources other than the above.

This CS encourages local governments to permit and approve the rezoning of property for the development of mobile or manufactured home parks to provide new homes, affordable housing, or to accommodate the relocation of mobile homes from a park that is closing due to a change in land use. A local government or CRA is authorized to enter into a development agreement or other similar binding agreement that has a term of 10 years or less with the owner of a mobile home park to ensure the continued use of the mobile home park for affordable housing. The agreement shall contain incentives, including, but not limited to:

- Transferable development rights for the property owner who continues to provide affordable housing on the mobile home park site;
- Fee waivers; or
- Housing assistance to the mobile home park owner which is the difference between the lot rental amount paid by the home owners and the lot rent charged in comparable mobile home parks or the difference between the lot rental value of the sites dedicated to affordable housing and the fair market value of those sites.

DCA is required to provide technical assistance to local governments that wish to establish a transfer of development rights program for mobile home parks and also to provide housing assistance for mobile home park owners who provide affordable housing.

**Section 2** amends s. 723.06116(1), F.S., to provide for a late fee if a mobile home park owner who is changing the land use for a mobile home park fails to make the required payment to the Florida Mobile Home Relocation Trust Fund for each single-section and multi-section mobile home for which the home owner has made application for moving expenses. The late fee ranges from 10 percent to 25 percent depending on when the payment is made and the fee is imposed beginning 30 days after receipt of the invoice.

**Section 3** amends s. 723.0612, F.S., to prohibit a mobile home owner from making an application for funding if the applicant has settled a claim or cause of action under ch. 723, F.S., against the corporation, park owner, or the park owner's successors in interest directly related to or arising from the change in the use of the land for the mobile home park.

The CS limits the period for filing an application for funding moving expenses to 1 year after the expiration of the eviction period as established in the notice of the change of land use.

**Section 4** amends s. 723.071, F.S., to provide legislative findings regarding the right of refusal to purchase a mobile home park. This provision also encourages mobile home park owners to organize as a homeowners' association for the purpose of negotiating a right of first refusal with the park owner. It amends cross-references.

**Section 5** amends s. 723.072, F.S., to conform cross-references.

**Section 6** amends s. 723.083, F.S., to require a governmental entity to have a written document substantiating that adequate mobile home parks or other suitable facilities exist for the relocation of the home owners before the governmental entity may approve an application for rezoning or take any other official action that would result in the removal or relocation of home owners living in a mobile home park. The CS also requires the governmental entity considering the rezoning or official action to prepare a good-faith estimate of the fiscal benefits of the proposed change in land use. The written document substantiating the existence of adequate mobile home parks or facilities for relocation and the good-faith estimate must be available for public inspection and copying at least 10 days prior to the meeting during which the rezoning or other official act will be considered.

**Section 7** provides the act shall take effect upon becoming a law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Mobile home owners would benefit if local governments provide additional funding for relocation expenses when the owners are evicted from a park that is undergoing a change in land use. The mobile home park owners would benefit from any local government financial assistance provided by the local government to ensure that a mobile home park remains open as a park providing affordable housing.

**C. Government Sector Impact:**

This CS requires a local government or CRA, having a mobile home park within its jurisdiction which is closing due to a change in the use of land, to use available funding and revenue sources to provide relocation assistance to the mobile home owners displaced by the change. The CS does not specify the amount of assistance that must be provided to the mobile home owners.

Current law requires a local government to determine that adequate mobile home parks or other suitable facilities exist for the relocation of the home owners before approving a rezoning application for a mobile home park. This CS requires the determination to be in the form of a written document. The CS also requires the governmental entity considering the rezoning or official action to prepare a good-faith estimate of the fiscal benefits of such a change in land use.

The DCA is required to provide technical assistance to a local government or CRA that wishes to offer a transfer of development rights program or financial assistance as incentives for mobile home park owners to continue to provide affordable housing. There are costs associated with the research and development of these technical assistance programs, implementation, and outreach. The DCA is in the process of estimating these costs.

The Florida Mobile Home Relocation Corporation estimates that the imposition of the graduated late fee in section 2 of the CS will reduce the percentage of late payments to 12 percent, as compared to the 25 percent for fiscal year 2005-2005, and the total late fees collected would be \$7,560 per year.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Prior to approving a rezoning application or taking any other official action that would displace residents of a mobile home park, a governmental entity is required to find that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners. The term "other suitable facilities" is not statutorily defined and, in some instances, has been inferred to mean apartments or other rental units.





## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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