

By Senator Fasano

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1 A bill to be entitled
2 An act relating to mobile home park lot tenancies;
3 amending s. 723.031, F.S.; deleting cross-references
4 to conform to changes made by the act; amending s.
5 723.0381, F.S.; authorizing the court to refer actions
6 to binding arbitration under certain conditions;
7 amending s. 723.059, F.S.; deleting a provision
8 relating to mobile home park owners increasing rental
9 amounts under certain conditions; amending s. 723.061,
10 F.S., relating to grounds and proceedings for
11 eviction; requiring a mobile home park owner to apply
12 to the local government for change of use or rezoning
13 under specified conditions; requiring such owner to
14 provide a specified relocation plan; providing that
15 such application and plan be provided to the park's
16 homeowners' association; providing that a park owner
17 may not give a notice of increase in lot rental amount
18 during a specified period; deleting a provision
19 relating to nonapplicability of certain provisions
20 relating to governmental action affecting removal of
21 mobile home owners; amending s. 723.071, F.S.;
22 revising notice requirements relating to the sale of
23 mobile home parks; revising provisions relating to a
24 homeowners' association's right to purchase the mobile
25 home park; increasing the number of days in which a
26 contract must be executed for such sale; providing
27 requirements for the purchase of the park by a
28 homeowners' association; providing offer requirements;
29 deleting definitions to conform to changes in such

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30 notice requirements; amending s. 723.083, F.S.;

31 requiring an agency of municipal, local, county, or

32 state government to first determine the existence of

33 adequate mobile home parks or other monetarily

34 comparable, suitable, and available facilities before

35 approving any action that would result in the removal

36 or relocation of mobile home owners residing in a

37 mobile home park; providing an effective date.

38

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

40

41 Section 1. Subsection (5) of section 723.031, Florida

42 Statutes, is amended to read:

43 723.031 Mobile home lot rental agreements.-

44 (5) The rental agreement shall contain the lot rental

45 amount and services included. An increase in lot rental amount

46 upon expiration of the term of the lot rental agreement shall be

47 in accordance with ss. 723.033 and 723.037 ~~or s. 723.059(4),~~

48 ~~whichever is applicable, provided that, pursuant to s.~~

49 ~~723.059(4), the amount of the lot rental increase is disclosed~~

50 ~~and agreed to by the purchaser, in writing.~~ An increase in lot

51 rental amount shall not be arbitrary or discriminatory between

52 similarly situated tenants in the park. No lot rental amount may

53 be increased during the term of the lot rental agreement,

54 except:

55 (a) When the manner of the increase is disclosed in a lot

56 rental agreement with a term exceeding 12 months and which

57 provides for such increases not more frequently than annually.

58 (b) For pass-through charges as defined in s. 723.003(10).

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59 (c) That no charge may be collected that results in payment
60 of money for sums previously collected as part of the lot rental
61 amount. The provisions hereof notwithstanding, the mobile home
62 park owner may pass on, at any time during the term of the lot
63 rental agreement, ad valorem property taxes and utility charges,
64 or increases of either, provided that the ad valorem property
65 taxes and the utility charges are not otherwise being collected
66 in the remainder of the lot rental amount and provided further
67 that the passing on of such ad valorem taxes or utility charges,
68 or increases of either, was disclosed prior to tenancy, was
69 being passed on as a matter of custom between the mobile home
70 park owner and the mobile home owner, or such passing on was
71 authorized by law. Such ad valorem taxes and utility charges
72 shall be a part of the lot rental amount as defined by this
73 chapter. Other provisions of this chapter notwithstanding, pass-
74 on charges may be passed on only within 1 year of the date a
75 mobile home park owner remits payment of the charge. A mobile
76 home park owner is prohibited from passing on any fine,
77 interest, fee, or increase in a charge resulting from a park
78 owner's payment of the charge after the date such charges become
79 delinquent. Nothing herein shall prohibit a park owner and a
80 homeowner from mutually agreeing to an alternative manner of
81 payment to the park owner of the charges.

82 Section 2. Subsection (2) of section 723.0381, Florida
83 Statutes, is amended to read:

84 723.0381 Civil actions; arbitration.—

85 (2) The court may refer the action to nonbinding
86 arbitration pursuant to s. 44.103, or, with the consent of both
87 parties, to binding arbitration pursuant to s. 44.104, and the

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88 Florida Rules of Civil Procedure. The court shall order the
89 hearing to be held informally with presentation of testimony
90 kept to a minimum and matters presented to the arbitrators
91 primarily through the statements and arguments of counsel. The
92 court shall assess the parties equally to pay the compensation
93 awarded to the arbitrators if neither party requests a trial de
94 novo. If a party has filed for a trial de novo, the party shall
95 be assessed the arbitration costs, court costs, and other
96 reasonable costs of the opposing party, including attorney's
97 fees, investigation expenses, and expenses for expert or other
98 testimony or evidence incurred after the arbitration hearing if
99 the judgment upon the trial de novo is not more favorable than
100 the arbitration decision. If subsequent to arbitration a party
101 files for a trial de novo, the arbitration decision may be made
102 known to the judge only after he or she has entered his or her
103 order on the merits.

104 Section 3. Subsections (4) and (5) of section 723.059,
105 Florida Statutes, are amended to read:

106 723.059 Rights of purchaser.-

107 ~~(4) However, nothing herein shall be construed to prohibit~~
108 ~~a mobile home park owner from increasing the rental amount to be~~
109 ~~paid by the purchaser upon the expiration of the assumed rental~~
110 ~~agreement in an amount deemed appropriate by the mobile home~~
111 ~~park owner, so long as such increase is disclosed to the~~
112 ~~purchaser prior to his or her occupancy and is imposed in a~~
113 ~~manner consistent with the initial offering circular or~~
114 ~~prospectus and this act.~~

115 (4) ~~(5)~~ Lifetime leases, both those existing and those
116 entered into after July 1, 1986, shall be nonassumable unless

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117 otherwise provided in the lot rental agreement or unless the
118 transferee is the home owner's spouse. The renewal provisions in
119 automatically renewable leases, both those existing and those
120 entered into after July 1, 1986, are not assumable unless
121 otherwise provided in the lease agreement.

122 Section 4. Paragraph (d) of subsection (1) and subsections
123 (3) through (5) of section 723.061, Florida Statutes, are
124 amended to read:

125 723.061 Eviction; grounds, proceedings.—

126 (1) A mobile home park owner may evict a mobile home owner,
127 a mobile home tenant, a mobile home occupant, or a mobile home
128 only on one or more of the grounds provided in this section.

129 (d) Change in use of the land comprising the mobile home
130 park, or the portion thereof from which mobile homes are to be
131 evicted, from mobile home lot rentals to some other use,
132 provided all tenants affected are given at least 6 months'
133 notice of the projected change of use and of their need to
134 secure other accommodations and provided the mobile home park
135 owner has made application to the local government for change of
136 use or rezoning. In an attachment to the application, the mobile
137 home park owner shall provide a relocation plan indicating
138 monetarily comparable locations for the displaced residents. The
139 application and the attachment shall be provided to the park's
140 homeowners' association. The notice shall include in a font no
141 smaller than the body of the notice: YOU MAY BE ENTITLED TO
142 COMPENSATION FROM THE FLORIDA MOBILE HOME RELOCATION TRUST FUND,
143 ADMINISTERED BY THE FLORIDA MOBILE HOME RELOCATION CORPORATION
144 (FMHRC). FMHRC CONTACT INFORMATION IS AVAILABLE FROM THE FLORIDA
145 DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION. The park

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146 owner may not give a notice of increase in lot rental amount
 147 within 90 days before giving notice of a change in use nor
 148 during the 6-month eviction notice term.

149 ~~(3) The provisions of s. 723.083 shall not be applicable to~~
 150 ~~any park where the provisions of this subsection apply.~~

151 (3)~~(4)~~ A mobile home park owner applying for the removal of
 152 a mobile home owner, tenant, occupant, or a mobile home shall
 153 file, in the county court in the county where the mobile home
 154 lot is situated, a complaint describing the lot and stating the
 155 facts that authorize the removal of the mobile home owner,
 156 tenant, occupant, or the mobile home. The park owner is entitled
 157 to the summary procedure provided in s. 51.011, and the court
 158 shall advance the cause on the calendar.

159 (4)~~(5)~~ Any notice required by this section must be in
 160 writing, and must be posted on the premises and sent to the
 161 mobile home owner and tenant or occupant, as appropriate, by
 162 certified or registered mail, return receipt requested,
 163 addressed to the mobile home owner and tenant or occupant, as
 164 appropriate, at her or his last known address. Delivery of the
 165 mailed notice shall be deemed given 5 days after the date of
 166 postmark.

167 Section 5. Section 723.071, Florida Statutes, is amended to
 168 read:

169 723.071 Sale of mobile home parks.—

170 (1) (a) If a mobile home park owner intends to offer ~~offers~~
 171 a mobile home park for sale, or if a mobile home park owner
 172 receives a bona fide offer to purchase the park that she or he
 173 intends to consider or make a counteroffer to, she or he shall
 174 notify, by certified mail, the officers of the homeowners'

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175 association created pursuant to ss. 723.075-723.079, and the
176 Florida Housing Finance Corporation, of the offer, or of her or
177 his intent to offer, stating the price and the terms and
178 conditions of sale, provided the requirements of the homeowners'
179 offer to purchase as set forth in subsection (2) have been met
180 by the homeowners' association.

181 (b) The mobile home owners, by and through the association
182 defined in s. 723.075, shall have the right to purchase the
183 park, and the mobile home park owner is obligated to sell to the
184 home owners, provided the home owners meet the price and terms
185 and conditions of the mobile home park owner by executing a
186 contract with the park owner within 120 ~~45~~ days, unless agreed
187 to otherwise, from the date of mailing of the notice and
188 provided they have complied with ss. 723.075-723.079. If a
189 contract between the park owner and the association is not
190 executed within such 120-day ~~45-day~~ period, then, unless the
191 park owner thereafter elects to offer the park at a price lower
192 than the price specified in her or his notice to the officers of
193 the homeowners' association, the park owner has no further
194 obligations under this subsection, and her or his only
195 obligation shall be as set forth in subsection (2).

196 (c) If the park owner thereafter elects to offer the park
197 at a price lower or higher than the price specified in her or
198 his notice to the home owners, the home owners, by and through
199 the association, will have an additional 21 ~~10~~ days to meet the
200 price and terms and conditions of the park owner by executing a
201 contract. The homeowners, by and through the association, shall
202 have 21 days to meet the price and terms and conditions of a
203 counteroffer.

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204 (2) If the mobile home owners, by and through the
205 association, have made a bona fide offer to purchase the park by
206 certified mail to the mobile home park owner, the park owner is
207 required to comply with the provisions of subsection (1). The
208 offer to purchase must be renewed annually by certified mail to
209 the park owner. The offer to purchase must include information
210 about the number of home owners who are making the offer; the
211 date, time, and place of the homeowners' association meeting
212 determining such offer; and information concerning the ability
213 of the home owners to purchase the park using a middle
214 appraisal. If the homeowners' association has not made an offer
215 to purchase by certified mail to the mobile home park owner, the
216 park owner has no obligation to comply with the provisions of
217 subsection (1). ~~If a mobile home park owner receives a bona fide~~
218 ~~offer to purchase the park that she or he intends to consider or~~
219 ~~make a counteroffer to, the park owner's only obligation shall~~
220 ~~be to notify the officers of the homeowners' association that~~
221 ~~she or he has received an offer and disclose the price and~~
222 ~~material terms and conditions upon which she or he would~~
223 ~~consider selling the park and consider any offer made by the~~
224 ~~home owners, provided the home owners have complied with ss.~~
225 ~~723.075-723.079. The park owner shall be under no obligation to~~
226 ~~sell to the home owners or to interrupt or delay other~~
227 ~~negotiations and shall be free at any time to execute a contract~~
228 ~~for the sale of the park to a party or parties other than the~~
229 ~~home owners or the association.~~

230 ~~(3) (a) As used in subsections (1) and (2), the term~~
231 ~~"notify" means the placing of a notice in the United States mail~~
232 ~~addressed to the officers of the homeowners' association. Each~~

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233 ~~such notice shall be deemed to have been given upon the deposit~~
234 ~~of the notice in the United States mail.~~

235 ~~(b) As used in subsection (1), the term "offer" means any~~
236 ~~solicitation by the park owner to the general public.~~

237 (3)~~(4)~~ This section does not apply to:

238 (a) Any sale or transfer to a person who would be included
239 within the table of descent and distribution if the park owner
240 were to die intestate.

241 (b) Any transfer by gift, devise, or operation of law.

242 (c) Any transfer by a corporation to an affiliate. As used
243 herein, the term "affiliate" means any shareholder of the
244 transferring corporation; any corporation or entity owned or
245 controlled, directly or indirectly, by the transferring
246 corporation; or any other corporation or entity owned or
247 controlled, directly or indirectly, by any shareholder of the
248 transferring corporation.

249 (d) Any transfer by a partnership to any of its partners.

250 (e) Any conveyance of an interest in a mobile home park
251 incidental to the financing of such mobile home park.

252 (f) Any conveyance resulting from the foreclosure of a
253 mortgage, deed of trust, or other instrument encumbering a
254 mobile home park or any deed given in lieu of such foreclosure.

255 (g) Any sale or transfer between or among joint tenants or
256 tenants in common owning a mobile home park.

257 (h) Any exchange of a mobile home park for other real
258 property, whether or not such exchange also involves the payment
259 of cash or other boot.

260 (i) The purchase of a mobile home park by a governmental
261 entity under its powers of eminent domain.

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262 Section 6. Section 723.083, Florida Statutes, is amended to
263 read:

264 723.083 Governmental action affecting removal of mobile
265 home owners.—No agency of municipal, local, county, or state
266 government shall approve any application for rezoning, or take
267 any other official action, which would result in the removal or
268 relocation of mobile home owners residing in a mobile home park
269 without first determining that adequate mobile home parks or
270 other monetarily comparable, suitable, and available facilities
271 exist for the relocation of the mobile home owners.

272 Section 7. This act shall take effect July 1, 2009.