

HB 609

2009

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

HB 609

2009

29 s. 723.083, F.S.; requiring an agency of municipal, local,
 30 county, or state government to first determine the
 31 existence of adequate mobile home parks or other
 32 monetarily comparable, suitable, and available facilities
 33 before approving any action that would result in the
 34 removal or relocation of mobile home owners residing in a
 35 mobile home park; providing an effective date.
 36

37 Be It Enacted by the Legislature of the State of Florida:
 38

39 Section 1. Subsection (5) of section 723.031, Florida
 40 Statutes, is amended to read:

41 723.031 Mobile home lot rental agreements.--

42 (5) The rental agreement shall contain the lot rental
 43 amount and services included. An increase in lot rental amount
 44 upon expiration of the term of the lot rental agreement shall be
 45 in accordance with ss. 723.033 and 723.037 ~~or s. 723.059(4),~~
 46 ~~whichever is applicable, provided that, pursuant to s.~~
 47 ~~723.059(4), the amount of the lot rental increase is disclosed~~
 48 ~~and agreed to by the purchaser, in writing.~~ An increase in lot
 49 rental amount shall not be arbitrary or discriminatory between
 50 similarly situated tenants in the park. No lot rental amount may
 51 be increased during the term of the lot rental agreement,
 52 except:

53 (a) When the manner of the increase is disclosed in a lot
 54 rental agreement with a term exceeding 12 months and which
 55 provides for such increases not more frequently than annually.

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

HB 609

2009

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

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

82 723.0381 Civil actions; arbitration.--

83 (2) The court may refer the action to nonbinding
84 arbitration pursuant to s. 44.103, or, with the consent of both

HB 609

2009

85 parties, to binding arbitration pursuant to s. 44.104, and the
86 Florida Rules of Civil Procedure. The court shall order the
87 hearing to be held informally with presentation of testimony
88 kept to a minimum and matters presented to the arbitrators
89 primarily through the statements and arguments of counsel. The
90 court shall assess the parties equally to pay the compensation
91 awarded to the arbitrators if neither party requests a trial de
92 novo. If a party has filed for a trial de novo, the party shall
93 be assessed the arbitration costs, court costs, and other
94 reasonable costs of the opposing party, including attorney's
95 fees, investigation expenses, and expenses for expert or other
96 testimony or evidence incurred after the arbitration hearing if
97 the judgment upon the trial de novo is not more favorable than
98 the arbitration decision. If subsequent to arbitration a party
99 files for a trial de novo, the arbitration decision may be made
100 known to the judge only after he or she has entered his or her
101 order on the merits.

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

104 723.059 Rights of purchaser.--

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

HB 609

2009

113 ~~(4)-(5)~~ Lifetime leases, both those existing and those
114 entered into after July 1, 1986, shall be nonassumable unless
115 otherwise provided in the lot rental agreement or unless the
116 transferee is the home owner's spouse. The renewal provisions in
117 automatically renewable leases, both those existing and those
118 entered into after July 1, 1986, are not assumable unless
119 otherwise provided in the lease agreement.

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

123 723.061 Eviction; grounds, proceedings.--

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

128 (d) Change in use of the land comprising the mobile home
129 park, or the portion thereof from which mobile homes are to be
130 evicted, from mobile home lot rentals to some other use,
131 provided all tenants affected are given at least 6 months'
132 notice of the projected change of use and of their need to
133 secure other accommodations and provided the mobile home park
134 owner has made application to the local government for change of
135 use or rezoning. In an attachment to the application, the mobile
136 home park owner shall provide a relocation plan indicating
137 monetarily comparable locations for the displaced residents. The
138 application and the attachment shall be provided to the park's
139 homeowners' association. The notice shall include in a font no
140 smaller than the body of the notice: YOU MAY BE ENTITLED TO

141 COMPENSATION FROM THE FLORIDA MOBILE HOME RELOCATION TRUST FUND,
 142 ADMINISTERED BY THE FLORIDA MOBILE HOME RELOCATION CORPORATION
 143 (FMHRC). FMHRC CONTACT INFORMATION IS AVAILABLE FROM THE FLORIDA
 144 DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION. The park
 145 owner may not give a notice of increase in lot rental amount
 146 within 90 days before giving notice of a change in use nor
 147 during the 6-month eviction notice term.

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

150 (3)~~(4)~~ A mobile home park owner applying for the removal
 151 of a mobile home owner, tenant, occupant, or a mobile home shall
 152 file, in the county court in the county where the mobile home
 153 lot is situated, a complaint describing the lot and stating the
 154 facts that authorize the removal of the mobile home owner,
 155 tenant, occupant, or the mobile home. The park owner is entitled
 156 to the summary procedure provided in s. 51.011, and the court
 157 shall advance the cause on the calendar.

158 (4)~~(5)~~ Any notice required by this section must be in
 159 writing, and must be posted on the premises and sent to the
 160 mobile home owner and tenant or occupant, as appropriate, by
 161 certified or registered mail, return receipt requested,
 162 addressed to the mobile home owner and tenant or occupant, as
 163 appropriate, at her or his last known address. Delivery of the
 164 mailed notice shall be deemed given 5 days after the date of
 165 postmark.

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

168 723.071 Sale of mobile home parks.--

HB 609

2009

169 (1) (a) If a mobile home park owner intends to offer ~~offers~~
170 a mobile home park for sale, or if a mobile home park owner
171 receives a bona fide offer to purchase the park that she or he
172 intends to consider or make a counteroffer to, she or he shall
173 notify, by certified mail, the officers of the homeowners'
174 association created pursuant to ss. 723.075-723.079, and the
175 Florida Housing Finance Corporation, of the offer, or of her or
176 his intent to offer, stating the price and the terms and
177 conditions of sale, provided the requirements of the homeowners'
178 offer to purchase as set forth in subsection (2) have been met
179 by the homeowners' association.

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

195 (c) If the park owner thereafter elects to offer the park
196 at a price lower or higher than the price specified in her or

HB 609

2009

197 his notice to the home owners, the home owners, by and through
198 the association, will have an additional 21 ~~10~~ days to meet the
199 price and terms and conditions of the park owner by executing a
200 contract. The homeowners, by and through the association, shall
201 have 21 days to meet the price and terms and conditions of a
202 counteroffer.

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

225 ~~sell to the home owners or to interrupt or delay other~~
 226 ~~negotiations and shall be free at any time to execute a contract~~
 227 ~~for the sale of the park to a party or parties other than the~~
 228 ~~home owners or the association.~~

229 ~~(3)(a) As used in subsections (1) and (2), the term~~
 230 ~~"notify" means the placing of a notice in the United States mail~~
 231 ~~addressed to the officers of the homeowners' association. Each~~
 232 ~~such notice shall be deemed to have been given upon the deposit~~
 233 ~~of the notice in the United States mail.~~

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

236 (3)~~(4)~~ This section does not apply to:

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

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

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

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

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

HB 609

2009

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

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

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

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

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

263 723.083 Governmental action affecting removal of mobile
264 home owners.--No agency of municipal, local, county, or state
265 government shall approve any application for rezoning, or take
266 any other official action, which would result in the removal or
267 relocation of mobile home owners residing in a mobile home park
268 without first determining that adequate mobile home parks or
269 other monetarily comparable, suitable, and available facilities
270 exist for the relocation of the mobile home owners.

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