

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/CS/SB 1016

INTRODUCER: Community Affairs Committee and Senator Jones

SUBJECT: Mobile Home Park Tenancies

DATE: February 16, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.	Gizzi	Yeatman	CA	Fav/CS
3.			JU	
4.			TA	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This committee substitute to the committee substitute (CS/CS) requires the Florida Housing Finance Corporation (FHFC) to use its expertise to provide technical assistance to mobile home owners working through their homeowners' association formed and operating pursuant to ss. 723.075-723.079, F.S., to purchase their mobile home park. This assistance includes, but is not limited to the issuance of bonds through a not-for profit organization exempt under the provisions of s. 501(c)(3) of the United States Revenue Code and technical assistance in creating the not-for-profit organization to purchase their mobile home upon written request of mobile home owners working through their homeowners' association formed and operating pursuant to ss. 723.075-723.079, F.S.

The CS/CS declares a Legislative finding that mobile home parks are an essential element of providing affordable housing in the state.

The CS/CS provides mobile home park homeowners' associations a right of first refusal to purchase a mobile home park in situations where a mobile home park is subject to a change in land use. The CS/CS also establishes certain notice procedures.

This CS/CS substantially amends the following sections of the Florida Statutes: 420.0003, 420.502, 723.061.

II. Present Situation:

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (FHFC),¹ is a state entity primarily responsible for encouraging the construction and reconstruction of new and rehabilitated affordable housing in Florida.² It was created in 1997 when the Legislature enacted chapter 97-167, Laws of Florida, to streamline implementation of affordable housing programs by reconstituting the agency as the corporation. The FHFC is a public corporation housed within the Department of Community Affairs (DCA), but is a separate budget entity not subject to the control, supervision, or direction of the DCA. Instead, it is governed by a nine member board of directors comprised of the Secretary of DCA, who serves as an ex officio voting member, and eight members appointed by the Governor, subject to confirmation by the Senate.

The corporation operates several housing programs financed with state and federal dollars, including:

- The State Apartment Incentive Loan Program (SAIL), which annually provides low-interest loans on a competitive basis to affordable housing developers;
- The Florida Homeowner Assistance Program (HAP), which includes the First Time Homebuyer Program, the Down Payment Assistance Program, the Homeownership Pool Program, and the Mortgage Credit Certificate program;
- The Florida Affordable Housing Guarantee Program, which encourages lenders to finance affordable housing by issuing guarantees on financing of affordable housing developments financed with mortgage revenue bonds;
- The State Housing Initiatives Partnership (SHIP) Program, which provides funds to cities and counties as an incentive to create local housing partnerships and to preserve and expand production of affordable housing; and
- The Community Workforce Housing Innovation Pilot Program (CWHIP), which awards funds on a competitive basis to promote the creation of public-private partnerships to develop, finance, and build workforce housing.

Affordable housing programs are funded from documentary stamp tax revenues which are distributed to both the State Housing Trust Fund and the Local Government Housing Trust Fund, and used for the various corporation programs.

Mobile Home Act

Chapter 723, F.S., is known as the “Florida Mobile Home Act” and provides for the regulation of mobile homes by the Division of Florida Condominiums, Timeshares, and Mobile Homes within the Department of Business and Professional Regulation (DBPR).

¹ Formerly the Florida Housing Finance Agency

² The Florida Housing Finance Corporation defines affordable housing “in terms of the income of the household living in the housing. Housing is generally said to be affordable when a family is spending no more than 30 percent of its total income on housing.” *Overview of Florida Housing Finance Corporation’s Mission and Programs*, at 3 (Sept. 2009)

The Mobile Home Act was created to address the unique relationship between a mobile home owner and a mobile home park owner. Section 723.004, F.S., provides in part that:

Once occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and substantial differences in the relationship which distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected.³

The provisions in ch. 723, F.S., apply to residential tenancies where a mobile home park is placed upon a lot that is rented or leased from a mobile home park that has 10 or more lots offered for rent or lease.⁴

Eviction of Mobile Home Owner

In order to evict mobile home owners due to a change in the use of the land where the mobile home park is located, the park owner is required to give all affected tenants at least six months' written notice of the projected change in land use to provide tenants with enough time to secure other accommodations.⁵ The notice of a change in land use must be in writing, posted on the premises, and sent to the mobile home owner, tenant, or occupant by certified or registered mail.⁶ The mobile home park owner does not have to disclose the proposed land use designation for the park in the eviction notice.⁷

In addition to the notice required for a proposed change in land use, a park owner must provide written notice to the mobile home owner or the directors of the homeowners' association, if one has been established, of any application for a change in zoning of the mobile home park within 5 days after filing for such zoning change with the zoning authority.⁸

Sale of Mobile Home Park: Mobile Home Owner's Rights

A mobile home park owner who offers⁹ his or her park for sale to the general public must notify¹⁰ the officers of the homeowners' association of the offer, asking prices and terms and conditions of sale.¹¹ The mobile home owner's right to purchase the park must be exercised by and through the mobile homeowners' association created pursuant to ss. 723.075-723.079, F.S.

³ Committee on Community Affairs, Fla. Senate, *Mobile Home Relocation* (Interim Project Report 2007-106) (Oct. 2006).

⁴ Section 723.002(1), F.S.

⁵ Section 723.061(1)(d), F.S.

⁶ Section 723.061(5), F.S.

⁷ See *Harris v. Martin Regency, Ltd.*, 576 So.2d 1294, 1296 (Fla. 1991) "... the legislature did not intend to require the park owner to specify what the 'change in use' would be..."

⁸ Section 723.081, F.S.

⁹ Section 723.071 (3)(b), F.S., defines the term "offer" to mean any solicitation by the park owner to the general public.

¹⁰ Section 723.071(3)(a), F.S., defines "notify" to mean the placing of a notice in US mail addressed to the officers of the homeowners' association. The notice is deemed to have been given upon the mailing.

¹¹ Section 723.071(1)(a), F.S.

The mobile homeowners' association must be given 45 days from the date the notice is mailed, to execute a contract with the park owner that meets the price and terms and conditions, as set forth in the notice. If the homeowners' association and the park owner fail to execute a contract within those 45 days, the park owner has no further obligation unless he or she agrees to accept a lower price.¹² However, if the park owner agrees to sell the park at a lower price than specified in the notice to the homeowners' association, then the homeowners' association will have an additional 10 days to meet the price and terms and conditions.¹³

The mobile home park owner is also required to notify the homeowners' association of any unsolicited bona fide offer to purchase the park which the owner intends to consider or make a counter offer to, and allow the homeowners' association to purchase the park under the price and terms and conditions of the bona fide offer to purchase.¹⁴

Although the park owner must 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.¹⁵

Florida Mobile Home Relocation Corporation

In 2001, the Legislature created the Mobile Home Relocation Program in response to concerns associated with the closure of mobile home parks.¹⁶ The Program was implemented with the support of the Florida Manufactured Housing Association and the Federation of Manufactured Home Owners of Florida, and was codified in ch. 723, F.S.¹⁷

Moving Expenses Available to Mobile Home Owners

The Florida Mobile Home Relocation Corporation (corporation), established in s. 723.0611, F.S., is a public corporation that governs the collection and payment of relocation expenses for mobile home owners displaced by a change in land use for a mobile home park. Pursuant to s. 723.0611, F.S., a displaced mobile home owner is entitled to certain relocation expenses paid by the corporation. The amount of payment includes the lesser of 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 and \$6,000 for a multi-section mobile home. Moving expenses incorporate the cost of taking down, moving, and setting up the mobile home in a new location.¹⁸

In order to obtain payment for moving expenses, the mobile home owner must submit an application for payment to the corporation along with a copy of the notice of a change in use and a contract with a moving company for relocating the mobile home.¹⁹ If the corporation does not approve payment within 45 days of receipt, it is deemed approved. Upon approval, the corporation issues a voucher in the amount of the contract price to relocate the mobile home,

¹² Section 723.071(1)(b), F.S.

¹³ Section 723.071(1)(c), F.S.

¹⁴ Section 723.071(2), F.S.

¹⁵ *Id.*

¹⁶ Chapter 2001-227, L.O.F.

¹⁷ See ss. 723.0611-723.0612, F.S.

¹⁸ Section 723.0612(1), F.S.

¹⁹ Section 723.0612(3), F.S.

which the moving contractor may redeem upon completion of the move and approval of the relocation by the mobile home owner.²⁰

Once a mobile home owner's application for funding has been approved by the corporation, he or she 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, of the park owner's successors in interest.²¹ Likewise, 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, park owner, or the park owner's successors in interest- unless the claim or cause of action is dismissed with prejudice.²²

In lieu of collecting moving expenses from the corporation, a mobile home owner can elect to abandon the home and collect payment from the corporation in the amount of \$1,375 for a single section mobile home or \$2,750 for a multi-section mobile home. If the mobile home owner chooses to abandon the mobile home, he or she must deliver to the park owner an enclosed title with a valid release of all liens on the title to the mobile home.²³

Payments to the Florida Mobile Home Relocation Corporation²⁴

A mobile home park owner is required to contribute \$2,750 per single-section mobile home and \$3,750 per multi-section mobile home to the corporation for each application that is submitted for moving expenses due to a change in land use.²⁵ These payments must be made within 30 days after receipt of the invoice from the corporation, which are deposited into the Florida Mobile Home Relocation Trust Fund under s. 723.06115, F.S.

The mobile home park owner is not required to make payments, nor is the mobile home owner entitled to compensation if:

- The mobile home owner is moved to another pace in the park or to another mobile home park at the park owner's expense;
- The mobile home owner notified the park owner prior to the notice of a change in land use, that he or she was vacating the premises;
- The mobile home owner abandoned the mobile home, as stated in s. 723.0612(7),F.S.; or
- The mobile home owner had an eviction action filed against him or her for nonpayment of the lot rental amount under s. 723.061(1)(a), prior to the date that the notice of a change in land use was mailed.

In addition to the above payments, the Florida Mobile Home Relocation Trust Fund receives revenue from mobile home park owners through a \$1 annual surcharge levied on the annual fee the park owners remit to the DBPR for each lot they own within the mobile home park. Mobile

²⁰ Section 723.0612(3)-(4), F.S.

²¹ Section 723.0612(9),F.S.

²² *Id.*

²³ Section 723.0612(7),F.S.

²⁴ Payments made to the corporation are deposited into the Florida Mobile Home Relocation Trust Fund under s. 723.06115, F.S., to be used by the Department of Business and Professional Regulation to carry on the purposes of the corporation.

²⁵ Section 723.06116(1), F.S.

home owners also contribute to the trust fund through a \$1 annual surcharge on the decal fee remitted to the Department of Highway Safety and Motor Vehicles.

III. Effect of Proposed Changes:

Florida Housing Finance Corporation

The CS/CS creates s. 420.003(4)(e), F.S., to require the Florida Housing Finance Corporation to provide technical assistance to mobile home owners working through their homeowners' association formed and operating pursuant to ss. 723.075-723.079, F.S., to purchase their mobile home park. This assistance includes, but is not limited to the issuance of bonds through a not-for-profit organization exempt under the provisions of s. 501(c)(3) of the United States Revenue Code and technical assistance in creating the not-for-profit organization to purchase their mobile home upon written request of mobile home owners working through their homeowners' association formed and operating pursuant to ss. 723.075-723.079, F.S.

The CS/CS also creates s. 420.502(9), F.S., to provide a Legislative finding that mobile home parks are an essential element of providing affordable housing in the state.

Mobile Home Owners Right to Purchase Mobile Home Park

The CS/CS amends s. 723.061(1)(d), F.S., to provide mobile home owners, by and through their home owners association, with a process to purchase a mobile home park that they are being evicted from due to a change in land use.

The CS/CS requires mobile home park owners to follow newly adopted procedures, similar to those used for the sale of a mobile home park under s. 723.071, F.S.,²⁶ prior to evicting mobile home owners due to a change in land use.

The CS/CS requires the park owner to provide written notice to the officers of the homeowners' association formed pursuant to ss. 723.075-723.079, F.S., of its right to purchase the mobile home park at the price, terms, and conditions set forth in the notice.

The CS/CS gives the homeowners' association the right to execute and deliver a contract for purchase of the park to the park owner within 45 days after the written notice was mailed. The contract must be for the same price and terms and conditions set forth in the notice, which may also require the purchase of other real estate that is contiguous or adjacent to the mobile home park.

If the park owner and the homeowners' association do not execute a contract within 45 days, the park owner is no longer obligated to comply with the process in s. 723.061(1)(d), F.S., and may proceed with the eviction. However, if the park owner elects to offer or sell the park at a price less than the price specified in the written notice to the homeowners' association, then the homeowners' association has an additional 10 days to meet the revised price, terms, and conditions.

²⁶ Section 723.071, F.S., provides procedures for the notification and offer to a mobile homeowners' association when a park owner desires to sell the mobile home park.

The CS/CS creates s. 723.061(1)(d)1.c., F.S., to clarify that the park owner shall have no obligation under ss. 723.061(d) and 723.071, F.S., to provide any further notice to, or to negotiate with the homeowners' association for the sale of the mobile home park after six months from the date of mailing the initial notice.

The CS/CS requires the park owner to provide affected mobile home owners with at least 6 months notice of an eviction due to a projected change in land use. The CS creates s. 723.061(1)(d) 2.a., F.S. to state that a notice of eviction due to a change in land use, may be given to affected mobile home owners at the same time as or after the notice of a right to purchase is provided to the homeowners' association.

The CS/CS amends s. 723.061(5), F.S., to exempt the notice provided to officers of the homeowners' association under 723.061(1)(d), F.S., from the notice requirements provided under s. 723.061(5), F.S. The notice requirements under s. 723.061(5), F.S., require that the notice be posted on the premises, and sent and addressed to the mobile home owner, tenant, or occupant by certified or registered mail, return receipt requested at his or her last known address.

The CS/CS provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Community Affairs on February 16, 2010:

The committee substitute to the committee substitute (CS/CS) clarifies that the Florida Housing Finance Corporation shall use its expertise to provide *technical* assistance to mobile home owners working through their homeowners' association formed and operating pursuant to ss. 723.075-723.079, F.S., to purchase their mobile home park.

CS by Regulated Industries on February 2, 2010:

The committee substitute (CS) corrects a scrivener's error in s. 723.061(1)(d)1., F.S., by changing the term "their" to "its" in regard to the homeowners' association's right to purchase the mobile home park.

The CS does not amend s. 723.061(3), F.S., to prohibit the application of s. 723.083, F.S., to the provisions s. 723.061(1)(d), F.S.

- B. **Amendments:**

None.