

By Senator Fasano

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1 A bill to be entitled
2 An act relating to mobile home parks; amending s.
3 723.003, F.S.; defining the term "amenity"; amending
4 s. 723.006, F.S.; providing preconditions for the
5 amendment of a prospectus or offering circular;
6 amending s. 723.011, F.S.; providing additional
7 disclosure requirements before the rental of a mobile
8 home lot; requiring the Division of Florida
9 Condominiums, Timeshares, and Mobile Homes to create a
10 mobile home disclosure document for certain purposes;
11 providing intent and purpose of disclosure; amending
12 s. 723.012, F.S.; providing additional required
13 prospectus or offering circular information relating
14 to change of land use; amending s. 723.037, F.S.;
15 providing notice requirements for a reduction in
16 services, utilities, or amenities by a park owner;
17 providing what constitutes the market area or the
18 competitive area for comparable mobile home parks;
19 amending s. 723.06116, F.S.; increasing fees for
20 mobile home park owner applications for payment of
21 moving expenses; amending s. 723.0612, F.S.; revising
22 the payment amounts mobile home owners are entitled
23 from the Florida Mobile Home Relocation Corporation
24 under certain conditions involving a change in land
25 use; amending s. 723.075, F.S.; deleting a provision
26 authorizing homeowners of certain concrete block homes
27 to be part of the homeowners' association and to serve
28 on the board of directors of the association under
29 certain circumstances; amending s. 553.382, F.S.;

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30 correcting a reference; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Subsection (16) is added to section 723.003,
35 Florida Statutes, to read:

36 723.003 Definitions.—As used in this chapter, the following
37 words and terms have the following meanings unless clearly
38 indicated otherwise:

39 (16) The term "amenity" means any tangible or intangible
40 benefit offered to a tenant at no fee, typically onsite
41 recreational facilities or planned programs, services, and
42 activities, as established by the National Council of Affordable
43 Housing Market Analysts.

44 Section 2. Subsection (8) of section 723.006, Florida
45 Statutes, is amended to read:

46 723.006 Powers and duties of division.—In performing its
47 duties, the division has the following powers and duties:

48 (8) The division has the authority by rule to authorize
49 amendments permitted by this chapter to an approved prospectus
50 or offering circular. At least 60 days before submitting any
51 amendment to the division, the mobile home park owner must meet
52 with the homeowners' association or, if a homeowners'
53 association has not been established, a committee, not to exceed
54 five members, designated by a majority of the affected
55 homeowners, to provide the association or committee with the
56 amendments to the prospectus or offering circular. Before
57 approving any amendments to a prospectus or offering circular,
58 the division shall provide notice of the amendments to the

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59 homeowners' association or, if a homeowners' association has not
60 been established, to a committee, not to exceed five members,
61 designated by a majority of the affected homeowners. The
62 division may not approve an amendment unless the requirements of
63 this subsection are met.

64 Section 3. Subsections (2) and (3) of section 723.011,
65 Florida Statutes, are amended to read:

66 723.011 Disclosure prior to rental of a mobile home lot;
67 prospectus, filing, approval.—

68 (2) The park owner shall furnish to each prospective lessee
69 a copy of the prospectus or offering circular together with all
70 of the exhibits thereto and a mobile home expense disclosure
71 document containing all the information required by s.
72 723.012(7), (8), (9), and (10) to each prospective lessee. The
73 mobile home expense disclosure document shall include past,
74 present, and estimated future lease-year amounts and any other
75 factors that may affect rent variations, such as lot location or
76 size. The division shall create the mobile home disclosure
77 document through its rulemaking authority. Delivery shall be
78 made prior to execution of the lot rental agreement or at the
79 time of occupancy, whichever occurs first. Upon delivery of a
80 prospectus to a prospective lessee, the lot rental agreement is
81 voidable by the lessee for a period of 15 days. However, the
82 park owner is not required to furnish a copy of the prospectus
83 or offering circular if the tenancy is a renewal of a tenancy
84 and the mobile home owner has previously received the prospectus
85 or offering circular.

86 (3) The prospectus or offering circular together with its
87 exhibits and the mobile home expense disclosure document are ~~is~~

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88 a disclosure documents ~~document~~ intended to afford protection to
89 homeowners and prospective homeowners in the mobile home park.
90 The purpose of the documents ~~document~~ is to disclose the
91 representations of the mobile home park owner concerning the
92 operations of the mobile home park.

93 Section 4. Paragraph (b) of subsection (1) of section
94 723.012, Florida Statutes, is amended to read:

95 723.012 Prospectus or offering circular.—The prospectus or
96 offering circular, which is required to be provided by s.
97 723.011, must contain the following information:

98 (1) The front cover or the first page must contain only:

99 (b) The following statements in conspicuous type:

100 1. THIS PROSPECTUS CONTAINS VERY IMPORTANT INFORMATION
101 REGARDING YOUR LEGAL RIGHTS AND YOUR FINANCIAL OBLIGATIONS IN
102 LEASING A MOBILE HOME LOT. MAKE SURE THAT YOU READ THE ENTIRE
103 DOCUMENT AND SEEK LEGAL ADVICE IF YOU HAVE ANY QUESTIONS
104 REGARDING THE INFORMATION SET FORTH IN THIS DOCUMENT.

105 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
106 NATURE. A PROSPECTIVE LESSEE SHOULD REFER TO ALL REFERENCES, ALL
107 EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

108 3. ORAL REPRESENTATIONS SHOULD NOT BE RELIED UPON AS
109 CORRECTLY STATING THE REPRESENTATIONS OF THE PARK OWNER OR
110 OPERATOR. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS
111 EXHIBITS FOR CORRECT REPRESENTATIONS.

112 4. UPON DELIVERY OF THE PROSPECTUS TO A PROSPECTIVE LESSEE,
113 THE RENTAL AGREEMENT IS VOIDABLE BY THE LESSEE FOR A PERIOD OF
114 15 DAYS.

115 5. UPON A CHANGE OF LAND USE, YOU MAY BE EVICTED AND
116 ORDERED TO MOVE YOUR MOBILE HOME WITHIN SIX MONTHS, OR FORFEIT

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117 YOUR MOBILE HOME IF THE HOME CANNOT BE RELOCATED, PURSUANT TO
118 SECTION 723.061, FLORIDA STATUTES.

119 Section 5. Subsections (1) and (2) and paragraphs (a) and
120 (b) of subsection (4) of section 723.037, Florida Statutes, are
121 amended, paragraph (e) of subsection (4) is redesignated as
122 paragraph (f), and a new paragraph (e) is added to subsection
123 (4) of that section, to read:

124 723.037 Lot rental increases; reduction in services, ~~or~~
125 utilities, or amenities; change in rules and regulations;
126 mediation.—

127 (1) A park owner shall give written notice to each affected
128 mobile home owner and the board of directors of the homeowners'
129 association, if one has been formed, at least 90 days prior to
130 any increase in lot rental amount or reduction in services, ~~or~~
131 utilities, or amenities provided by the park owner or change in
132 rules and regulations. The notice shall identify all other
133 affected homeowners, which may be by lot number, name, group, or
134 phase. If the affected homeowners are not identified by name,
135 the park owner shall make the names and addresses available upon
136 request. Rules adopted as a result of restrictions imposed by
137 governmental entities and required to protect the public health,
138 safety, and welfare may be enforced prior to the expiration of
139 the 90-day period but are not otherwise exempt from the
140 requirements of this chapter. Pass-through charges must be
141 separately listed as to the amount of the charge, the name of
142 the governmental entity mandating the capital improvement, and
143 the nature or type of the pass-through charge being levied.
144 Notices of increase in the lot rental amount due to a pass-
145 through charge shall state the additional payment and starting

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146 and ending dates of each pass-through charge. The homeowners'
147 association shall have no standing to challenge the increase in
148 lot rental amount, reduction in services, ~~or~~ utilities, or
149 amenities, or change of rules and regulations unless a majority
150 of the affected homeowners agree, in writing, to such
151 representation.

152 (2) Notice as required by this section shall, in addition
153 to the information required in subsection (1), only be required
154 to include the dollar amount of the relevant portions of the
155 present lot rental amount that are being increased and the
156 dollar amount of the proposed increases in lot rental amount if
157 there is an increase in the lot rental amount, the reduction in
158 services, ~~or~~ utilities, or amenities, or the change in rules and
159 regulations and the effective date thereof.

160 (4) (a) A committee, not to exceed five members ~~in number~~,
161 designated by a majority of the affected mobile home owners or
162 by the board of directors of the homeowners' association, if
163 applicable, and the park owner shall meet, at a mutually
164 convenient time and place within 30 days after receipt by the
165 homeowners of the notice of change, to discuss the reasons for
166 the increase in lot rental amount, reduction in services, ~~or~~
167 utilities, or amenities, or change in rules and regulations.

168 (b)1. At the meeting, the park owner or subdivision
169 developer shall in good faith disclose and explain all material
170 factors resulting in the decision to increase the lot rental
171 amount, reduce services, ~~or~~ utilities, or amenities, or change
172 rules and regulations, including how those factors justify the
173 specific change proposed. The park owner or subdivision
174 developer may not limit the discussion of the reasons for the

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175 change to generalities only, such as, but not limited to,
176 increases in operational costs, changes in economic conditions,
177 or rents charged by comparable mobile home parks. For example,
178 if the reason for an increase in lot rental amount is an
179 increase in operational costs, the park owner must disclose the
180 item or items which have increased, the amount of the increase,
181 any similar item or items which have decreased, and the amount
182 of the decrease. If an increase is based upon the lot rental
183 amount charged by comparable mobile home parks, the park owner
184 shall disclose, and provide in writing to the committee at or
185 before the meeting, the name, address, lot rental amount, and
186 any other relevant factors relied upon by the park owner, such
187 as facilities, services, and amenities, concerning the
188 comparable mobile home parks. The information concerning
189 comparable mobile home parks to be exchanged by the parties is
190 to encourage a dialogue concerning the reasons used by the park
191 owner for the increase in lot rental amount and to encourage the
192 home owners to evaluate and discuss the reasons for those
193 changes with the park owner. The park owner shall prepare a
194 written summary of the material factors and retain a copy for 3
195 years. The park owner shall provide the committee a copy of the
196 summary at or before the meeting.

197 2. The park owner may ~~shall~~ not limit the comparable mobile
198 home park disclosure to those mobile home parks that are owned
199 or operated by the same owner or operator as the subject park,
200 except in certain circumstances, which include, but are not
201 limited to:

202 a. That the market area for comparable mobile home parks
203 includes mobile home parks owned or operated by the same entity

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204 that have similar facilities, services, and amenities;

205 b. That the subject mobile home park has unique attributes
206 that are shared with similar mobile home parks;

207 c. That the mobile home park is located in a geographic or
208 market area that contains few comparable mobile home parks; or

209 d. That there are similar considerations or factors that
210 would be considered in such a market analysis by a competent
211 professional and would be considered in determining the
212 valuation of the market rent.

213 (e) For purpose of this subsection, the market area or the
214 competitive area for comparable mobile home parks is the county
215 in which the subject park is located along with any contiguous
216 counties.

217
218 This subsection is not intended to be enforced by civil or
219 administrative action. Rather, the meetings and discussions are
220 intended to be in the nature of settlement discussions prior to
221 the parties proceeding to mediation of any dispute.

222 Section 6. Subsection (1) of section 723.06116, Florida
223 Statutes, is amended to read:

224 723.06116 Payments to the Florida Mobile Home Relocation
225 Corporation.-

226 (1) If a mobile home owner is required to move due to a
227 change in use of the land comprising a mobile home park as set
228 forth in s. 723.061(1)(d), the mobile home park owner shall,
229 upon such change in use, pay to the Florida Mobile Home
230 Relocation Corporation for deposit in the Florida Mobile Home
231 Relocation Trust Fund \$4,000 ~~\$2,750~~ for each single-section
232 mobile home and \$5,500 ~~\$3,750~~ for each multisection mobile home

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233 for which a mobile home owner has made application for payment
234 of moving expenses. The mobile home park owner shall make the
235 payments required by this section and by s. 723.0612(7) to the
236 corporation within 30 days after receipt from the corporation of
237 the invoice for payment. Failure to make such payment within the
238 required time period shall result in a late fee being imposed.

239 (a) If payment is not submitted within 30 days after
240 receipt of the invoice, a 10-percent late fee shall be assessed.

241 (b) If payment is not submitted within 60 days after
242 receipt of the invoice, a 15-percent late fee shall be assessed.

243 (c) If payment is not submitted within 90 days after
244 receipt of the invoice, a 20-percent late fee shall be assessed.

245 (d) Any payment received 120 days or more after receipt of
246 the invoice shall include a 25-percent late fee.

247 Section 7. Paragraph (b) of subsection (1) and subsection
248 (7) of section 723.0612, Florida Statutes, are amended to read:

249 723.0612 Change in use; relocation expenses; payments by
250 park owner.—

251 (1) If a mobile home owner is required to move due to a
252 change in use of the land comprising the mobile home park as set
253 forth in s. 723.061(1)(d) and complies with the requirements of
254 this section, the mobile home owner is entitled to payment from
255 the Florida Mobile Home Relocation Corporation of:

256 (b) The amount of \$5,000 ~~\$3,000~~ for a single-section mobile
257 home or \$7,500 ~~\$6,000~~ for a multisection mobile home, whichever
258 is less. Moving expenses include the cost of taking down,
259 moving, and setting up the mobile home in a new location.

260 (7) In lieu of collecting payment from the Florida Mobile
261 Home Relocation Corporation as set forth in subsection (1), a

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262 mobile home owner may abandon the mobile home in the mobile home
263 park and collect ~~\$1,375 for a single section and \$2,750 for a~~
264 ~~multisection~~ from the corporation an amount equal to the then-
265 current market value as reported by the NADA Manufactured Home
266 List, not to exceed \$3,000 for a single section mobile home and
267 \$6,000 for a multisection mobile home, as long as the mobile
268 home owner delivers to the park owner the current title to the
269 mobile home duly endorsed by the owner of record and valid
270 releases of all liens shown on the title. If a mobile home owner
271 chooses this option, the park owner shall make payment to the
272 corporation in an amount equal to the amount the mobile home
273 owner is entitled to under this subsection. The mobile home
274 owner's application for funds under this subsection shall
275 require the submission of a document signed by the park owner
276 stating that the home has been abandoned under this subsection
277 and that the park owner agrees to make payment to the
278 corporation in the amount provided to the home owner under this
279 subsection. However, in the event that the required documents
280 are not submitted with the application, the corporation may
281 consider the facts and circumstances surrounding the abandonment
282 of the home to determine whether the mobile home owner is
283 entitled to payment pursuant to this subsection. The mobile home
284 owner is not entitled to any compensation under this subsection
285 if there is a pending eviction action for nonpayment of lot
286 rental amount pursuant to s. 723.061(1)(a) which was filed
287 against him or her prior to the mailing date of the notice of
288 change in the use of the mobile home park given pursuant to s.
289 723.061(1)(d).

290 Section 8. Subsection (3) of section 723.075, Florida

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291 Statutes, is amended to read:

292 723.075 Homeowners' associations.-

293 ~~(3) Notwithstanding subsection (1), if a portion of the~~
294 ~~park contains concrete block homes occupying lots under 99-year~~
295 ~~leases, those homeowners may be part of the association and may~~
296 ~~serve on the board of directors of the association based on the~~
297 ~~percentage of lots containing concrete block homes to the total~~
298 ~~number of mobile home lots in the park.~~

299 Section 9. Section 553.382, Florida Statutes, is amended to
300 read:

301 553.382 Placement of certain housing.-Notwithstanding any
302 other law or ordinance to the contrary, in order to expand the
303 availability of affordable housing in this state, any
304 residential manufactured building that is certified under this
305 chapter by the department may be placed on a mobile home lot in
306 a mobile home park, recreational vehicle park, or mobile home
307 condominium, cooperative, or subdivision. Any such housing unit
308 placed on a mobile home lot is a mobile home for purposes of
309 chapter 723 and, therefore, all rights, obligations, and duties
310 under chapter 723 apply, including the specifics of the
311 prospectus. However, a housing unit subject to this section may
312 not be placed on a mobile home lot without the prior written
313 approval of the park owner. Each housing unit subject to this
314 section shall be taxed as a mobile home under s. 320.08(11) and
315 is subject to payments to the Florida Mobile Home Relocation
316 Trust Fund under s. 723.06116.

317 Section 10. This act shall take effect July 1, 2012.