

By Senator Latvala

20-00425-14

20141064\_\_

1                                   A bill to be entitled  
2       An act relating to mobile home park lot tenancies;  
3       amending s. 723.003, F.S.; defining the term  
4       "amenity"; amending s. 723.012, F.S.; revising the  
5       requirements of a prospectus or offering circular to  
6       include an additional statement on the front cover or  
7       the first page after a specified date; amending s.  
8       723.037, F.S.; requiring a park owner to give written  
9       notice before reducing amenities; providing that a  
10      homeowners' association does not have standing to  
11      challenge a reduction in amenities unless agreed to by  
12      a majority of the homeowners; expanding the notice to  
13      include certain information if amenities are reduced;  
14      adding the requirement for a meeting within 30 days  
15      after receipt of the notice that an amenity is  
16      reduced; clarifying that the committee required to be  
17      designated under certain circumstances may not exceed  
18      five mobile home owners; requiring the disclosure of  
19      material factors that resulted in the reduction of  
20      amenities; amending s. 723.061, F.S.; providing  
21      circumstances under which a mobile home park owner may  
22      evict a mobile home owner, a mobile home tenant, a  
23      mobile home occupant, or a mobile home due to a change  
24      of use or rezoning; amending s. 723.071, F.S.;  
25      increasing the number of days available for mobile  
26      home owners to purchase the park; repealing s.  
27      723.075(3), F.S., relating to a homeowner of a  
28      concrete block home in a mobile home park being a part  
29      of the homeowners' association; amending ss. 73.072

20-00425-14

20141064\_\_

30 and 723.031, F.S.; conforming cross-references to  
31 changes made by the act; providing an effective date.

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

34  
35 Section 1. Section 723.003, Florida Statutes, is reordered  
36 and amended to read:

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

40 (1) "Amenity" means a tangible or intangible benefit  
41 offered by a park owner to a home owner, including onsite  
42 recreational facilities and planned programs, services,  
43 activities, and maintenance.

44 (3) ~~(1)~~ ~~The term~~ "Division" means the Division of Florida  
45 Condominiums, Timeshares, and Mobile Homes of the Department of  
46 Business and Professional Regulation.

47 (4) ~~(2)~~ ~~The term~~ "Lot rental amount" means all financial  
48 obligations, except user fees, which are required as a condition  
49 of the tenancy.

50 (5) ~~(3)~~ ~~The term~~ "Mobile home" means a residential  
51 structure, transportable in one or more sections, which is 8  
52 body feet or more in width, over 35 body feet in length with the  
53 hitch, built on an integral chassis, designed to be used as a  
54 dwelling when connected to the required utilities, and not  
55 originally sold as a recreational vehicle, and includes the  
56 plumbing, heating, air-conditioning, and electrical systems  
57 contained therein.

58 (6) ~~(4)~~ ~~The term~~ "Mobile home lot rental agreement" or

20-00425-14

20141064\_\_

59 "rental agreement" means a ~~any~~ mutual understanding or lease,  
60 whether oral or written, between a mobile home owner and a  
61 mobile home park owner in which the mobile home owner is  
62 entitled to place his or her mobile home on a mobile home lot  
63 for ~~either~~ direct or indirect remuneration of the mobile home  
64 park owner.

65 (7) ~~(5)~~ ~~The term~~ "Mobile home owner" or "home owner" means a  
66 person who owns a mobile home and rents or leases a lot within a  
67 mobile home park for residential use.

68 (8) ~~(6)~~ ~~The term~~ "Mobile home park" or "park" means a use of  
69 land in which lots or spaces are offered for rent or lease for  
70 the placement of mobile homes and in which the primary use of  
71 the park is residential.

72 (9) ~~(7)~~ ~~The term~~ "Mobile home park owner" or "park owner"  
73 means an owner or operator of a mobile home park.

74 (10) ~~(8)~~ ~~The term~~ "Mobile home subdivision" means a  
75 subdivision of mobile homes where individual lots are owned by  
76 owners and where a portion of the subdivision or the amenities  
77 exclusively serving the subdivision are retained by the  
78 subdivision developer.

79 (11) ~~(9)~~ ~~The term~~ "Operator of a mobile home park" means  
80 either a person who establishes a mobile home park on land which  
81 is leased from another person or a person who has been delegated  
82 the authority to act as the park owner in matters relating to  
83 the administration and management of the mobile home park,  
84 including, but not limited to, authority to make decisions  
85 relating to the mobile home park.

86 (12) ~~(10)~~ ~~The term~~ "Pass-through charge" means the mobile  
87 home owner's proportionate share of the necessary and actual

20-00425-14

20141064\_\_

88 direct costs and impact or hookup fees for a governmentally  
89 mandated capital improvement, which may include the necessary  
90 and actual direct costs and impact or hookup fees incurred for  
91 capital improvements required for public or private regulated  
92 utilities.

93 (13)~~(11)~~ The term "Proportionate share" as used in  
94 subsection ~~(10)~~ means an amount calculated by dividing equally  
95 among the affected developed lots in the park the total costs  
96 for the necessary and actual direct costs and impact or hookup  
97 fees incurred for governmentally mandated capital improvements  
98 serving the recreational and common areas and all affected  
99 developed lots in the park.

100 (15)~~(12)~~ The term "Unreasonable" means arbitrary,  
101 capricious, or inconsistent with this chapter.

102 (16)~~(13)~~ The term "User fees" means those amounts charged  
103 in addition to the lot rental amount for nonessential optional  
104 services provided by or through the park owner to the mobile  
105 home owner under a separate written agreement between the mobile  
106 home owner and the person furnishing the optional service or  
107 services.

108 (2)~~(14)~~ The term "Discrimination" or "discriminatory" means  
109 that a homeowner is being treated differently as to the rent  
110 charged, the services rendered, or an action for possession or  
111 other civil action being taken by the park owner, without a  
112 reasonable basis for the different treatment.

113 (14)~~(15)~~ The term "Resale agreement" means a contract in  
114 which a mobile home owner authorizes the mobile home park owner,  
115 or the park owner's designee, to act as exclusive agent for the  
116 sale of the homeowner's mobile home for a commission or fee.

20-00425-14

20141064\_\_

117 Section 2. Paragraph (b) of subsection (1) of section  
118 723.012, Florida Statutes, is amended to read:

119 723.012 Prospectus or offering circular.—The prospectus or  
120 offering circular, which is required to be provided by s.  
121 723.011, must contain the following information:

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

123 (b) The following statements in conspicuous type:

124 1. THIS PROSPECTUS CONTAINS VERY IMPORTANT INFORMATION  
125 REGARDING YOUR LEGAL RIGHTS AND YOUR FINANCIAL OBLIGATIONS IN  
126 LEASING A MOBILE HOME LOT. MAKE SURE THAT YOU READ THE ENTIRE  
127 DOCUMENT AND SEEK LEGAL ADVICE IF YOU HAVE ANY QUESTIONS  
128 REGARDING THE INFORMATION SET FORTH IN THIS DOCUMENT.

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

132 3. ORAL REPRESENTATIONS SHOULD NOT BE RELIED UPON AS  
133 CORRECTLY STATING THE REPRESENTATIONS OF THE PARK OWNER OR  
134 OPERATOR. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS  
135 EXHIBITS FOR CORRECT REPRESENTATIONS.

136 4. UPON DELIVERY OF THE PROSPECTUS TO A PROSPECTIVE LESSEE,  
137 THE RENTAL AGREEMENT IS VOIDABLE BY THE LESSEE FOR A PERIOD OF  
138 15 DAYS.

139 5. UPON A CHANGE IN USE OF THE LAND, YOU MAY BE EVICTED AND  
140 ORDERED TO MOVE YOUR MOBILE HOME WITHIN 6 MONTHS, OR ABANDON  
141 YOUR MOBILE HOME IF THE HOME CANNOT BE RELOCATED. YOU MAY BE  
142 ELIGIBLE FOR ASSISTANCE TO RELOCATE PURSUANT TO SECTIONS 723.061  
143 AND 723.0612, FLORIDA STATUTES.

144  
145 Beginning July 1, 2014, the language required in subparagraph 5.

20-00425-14

20141064\_\_

146 must be included in each new prospectus delivered by the park  
147 owner to a prospective lessee.

148 Section 3. Section 723.037, Florida Statutes, is amended to  
149 read:

150 723.037 Lot rental increases; reduction in services, ~~or~~  
151 utilities, or amenities; change in rules and regulations;  
152 mediation.—

153 (1) A park owner shall give written notice to each affected  
154 mobile home owner and the board of directors of the homeowners'  
155 association, if one has been formed, at least 90 days before an  
156 ~~prior to any~~ increase in lot rental amount; a ~~or~~ reduction in  
157 services, ~~or~~ utilities, or amenities provided by the park owner;  
158 or a change in rules and regulations. The notice must ~~shall~~  
159 identify all other affected homeowners, ~~which may be~~ by lot  
160 number, name, group, or phase. If the affected homeowners are  
161 not identified by name, the park owner shall make the names and  
162 addresses available upon request. Rules adopted as a result of  
163 restrictions imposed by governmental entities and required to  
164 protect the public health, safety, and welfare may be enforced  
165 before ~~prior to~~ the expiration of the 90-day period but are not  
166 otherwise exempt from ~~the requirements of~~ this chapter. Pass-  
167 through charges must be separately listed as to the amount of  
168 the charge, the name of the governmental entity mandating the  
169 capital improvement, and the nature or type of the pass-through  
170 charge being levied. A notice ~~Notices~~ of increase in the lot  
171 rental amount due to a pass-through charge must ~~shall~~ state the  
172 additional payment and starting and ending dates of each pass-  
173 through charge. The homeowners' association does not ~~shall~~ have  
174 ~~no~~ standing to challenge the increase in lot rental amount; it

20-00425-14

20141064\_\_

175 reduction in services, ~~or~~ utilities, or amenities; or change of  
176 rules and regulations unless a majority of the affected  
177 homeowners agree, in writing, to such representation.

178 (2) ~~Notice as required by this section shall,~~ In addition  
179 to the information required in subsection (1), the notice  
180 required under this section is only ~~be~~ required to include the  
181 dollar amount of the relevant portions of the present lot rental  
182 amount that are being increased and the dollar amount of the  
183 proposed increases in lot rental amount if there is an increase  
184 in the lot rental amount; a, ~~the~~ reduction in services, ~~or~~  
185 utilities, or amenities; or a ~~the~~ change in rules and  
186 regulations and its ~~the~~ effective date ~~thereof~~.

187 (3) The park owner shall file annually with the division a  
188 copy of any notice of a lot rental amount increase. The notice  
189 shall be filed by ~~on or before~~ January 1 of each year for any  
190 notice given during the preceding year. If the actual increase  
191 is an amount less than the proposed amount stated in the notice,  
192 the park owner shall notify the division of the actual amount of  
193 the increase within 30 days after ~~of~~ the effective date of the  
194 increase or at the time of filing, whichever is later.

195 (4) (a) A committee, not to exceed five mobile home owners  
196 ~~in number~~, designated by a majority of the affected mobile home  
197 owners or by the board of directors of the homeowners'  
198 association, if applicable, and the park owner shall meet, ~~at~~ a  
199 mutually convenient time and place within 30 days after receipt  
200 by the homeowners of the notice of change, ~~to~~ discuss the  
201 reasons for the increase in lot rental amount; ; ~~reduction in~~  
202 services, ~~or~~ utilities, or amenities; or change in rules and  
203 regulations.

20-00425-14

20141064\_\_

204 (b)1. At the meeting, the park owner or subdivision  
205 developer shall in good faith disclose and explain all material  
206 factors resulting in the decision to increase the lot rental  
207 amount;; ~~reduce services,~~ or utilities, or amenities; or change  
208 rules and regulations, including how those factors justify the  
209 specific change proposed. The park owner or subdivision  
210 developer may not limit the discussion of the reasons for the  
211 change to generalities only, such as, but not limited to,  
212 increases in operational costs, changes in economic conditions,  
213 or rents charged by comparable mobile home parks. For example,  
214 if the reason for an increase in lot rental amount is an  
215 increase in operational costs, the park owner must disclose the  
216 item or items which have increased, the amount of the increase,  
217 any similar item or items which have decreased, and the amount  
218 of the decrease. If an increase is based upon the lot rental  
219 amount charged by comparable mobile home parks, the park owner  
220 shall disclose, and provide in writing to the committee at or  
221 before the meeting, the name, address, lot rental amount, and  
222 any other relevant factors relied upon by the park owner, such  
223 as facilities, services, and amenities, concerning the  
224 comparable mobile home parks. The information concerning  
225 comparable mobile home parks to be exchanged by the parties is  
226 to encourage a dialogue concerning the reasons used by the park  
227 owner for the increase in lot rental amount and to encourage the  
228 home owners to evaluate and discuss the reasons for those  
229 changes with the park owner. The park owner shall prepare a  
230 written summary of the material factors and retain a copy for 3  
231 years. The park owner shall provide the committee a copy of the  
232 summary at or before the meeting.



20-00425-14

20141064\_\_

233           2. The park owner may ~~shall~~ not limit the comparable mobile  
234 home park disclosure to those mobile home parks that are owned  
235 or operated by the same owner or operator as the subject park,  
236 except in certain circumstances, which include, but are not  
237 limited to:

238           a. That the market area for comparable mobile home parks  
239 includes mobile home parks owned or operated by the same entity  
240 that have similar facilities, services, and amenities;

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

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

245           d. That there are similar considerations or factors that  
246 would be considered in such a market analysis by a competent  
247 professional and would be considered in determining the  
248 valuation of the market rent.

249           (c) If the committee disagrees with a park owner's lot  
250 rental amount increase based upon comparable mobile home parks,  
251 the committee shall disclose to the park owner the name,  
252 address, lot rental amount, and any other relevant factors  
253 relied upon by the committee, such as facilities, services, and  
254 amenities, concerning the comparable mobile home parks. The  
255 committee shall provide to the park owner the disclosure, in  
256 writing, within 15 days after the meeting with the park owner,  
257 together with a request for a second meeting. The park owner  
258 shall meet with the committee at a mutually convenient time and  
259 place within 30 days after receipt by the park owner of the  
260 request from the committee to discuss the disclosure provided by  
261 the committee. At the second meeting, the park owner may take

20-00425-14

20141064\_\_

262 into account the information on comparable parks provided by the  
263 committee, may supplement the information provided to the  
264 committee at the first meeting, and may modify his or her  
265 position, but the park owner may not change the information  
266 provided to the committee at the first meeting.

267 (d) The committee and the park owner may mutually agree, in  
268 writing, to extend or continue any meetings required by this  
269 section.

270 (e) Either party may prepare and use additional information  
271 to support its position during or subsequent to the meetings  
272 required by this section.

273

274 This subsection is not intended to be enforced by civil or  
275 administrative action. Rather, the meetings and discussions are  
276 intended to be in the nature of settlement discussions before  
277 ~~prior to~~ the parties proceed ~~proceeding~~ to mediation of any  
278 dispute.

279 (5) (a) Within 30 days after the date of the last scheduled  
280 meeting described in subsection (4), the homeowners may petition  
281 the division to initiate mediation of the dispute pursuant to s.  
282 723.038 if a majority of the affected homeowners have  
283 designated, in writing, that:

284 1. The rental increase is unreasonable;

285 2. The rental increase has made the lot rental amount  
286 unreasonable;

287 3. The decrease in services or utilities is not accompanied  
288 by a corresponding decrease in rent or is otherwise  
289 unreasonable; or

290 4. The change in the rules and regulations is unreasonable.

20-00425-14

20141064\_\_

291 (b) A park owner, within the same time period, may also  
292 petition the division to initiate mediation of the dispute.

293 (c) When a dispute involves a rental increase for different  
294 home owners and there are different rates or different rental  
295 terms for those home owners, all such rent increases in a  
296 calendar year for one mobile home park may be considered in one  
297 mediation proceeding.

298 (d) At mediation, the park owner and the homeowners  
299 committee may supplement the information provided to each other  
300 at the meetings described in subsection (4) and may modify their  
301 position, but they may not change the information provided to  
302 each other at the first and second meetings.

303  
304 The purpose of this subsection is to encourage discussion and  
305 evaluation by the parties of the comparable mobile home parks in  
306 the competitive market area. The requirements of this subsection  
307 are not intended to be enforced by civil or administrative  
308 action. Rather, the meetings and discussions are intended to be  
309 in the nature of settlement discussions before ~~prior to~~ the  
310 parties proceed ~~proceeding~~ to litigation of any dispute.

311 (6) If a party requests mediation and the opposing party  
312 refuses to agree to mediate upon proper request, the party  
313 refusing to mediate is ~~shall~~ not ~~be~~ entitled to attorney  
314 ~~attorney's~~ fees in any action relating to a dispute described in  
315 this section.

316 Section 4. Paragraph (d) of subsection (1) of section  
317 723.061, Florida Statutes, is amended to read:

318 723.061 Eviction; grounds, proceedings.—

319 (1) A mobile home park owner may evict a mobile home owner,

20-00425-14

20141064\_\_

320 a mobile home tenant, a mobile home occupant, or a mobile home  
321 only on one or more of the following grounds:

322 (d) Change in use of the land comprising the mobile home  
323 park, or the portion thereof from which mobile homes are to be  
324 evicted, from mobile home lot rentals to some other use, if:

325 1. The park owner gives written notice to the homeowners'  
326 association formed and operating under ss. 723.075-723.079 of  
327 its right to purchase the mobile home park, if the land  
328 comprising the mobile home park is changing use from mobile home  
329 lot rentals to a different use, at the price and under the terms  
330 and conditions ~~set forth~~ in the written notice.

331 a. The notice shall be delivered to the officers of the  
332 homeowners' association by United States mail. Within 90 ~~45~~ days  
333 after the date of mailing of the notice, the homeowners'  
334 association may execute and deliver a contract to the park owner  
335 to purchase the mobile home park at the price and under the  
336 terms and conditions ~~set forth~~ in the notice. If the contract  
337 between the park owner and the homeowners' association is not  
338 executed and delivered to the park owner within the 90-day ~~45-~~  
339 ~~day~~ period, the park owner is under no further obligation to the  
340 homeowners' association except as provided in sub-subparagraph  
341 b.

342 b. If the park owner elects to offer or sell the mobile  
343 home park at a price lower than the price specified in her or  
344 his initial notice to the officers of the homeowners'  
345 association, the homeowners' association has an additional 10  
346 days to meet the revised price, terms, and conditions of the  
347 park owner by executing and delivering a revised contract to the  
348 park owner.

20-00425-14

20141064\_\_

349 c. The park owner is not obligated under this subparagraph  
350 or s. 723.071 to give any other notice to, or to further  
351 negotiate with, the homeowners' association for the sale of the  
352 mobile home park to the homeowners' association after 6 months  
353 after the date of the mailing of the initial notice under sub-  
354 subparagraph a.

355 2. The park owner has applied to the local government for  
356 change of use or rezoning and gives the affected mobile home  
357 owners and tenants at least 6 months' notice of the eviction due  
358 to the projected change in use and of their need to secure other  
359 accommodations.

360 a. The notice of eviction due to a change in use of the  
361 land must include in a font no smaller than the body of the  
362 notice the following statement:

363

364 YOU MAY BE ENTITLED TO COMPENSATION FROM THE FLORIDA  
365 MOBILE HOME RELOCATION TRUST FUND, ADMINISTERED BY THE  
366 FLORIDA MOBILE HOME RELOCATION CORPORATION (FMHRC).  
367 FMHRC CONTACT INFORMATION IS AVAILABLE FROM THE  
368 FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL  
369 REGULATION.

370

371 b. The park owner may not give a notice of increase in lot  
372 rental amount within 90 days before giving notice of a change in  
373 use or within 6 months after the eviction notice.

374 c. The park owner shall attach a relocation plan to the  
375 application to the local government for change of use or  
376 rezoning. Such plan must indicate monetarily comparable,  
377 suitable, and available facilities for displaced residents. The

20-00425-14

20141064\_\_

378 application and the attached plan must be provided to the park's  
 379 homeowners' association with the eviction notice.

380 Section 5. Paragraph (b) of subsection (1) of section  
 381 723.071, Florida Statutes, is amended to read:

382 723.071 Sale of mobile home parks.—

383 (1)

384 (b) The mobile home owners, by and through the association  
 385 defined in s. 723.075, ~~shall~~ have the right to purchase the park  
 386 if, provided the home owners meet the price and terms and  
 387 conditions of the mobile home park owner by executing a contract  
 388 with the park owner within 90 ~~45~~ days after, unless agreed to  
 389 otherwise, from the date of mailing of the notice, unless  
 390 another timeframe is agreed upon, and if provided they have  
 391 complied with ss. 723.075-723.079. If a contract between the  
 392 park owner and the association is not executed within such 90-  
 393 day ~~45-day~~ period, ~~then,~~ unless the park owner thereafter elects  
 394 to offer the park at a price lower than the price specified in  
 395 her or his notice to the officers of the homeowners'  
 396 association, the park owner has no further obligations under  
 397 this subsection, and her or his only obligation is ~~shall be~~ as  
 398 described set forth in subsection (2).

399 Section 6. Subsection (3) of section 723.075, Florida  
 400 Statutes, is repealed.

401 Section 7. Subsection (1) of section 73.072, Florida  
 402 Statutes, is amended to read:

403 73.072 Mobile home parks; compensation for permanent  
 404 improvements by mobile home owners.—

405 (1) If ~~When~~ all or a portion of a mobile home park as  
 406 defined in s. 723.003~~(6)~~ is appropriated under this chapter, the

20-00425-14

20141064\_\_

407 condemning authority shall separately determine the compensation  
408 for any permanent improvements made to each site. This  
409 compensation shall be awarded to the mobile home owner leasing  
410 the site if:

411 (a) The effect of the taking includes a requirement that  
412 the mobile home owner remove or relocate his or her mobile home  
413 from the site;

414 (b) The mobile home owner currently leasing the site has  
415 paid for the permanent improvements to the site; and

416 (c) The value of the permanent improvements on the site  
417 exceeds \$1,000 as of the date of taking.

418 Section 8. Paragraph (b) of subsection (5) of section  
419 723.031, Florida Statutes, is amended to read:

420 723.031 Mobile home lot rental agreements.-

421 (5) The rental agreement shall contain the lot rental  
422 amount and services included. An increase in lot rental amount  
423 upon expiration of the term of the lot rental agreement shall be  
424 in accordance with ss. 723.033 and 723.037 or s. 723.059(4),  
425 whichever is applicable, provided that, pursuant to s.  
426 723.059(4), the amount of the lot rental increase is disclosed  
427 and agreed to by the purchaser, in writing. An increase in lot  
428 rental amount shall not be arbitrary or discriminatory between  
429 similarly situated tenants in the park. No lot rental amount may  
430 be increased during the term of the lot rental agreement,  
431 except:

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

433 Section 9. This act shall take effect July 1, 2014.