

HB 907

2014

1 A bill to be entitled

2 An act relating to mobile home park tenancies;  
3 amending s. 723.003, F.S.; defining the term  
4 "prospectus"; amending s. 723.006, F.S.; requiring the  
5 Division of Florida Condominiums, Timeshares, and  
6 Mobile Homes to provide notice to the homeowners'  
7 association of a proposed amendment to a prospectus  
8 before approving such amendment; amending s. 723.011,  
9 F.S.; removing the use of an offering circular;  
10 amending s. 723.012, F.S.; removing the use of an  
11 offering circular; requiring that additional  
12 information be provided in the prospectus which  
13 advises the customer of consequences if the land use  
14 is changed; amending s. 723.014, F.S.; removing the  
15 use of an offering circular; amending s. 723.032,  
16 F.S.; requiring the division to enforce certain rental  
17 agreement provisions; amending ss. 723.035, 723.041,  
18 and 723.059, F.S.; removing the use of an offering  
19 circular; amending s. 723.061, F.S.; requiring a park  
20 owner to provide certain information to residents who  
21 are displaced as a result of a mandatory eviction due  
22 to a change in use of the land; amending ss. 73.072  
23 and 723.031, F.S.; conforming cross-references to  
24 changes made by the act; providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27  
 28 Section 1. Section 723.003, Florida Statutes, is reordered  
 29 and amended to read:

30 723.003 Definitions.—As used in this chapter, the term  
 31 ~~following words and terms have the following meanings unless~~  
 32 ~~clearly indicated otherwise:~~

33 (2)~~(1)~~ ~~The term~~ "Division" means the Division of Florida  
 34 Condominiums, Timeshares, and Mobile Homes of the Department of  
 35 Business and Professional Regulation.

36 (3)~~(2)~~ ~~The term~~ "Lot rental amount" means all financial  
 37 obligations, except user fees, which are required as a condition  
 38 of the tenancy.

39 (4)~~(3)~~ ~~The term~~ "Mobile home" means a residential  
 40 structure, transportable in one or more sections, which is 8  
 41 body feet or more in width, over 35 body feet in length with the  
 42 hitch, built on an integral chassis, designed to be used as a  
 43 dwelling when connected to the required utilities, and not  
 44 originally sold as a recreational vehicle, and includes the  
 45 plumbing, heating, air-conditioning, and electrical systems  
 46 contained therein.

47 (5)~~(4)~~ ~~The term~~ "Mobile home lot rental agreement" or  
 48 "rental agreement" means a ~~any~~ mutual understanding or lease,  
 49 whether oral or written, between a mobile home owner and a  
 50 mobile home park owner in which the mobile home owner is  
 51 entitled to place his or her mobile home on a mobile home lot  
 52 for ~~either~~ direct or indirect remuneration of the mobile home

53 park owner.

54 (6)~~(5)~~ ~~The term~~ "Mobile home owner" or "home owner" means  
55 a person who owns a mobile home and rents or leases a lot within  
56 a mobile home park for residential use.

57 (7)~~(6)~~ ~~The term~~ "Mobile home park" or "park" means a use  
58 of land in which lots or spaces are offered for rent or lease  
59 for the placement of mobile homes and in which the primary use  
60 of the park is residential.

61 (8)~~(7)~~ ~~The term~~ "Mobile home park owner" or "park owner"  
62 means an owner or operator of a mobile home park.

63 (9)~~(8)~~ ~~The term~~ "Mobile home subdivision" means a  
64 subdivision of mobile homes where individual lots are owned by  
65 owners and where a portion of the subdivision or the amenities  
66 exclusively serving the subdivision are retained by the  
67 subdivision developer.

68 (10)~~(9)~~ ~~The term~~ "Operator of a mobile home park" means  
69 either a person who establishes a mobile home park on land which  
70 is leased from another person or a person who has been delegated  
71 the authority to act as the park owner in matters relating to  
72 the administration and management of the mobile home park,  
73 including, but not limited to, authority to make decisions  
74 relating to the mobile home park.

75 (11)~~(10)~~ ~~The term~~ "Pass-through charge" means the mobile  
76 home owner's proportionate share of the necessary and actual  
77 direct costs and impact or hookup fees for a governmentally  
78 mandated capital improvement, which may include the necessary

79 and actual direct costs and impact or hookup fees incurred for  
 80 capital improvements required for public or private regulated  
 81 utilities.

82 (12)~~(11)~~ ~~The term "Proportionate share" as used in~~  
 83 ~~subsection (10)~~ means an amount calculated by dividing equally  
 84 among the affected developed lots in the park the total costs  
 85 for the necessary and actual direct costs and impact or hookup  
 86 fees incurred for governmentally mandated capital improvements  
 87 serving the recreational and common areas and all affected  
 88 developed lots in the park.

89 (13) "Prospectus" means a disclosure document provided to  
 90 a prospective mobile home owner regarding his or her legal  
 91 rights and financial obligation in leasing a mobile home lot.

92 (15)~~(12)~~ ~~The term "Unreasonable" means arbitrary,~~  
 93 capricious, or inconsistent with this chapter.

94 (16)~~(13)~~ ~~The term "User fees" means those amounts charged~~  
 95 in addition to the lot rental amount for nonessential optional  
 96 services provided by or through the park owner to the mobile  
 97 home owner under a separate written agreement between the mobile  
 98 home owner and the person furnishing the optional service or  
 99 services.

100 (1)~~(14)~~ ~~The term "Discrimination" or "discriminatory"~~  
 101 means that a homeowner is being treated differently as to the  
 102 rent charged, the services rendered, or an action for possession  
 103 or other civil action being taken by the park owner, without a  
 104 reasonable basis for the different treatment.

105        ~~(14)-(15)~~ The term "Resale agreement" means a contract in  
 106        which a mobile home owner authorizes the mobile home park owner,  
 107        or the park owner's designee, to act as exclusive agent for the  
 108        sale of the homeowner's mobile home for a commission or fee.

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

111        723.006 Powers and duties of division.—In performing its  
 112        duties, the division has the following powers and duties:

113        (8) The division may ~~has the authority~~ by rule ~~to~~  
 114        authorize amendments ~~permitted by this chapter~~ to an approved  
 115        prospectus which are permitted by this chapter ~~or offering~~  
 116        ~~circular~~. Before approving an amendment to an approved  
 117        prospectus, the division shall provide notice to the homeowners'  
 118        association of the proposed amendment in order to solicit  
 119        feedback from the homeowners' association.

120        Section 3. Paragraph (b) of subsection (1) and subsections  
 121        (2) through (4) of section 723.011, Florida Statutes, are  
 122        amended to read:

123        723.011 Disclosure prior to rental of a mobile home lot;  
 124        prospectus, filing, approval.—

125        (1)

126        (b) The division shall determine whether the proposed  
 127        prospectus ~~or offering circular~~ is adequate to meet the  
 128        requirements of this chapter and shall notify the park owner by  
 129        mail, within 45 days after receipt of the document, that the  
 130        division has found that the prospectus ~~or offering circular~~ is

131 adequate or has found specified deficiencies. If the division  
132 does not make either finding within 45 days, the prospectus  
133 shall be deemed to have been found adequate.

134 (2) The park owner shall furnish a copy of the prospectus  
135 ~~or offering circular~~ together with all of the exhibits thereto  
136 to each prospective lessee. Delivery shall be made prior to  
137 execution of the lot rental agreement or at the time of  
138 occupancy, whichever occurs first. Upon delivery of a prospectus  
139 to a prospective lessee, the lot rental agreement is voidable by  
140 the lessee for a period of 15 days. However, the park owner is  
141 not required to furnish a copy of the prospectus ~~or offering~~  
142 ~~circular~~ if the tenancy is a renewal of a tenancy and the mobile  
143 home owner has previously received the prospectus ~~or offering~~  
144 ~~circular~~.

145 (3) The prospectus ~~or offering circular~~ together with its  
146 exhibits is a disclosure document intended to afford protection  
147 to homeowners and prospective homeowners in the mobile home  
148 park. The purpose of the document is to disclose the  
149 representations of the mobile home park owner concerning the  
150 operations of the mobile home park.

151 (4) With regard to a tenancy in existence on the effective  
152 date of this chapter, the prospectus ~~or offering circular~~  
153 offered by the mobile home park owner shall contain the same  
154 terms and conditions as rental agreements offered to all other  
155 mobile home owners residing in the park on the effective date of  
156 this act, excepting only rent variations based upon lot location

157 and size, and shall not require any mobile home owner to install  
 158 any permanent improvements.

159 Section 4. Section 723.012, Florida Statutes, is amended  
 160 to read:

161 723.012 Prospectus ~~or offering circular~~.—The prospectus ~~or~~  
 162 ~~offering circular, which is~~ required under ~~to be provided by s.~~  
 163 723.011~~7~~ must contain the following information:

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

165 (a) The name of the mobile home park.

166 (b) The following statements in conspicuous type:

167 1. THIS PROSPECTUS CONTAINS VERY IMPORTANT INFORMATION  
 168 REGARDING YOUR LEGAL RIGHTS AND YOUR FINANCIAL OBLIGATIONS IN  
 169 LEASING A MOBILE HOME LOT. MAKE SURE THAT YOU READ THE ENTIRE  
 170 DOCUMENT AND SEEK LEGAL ADVICE IF YOU HAVE ANY QUESTIONS  
 171 REGARDING THE INFORMATION SET FORTH IN THIS DOCUMENT.

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

175 3. ORAL REPRESENTATIONS SHOULD NOT BE RELIED UPON AS  
 176 CORRECTLY STATING THE REPRESENTATIONS OF THE PARK OWNER OR  
 177 OPERATOR. REFER TO THIS PROSPECTUS (~~OFFERING CIRCULAR~~) AND ITS  
 178 EXHIBITS FOR CORRECT REPRESENTATIONS.

179 4. UPON DELIVERY OF THE PROSPECTUS TO A PROSPECTIVE  
 180 LESSEE, THE RENTAL AGREEMENT IS VOIDABLE BY THE LESSEE FOR A  
 181 PERIOD OF 15 DAYS.

182 5. UPON A CHANGE OF LAND USE, YOU MAY BE EVICTED AND

183 ORDERED TO MOVE YOUR MOBILE HOME WITHIN 6 MONTHS OR FORFEIT YOUR  
 184 MOBILE HOME.

185 (2) The next page must contain all statements required to  
 186 be in conspicuous type in the prospectus ~~or offering circular~~ in  
 187 a summary form.

188 (3) A separate index of the contents and exhibits of the  
 189 prospectus.

190 (4) Beginning on the first page of the text, the following  
 191 information:

192 (a) The name and address or location of the mobile home  
 193 park.

194 (b) The name and address of the person authorized to  
 195 receive notices and demands on the park owner's behalf.

196 (c) A description of the mobile home park property,  
 197 including, but not limited to:

198 1. The number of lots in each section, the approximate  
 199 size of each lot, the setback requirements, and the minimum  
 200 separation distance between mobile homes as required by law.

201 2. The maximum number of lots that will use shared  
 202 facilities of the park; and, if the maximum number of lots will  
 203 vary, a description of the basis for variation.

204 (5) A description of the recreational and other common  
 205 facilities, if any, that will be used by the mobile home owners,  
 206 including, but not limited to:

207 (a) The number of buildings and each room thereof and its  
 208 intended purposes, location, approximate floor area, and



209 capacity in numbers of people.

210 (b) Each swimming pool, as to its general location,  
 211 approximate size and depths, and approximate deck size and  
 212 capacity and whether heated.

213 (c) All other facilities and permanent improvements which  
 214 will serve the mobile home owners.

215 (d) A general description of the items of personal  
 216 property available for use by the mobile home owners.

217 (e) A general description of the days and hours that  
 218 facilities will be available for use.

219 (f) A statement as to whether all improvements are  
 220 complete and, if not, their estimated completion dates.

221 (6) The arrangements for management of the park and  
 222 maintenance and operation of the park property and of other  
 223 property that will serve the mobile home owners and the nature  
 224 of the services included.

225 (7) A description of all improvements, whether temporary  
 226 or permanent, which are required to be installed by the mobile  
 227 home owner as a condition of his or her occupancy in the park.

228 (8) The manner in which utility and other services,  
 229 including, but not limited to, sewage and waste disposal, cable  
 230 television, water supply, and storm drainage, will be provided,  
 231 and the person or entity furnishing them. The services and the  
 232 lot rental amount or user fees charged by the park owner for the  
 233 services provided by the park owner shall also be disclosed.

234 (9) An explanation of the manner in which the lot rental

235 amount will be raised, including, but not limited to:

236 (a) Notification of the mobile home owner at least 90 days

237 in advance of the increase.

238 (b) Disclosure of any factors which may affect the lot

239 rental amount, including, but not limited to:

240 1. Water rates.

241 2. Sewer rates.

242 3. Waste disposal rates.

243 4. Maintenance costs, including costs of deferred

244 maintenance.

245 5. Management costs.

246 6. Property taxes.

247 7. Major repairs or improvements.

248 8. Any other fees, costs, entrance fees, or charges to

249 which the mobile home owner may be subjected.

250 (c) Disclosure of the manner in which the pass-through

251 charges will be assessed.

252 (10) Disclosure of all user fees currently charged for

253 services offered which the homeowner may elect to incur and the

254 manner in which the fees will be increased.

255 (11) The park rules and regulations and an explanation of

256 the manner in which park rules or regulations will be set,

257 changed, or promulgated.

258 (12) A statement describing the existing zoning

259 classification of the park property and permitted uses under

260 such classification.

261 (13) A statement of the nature and type of zoning under  
 262 which the mobile home park operates, the name of the zoning  
 263 authority which has jurisdiction over the land comprising the  
 264 mobile home park, and, if applicable, a detailed description of  
 265 any definite future plans which the park owner has for changes  
 266 in the use of the land comprising the mobile home park.

267 (14) Copies of the following, to the extent they are  
 268 applicable, as exhibits:

269 (a) The ground lease or other underlying leases of the  
 270 mobile home park or a summary of the contents of the lease or  
 271 leases when copies of the same have been filed with the  
 272 division.

273 (b) A copy of the mobile home park lot layout showing the  
 274 location of the recreational areas and other common areas.

275 (c) All covenants and restrictions and zoning which will  
 276 affect the use of the property and which are not contained in  
 277 the foregoing.

278 (d) A copy of the rental agreement or agreements to be  
 279 offered for rental of mobile home lots.

280 Section 5. Section 723.014, Florida Statutes, is amended  
 281 to read:

282 723.014 Failure to provide prospectus before ~~or offering~~  
 283 ~~circular prior to~~ occupancy.—

284 (1) If a prospectus ~~or offering circular~~ was not provided  
 285 to the prospective lessee before ~~prior to~~ execution of the lot  
 286 rental agreement or before ~~prior to~~ initial occupancy of a new

287 mobile home, the rental agreement is voidable by the lessee  
 288 until 15 days after the receipt by the lessee of the prospectus  
 289 ~~or offering circular~~ and all exhibits thereto.

290 (2) To cancel the rental agreement, the mobile home owner  
 291 shall deliver written notice to the park owner within 15 days  
 292 after receipt of the prospectus ~~or offering circular~~ and shall  
 293 thereupon be entitled to a refund of any deposit together with  
 294 relocation costs for the mobile home, or the market value  
 295 thereof including any appurtenances thereto paid for by the  
 296 mobile home owner, from the park owner.

297 Section 6. Subsection (2) of section 723.032, Florida  
 298 Statutes, is amended to read:

299 723.032 Prohibited or unenforceable provisions in mobile  
 300 home lot rental agreements.-

301 (2) Any provision in the rental agreement is void and  
 302 unenforceable to the extent that it attempts to waive or  
 303 preclude the rights, remedies, or requirements set forth in this  
 304 chapter or arising under law. Notwithstanding s. 723.005, the  
 305 division shall enforce this subsection pursuant to s. 723.006.

306 Section 7. Subsection (2) of section 723.035, Florida  
 307 Statutes, is amended to read:

308 723.035 Rules and regulations.-

309 (2) A ~~No~~ rule or regulation may not ~~shall~~ provide for  
 310 payment of any fee, fine, assessment, or charge, except as  
 311 otherwise provided in the prospectus ~~or offering circular~~ filed  
 312 under s. 723.012, if one is required to be provided, and until

313 after the park owner has complied with the procedure set forth  
 314 in s. 723.037.

315 Section 8. Paragraph (a) of subsection (1) of section  
 316 723.041, Florida Statutes, is amended to read:

317 723.041 Entrance fees; refunds; exit fees prohibited;  
 318 replacement homes.—

319 (1)(a) Entrance fees on new mobile home placements shall  
 320 be specifically set forth in the prospectus ~~or offering~~  
 321 ~~ircular~~. Any such fee shall be clearly identified in writing at  
 322 the time that the rental agreement is signed or otherwise  
 323 concluded.

324  
 325 No new entrance fee may be charged for a move within the same  
 326 park. This paragraph does not apply in instances in which the  
 327 mobile home owner is evicted on the ground of nonpayment of  
 328 rent; violation of a federal, state, or local ordinance; or  
 329 violation of a properly promulgated park rule or regulation or  
 330 leaves before the expiration date of his or her rental  
 331 agreement. However, the sums due to the park by the mobile home  
 332 owner may be offset against the balance due on the entrance fee.

333 Section 9. Subsections (3) and (4) of section 723.059,  
 334 Florida Statutes, are amended to read:

335 723.059 Rights of purchaser.—

336 (3) The purchaser of a mobile home who becomes a resident  
 337 of the mobile home park in accordance with this section has the  
 338 right to assume the remainder of the term of any rental

339 agreement then in effect between the mobile home park owner and  
 340 the seller and shall be entitled to rely on the terms and  
 341 conditions of the prospectus ~~or offering circular~~ as delivered  
 342 to the initial recipient.

343 (4) However, this section does not ~~nothing herein shall be~~  
 344 ~~construed to~~ prohibit a mobile home park owner from increasing  
 345 the rental amount to be paid by the purchaser upon the  
 346 expiration of the assumed rental agreement in an amount deemed  
 347 appropriate by the mobile home park owner, as ~~so~~ long as such  
 348 increase is disclosed to the purchaser before ~~prior to~~ his or  
 349 her occupancy and is imposed in a manner consistent with the  
 350 initial ~~offering circular or~~ prospectus and this chapter act.

351 Section 10. Subsection (2) of section 723.061, Florida  
 352 Statutes, is amended to read:

353 723.061 Eviction; grounds, proceedings.—

354 (2) In the event of eviction for a change in use of the  
 355 land, homeowners must object to the change in use by petitioning  
 356 for administrative or judicial remedies within 90 days after the  
 357 date of the notice or they will be barred from taking any  
 358 subsequent action to contest the change in use. In the event of  
 359 a mandatory eviction for a change in use of the land, the park  
 360 owner shall provide evidence of suitable, affordable, and  
 361 comparable mobile home park accommodations for displaced mobile  
 362 home park residents before governmental approval of such change  
 363 in use. This subsection does not prevent any homeowner from  
 364 objecting to a zoning change at any time.

365 Section 11. Subsection (1) of section 73.072, Florida  
 366 Statutes, is amended to read:

367 73.072 Mobile home parks; compensation for permanent  
 368 improvements by mobile home owners.—

369 (1) If ~~When~~ all or a portion of a mobile home park as  
 370 defined in s. 723.003~~(6)~~ is appropriated under this chapter, the  
 371 condemning authority shall separately determine the compensation  
 372 for any permanent improvements made to each site. This  
 373 compensation shall be awarded to the mobile home owner leasing  
 374 the site if:

375 (a) The effect of the taking includes a requirement that  
 376 the mobile home owner remove or relocate his or her mobile home  
 377 from the site;

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

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

382 Section 12. Paragraph (b) of subsection (5) of section  
 383 723.031, Florida Statutes, is amended to read:

384 723.031 Mobile home lot rental agreements.—

385 (5) The rental agreement shall contain the lot rental  
 386 amount and services included. An increase in lot rental amount  
 387 upon expiration of the term of the lot rental agreement shall be  
 388 in accordance with ss. 723.033 and 723.037 or s. 723.059(4),  
 389 whichever is applicable, provided that, pursuant to s.

390 723.059(4), the amount of the lot rental increase is disclosed

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391 and agreed to by the purchaser, in writing. An increase in lot  
392 rental amount shall not be arbitrary or discriminatory between  
393 similarly situated tenants in the park. No lot rental amount may  
394 be increased during the term of the lot rental agreement,  
395 except:

396 (b) For pass-through charges ~~as defined in s. 723.003(10)~~.  
397 Section 13. This act shall take effect July 1, 2014.