

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 Committee on Community Affairs

BILL: CS/SB 772

INTRODUCER: Community Affairs Committee and Senators Hutson and others

SUBJECT: Recreational Vehicle Parks

DATE: January 28, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Ryon	CA	Fav/CS
2.	_____	_____	HP	_____
3.	_____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 772 amends provisions of ch. 513, F.S., which governs mobile home parks, lodging parks, recreational vehicle parks, and recreational camps. The bill prohibits a local government from enacting a law or regulation that would restrict the density standards and setback distances in a recreational vehicle park beyond those initially authorized by the Department of Health and a local government. The bill reforms the procedures for removing or prohibiting a disorderly transient guest or visitor from park premises to mirror ejection provisions for public lodging establishments licensed under ch. 509, F.S.¹ The bill also revises the method park operators obtain ownership of unclaimed guest property.

II. Present Situation:

Mobile Home and Recreational Vehicle Parks

Florida first began regulating recreational parks and camps in 1927 when the Legislature enacted statutes addressing the operation and maintenance of “tourist camps.” These establishments catered to transient guests by providing tent and cottage accommodations.² The substance of these original regulations is currently embodied in ch. 513, F.S. This chapter provides the rules and regulations governing mobile home parks, lodging parks, recreational vehicle (RV) parks,

¹ See Section 509.141, F.S.

² Laws of Florida ch. 12419, 1927

and recreational camps in the state. Chapter 513, F.S., also contains standards and requirements for operators of these types of recreational facilities.

Chapter. 513, F.S. has not undergone major changes since the 1993 regular session.³

Mobile home parks, lodging parks, RV parks, and recreational camps are similar to hotels in many respects. Like hotels, these parks and camps offer lodging accommodations to the public. Recreational park operators own the accommodations or a portion thereof and allow transient guests to purchase a revocable license to enter and remain on the property. The real difference between hotels and recreational parks are the nature of the facilities provided.

As of July 19, 2019, the total number of licensed mobile home parks, lodging parks, RV parks, and recreational camps in Florida amount to 5,393.⁴ In a June 2019 report, RVs Move America found that RV campgrounds and travel had a \$1.1 billion annual economic impact in Florida, which was the third-highest in the nation.⁵

Applicability of recreational vehicle park provisions to mobile home parks

Although mobile home parks are primarily regulated by ch. 723, F.S., a mobile home park that has five or more sites set aside for rent to transient RV guests, must comply with the RV park requirements in ch. 513, F.S. Notwithstanding, mobile home parks licensed under ch. 723, F.S., are not required to obtain a second operational license under ch. 513, F.S.⁶

Department of Health Oversight

The Florida Department of Health (DOH) is the exclusive regulatory and permitting authority for sanitary standards in all mobile home parks, lodging parks, recreational vehicle parks, and recreational camps. The DOH also issues operational permits, provides and enforces administrative rules, performs routine premises inspections, prosecutes regulatory violations, and issues penalties for operator misconduct. Local governments are prohibited from enacting regulations for sanitary standards within a ch. 513, F.S., park or camp.⁷

Permitting

All parks and camps must apply for and receive an operational permit from the DOH to conduct business activities. Permits are not transferable from one place or person to another and must be renewed annually.⁸ The DOH may revoke or suspend a permit if a park or camp is not constructed or maintained according to law and DOH administrative rule. When the ownership of a park or camp is transferred, and the new owner plans to continue recreational operations, the new owner must apply to the DOH for a permit before the date of transfer.⁹

³ *Id.*

⁴ Florida Department of Health, *Mobile Home Parks*, available at: <http://www.floridahealth.gov/environmental-health/mobile-home-parks/index.html> (last visited Jan. 22, 2020).

⁵ RVs Move America, *Florida* (June 2019), available at: <https://rvia.guerrillaeconomics.net/reports/e5b85c91-4f88-460c-9912-579c89f8d04e?> (last visited Jan. 22, 2020)

⁶ Section 513.014, F.S.

⁷ Section 513.051, F.S.

⁸ Section 513.02, F.S.

⁹ *Id.*

The DOH may charge park and camp operators reasonable permitting fees, but fees must be based on the actual costs incurred by the DOH in carrying out oversight of the particular facility (i.e., connected to park or camp occupancy rates).¹⁰

Placement of Recreational Vehicles on Lots in Permitted Parks

Under s. 513.1115, F.S., the separation distances between RV sites within an RV park must remain unchanged from the time the department initially approves a park's operational permit. Likewise, setback distances from the exterior park property boundary must be the setback distances established at the time of the initial approval of the park by the DOH and the local government.¹¹

Guest Register

Every park and camp operator that rents to transient guests¹² must maintain a current and signed registry of guests that occupy rental sites. The register must show the dates upon which the rental sites were occupied by such guests and the rates charged for the guests' occupancy. This register must be maintained in chronological order and be available for inspection by the DOH at any time. An operator is not required to retain a register that is more than 2 years old.¹³

Unclaimed Guest Property

If a guest leaves property in a park and the property has an identifiable owner, the park operator may obtain ownership of the property by providing the guest written notice of the property and holding the property for 90 days without it being reclaimed. Alternatively, if the property belongs to a guest who has vacated the premises without notice to the operator and has an outstanding account with the park, the operator may obtain ownership of the property through the court and a writ of distress.¹⁴

Park Rules and Guest Conduct on Premises

Park and camp operators may establish reasonable rules and regulations for the management of the park, its guests, and employees. Under s. 513.117, F.S., such park and camp rules are deemed a special contract between operators, guests, and employees. Park rules may control the liabilities, responsibilities, and obligations of all parties, and must be posted (along with provisions of ch. 513, F.S.) in the registration area of the park or camp.¹⁵ The operator of a park or camp may refuse accommodations or service to any person whose conduct on the premises of the park displays intoxication, profanity, lewdness, or brawling; who indulges in such language

¹⁰ Section 513.045, F.S.

¹¹ Section 513.1115(2), F.S.

¹² "Transient guest means any guest registered as provided in s. 513.112 for 6 months or less. When a guest is permitted with the knowledge of the park operator to continuously occupy a recreational vehicle in a recreational vehicle park for more than 6 months, there is a rebuttable presumption that the occupancy is nontransient, and the eviction procedures of part II of chapter 83 apply." Section 513.01(12), F.S.

¹³ Section 513.112, F.S.

¹⁴ Section 513.115, F.S.; *see also* Section 513.151, F.S.

¹⁵ Section 513.117, F.S.

or conduct as to disturb the peace or comfort of other guests; who engages in illegal or disorderly conduct; or whose conduct constitutes a nuisance.¹⁶

Guest Eviction

Park and camp operators may remove transient guests for certain violations of park rules and general law. A transient guest may be removed for illegal possession of a controlled substance, disturbing the peace and comfort of other persons, causing harm to the physical park, and failing to make payment of rent.¹⁷

To remove a guest, the operator of a park must notify the guest in writing that the park no longer desires to entertain the guest and request that such guest immediately leaves the park or camp. If the guest has paid in advance, the park must provide the guest with the unused portion of the payment with the written notification. If a guest remains in a park or camp after being requested to leave the guest is considered guilty of a misdemeanor of the second degree, punishable as provided in ss. 775.082 or s. 775.083, F.S. (conviction of a misdemeanor in the second degree results in a \$500 criminal fine).¹⁸

In the event a guest owes a park operator an amount equivalent to three nights' rent, the operator may disconnect all utilities to the recreational vehicle or campsite, and provide the guest written demand for the amount owed. The operator must reconnect the utilities of the recreational vehicle if the guest agrees to satisfy the debt.¹⁹

If any person is illegally on the premises of a park or camp, the operator may call a law enforcement officer for assistance. A law enforcement officer, upon the request of an operator, must arrest and take into custody any guest who violates park rules, conduct requirements, or general law in the presence of the officer. A law enforcement officer may also serve an arrest warrant on any guest or person and take the person into custody. Upon arrest, with or without a warrant, the guest is deemed to have given up any right to occupancy the park or camp premises. However, the operator of the park must refund the guest any unused payments and use all reasonable and proper means to care for personal property left on the premises by the guest.²⁰

In addition to the grounds for eviction established by law, the operator may establish grounds for eviction in any written lease agreement with a guest.²¹

Other Rights, Requirements and Remedies for Operators; Writ of Distress

In addition to the rights and remedies described above, ch. 513, F.S., includes other procedures park and camp operators must follow when recovering a rental premise and removing or obtaining ownership of guest property to satisfy an outstanding debt. These procedures require park and camp operators to follow a civil procedure in court. Procedures include, but not limited to, sealing a recreational vehicle in the presence of at least one other person who is not an agent

¹⁶ Section 513.118, F.S.

¹⁷ Section 513.13, F.S.

¹⁸ *Id.* at (2)

¹⁹ *Id.* at (3)

²⁰ *Id.* at (4)

²¹ *Id.* at (5)

of the operator, preparing an itemized inventory of any property belonging to the guest in the presence of a person who is not an agent, petitioning a court for a writ of distress predicated on a lien created under s. 713.77, F.S., addressing property claims by third persons, and storing property until a settlement or a final court judgment is obtained on the guest's outstanding account.²²

III. Effect of Proposed Changes:

Sections 1 and 3 amend ss. 513.012 and 513.051, F.S., respectively, to clarify that the DOH is the exclusive regulatory and permitting authority for sanitary standards and operational matters in all mobile home parks, lodging parks, recreational vehicle parks, and recreational camps.

Section 2 amends s. 513.02, F.S., to provide park and camp purchasers 60 days to apply for an operational permit from the DOH after the ownership interest in a park is transferred.

Section 4 amends s. 513.112, F.S., to provide a rebuttable presumption that a guest who occupies an RV in a park for less than 6 months, as evidenced by the length of stay shown in the guest registry, is a transient occupant. This change supports the right of operators to eject transient guests and helps avoid property interest considerations in landlord-tenant law.

Section 5 amends s. 513.1115, F.S., to allow RV parks to use the same density standards originally permitted by the DOH and local government when rebuilding a site after it was damaged or destroyed by wind, water, or other natural disasters. The bill also states that the initial density standards and setback distances permitted by the DOH and local government will supersede any subsequent local government law or regulation on lot size, lot density, lot separation, or setback distance.

Section 6 amends s. 513.115, F.S., to categorize property left by a guest with an outstanding account with the operator as abandoned property. The disposition of this abandoned property will be governed by the requirements specified in the Landlord and Tenant Act under s. 715.10, F.S.

Section 7 amends s. 513.118, F.S., to broaden the ability of park and camp operators to deny transient guests and visitors access to the park premises. The bill allows operators to remove guests and visitors for conduct that disturbs the quiet enjoyment of other guests, or conduct that constitutes a safety hazard. Guests and visitors that do not leave park premises commit the offense of trespass as provided in s. 810.08, F.S.²³ The bill authorizes operators to rely on a law enforcement officer to supervise guest removal. The bill provides that a removed guest, accompanied by a law enforcement officer, may return to park premises to reclaim left personal property within 48 hours of removal.

Section 8 amends s. 513.13, F.S., to add disturbing quiet enjoyment and a violation of posted park rules as causes for removal of park guests under the section. The bill provides standardized language, mirroring s. 509.141, F.S.,²⁴ park operators may use to request a guest to leave park premises. If a guest committed a removable offense according to a park operator and remains on

²² Section 513.151, F.S.

²³ Criminal trespass in a structure or conveyance is a misdemeanor of the second degree. *See* s. 810.08(2)(a), F.S.

²⁴ Refusal of admission and ejection of undesirable guests in public lodging establishments.

park premises after receiving the notice, the bill requires a law enforcement officer to remove the guest from the premises. The bill allows removed guests to recollect personal property from the park within 48 hours. The bill changes eviction²⁵ terminology to ejection,²⁶ clarifying that an operator may remove a transient guest without the process of law similar to guest removal in hotels, motels, and lodging establishments.

Section 9 provides the bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill prevents a local government from utilizing land use regulations to restrict the occupancy of a park beyond that provided in an initial DOH permit.

C. Government Sector Impact:

The bill may cause a negative, indeterminate fiscal impact on the government sector. The bill requires state and local law enforcement officers to be more involved in the removal

²⁵ Eviction is defined as dispossession by process of law; the act of depriving a person of the possession of land or rental property he has held or leased. *See* Black's Law Dictionary 555 (6th ed. 1991).

²⁶ Ejection is defined as a turning out of possession. Ejectment is an action to restore possession of property to the person entitled to it. *See* Black Law Dictionary 516 (6th ed. 1991).

of guests. This involvement may cause state and local law enforcement offices to incur additional costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 513.012, 513.02, 513.051, 513.112, 513.1115, 513.115, 513.118, and 513.13.

IX. Additional Information:

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

CS by Community Affairs on January 27, 2020:

The committee substitute references the appropriate law, s. 768.28, F.S., to govern when a law enforcement officer would be liable for tortious acts committed while removing persons or property from a recreational vehicle park.

- B. **Amendments:**

None.