

By Senator Burton

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1 A bill to be entitled
2 An act relating to mobile homes; amending s. 723.006,
3 F.S.; requiring the Division of Florida Condominiums,
4 Timeshares, and Mobile Homes to adopt rules to carry
5 out the requirements and provisions of the act;
6 providing a directive to the Division of Law Revision;
7 amending s. 723.037, F.S.; revising the process for
8 initiating mediation during a specified timeframe;
9 amending s. 723.038, F.S.; authorizing the parties to
10 a dispute to agree to select a mediator in accordance
11 with specified requirements; specifying the timeframe
12 within which the division must appoint a qualified
13 mediator in the absence of certain notice from the
14 parties; requiring the division to notify the parties
15 upon appointment of a qualified mediator; authorizing
16 the division or the parties to select the mediator;
17 providing that, upon the filing of written notice with
18 the division, the parties to a dispute may agree to
19 select a mediator and initiate mediation proceedings
20 after a specified meeting; amending s. 723.0381, F.S.;
21 revising the circumstances under which an aggrieved
22 party may file an action in circuit court; amending s.
23 723.051, F.S.; requiring that invited live-in health
24 care aides or assistants must have access to a mobile
25 home owner's site; prohibiting park owners from
26 assessing additional charges for a live-in aide or
27 assistant's access, with an exception; providing that
28 live-in health care aides or assistants do not have
29 any rights of tenancy in mobile home parks; requiring

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30 the mobile home owners to notify the park owner or
31 park manager of certain information; requiring the
32 mobile home owner to cover the costs of removing a
33 live-in health care aide or assistant; amending s.
34 723.0611, F.S.; providing the purpose of the Florida
35 Mobile Home Relocation Corporation; amending s.
36 723.0612, F.S.; revising the amount of specified
37 payments by the Florida Mobile Home Relocation
38 Corporation to which certain mobile home owners are
39 entitled; providing a timeframe for use of the
40 voucher; making technical changes; reenacting s.
41 723.078(2)(i), F.S., relating to homeowners'
42 association bylaws, to incorporate the amendment made
43 to s. 723.006, F.S., in a reference thereto;
44 reenacting ss. 723.031(5), 723.035(2), and 723.068,
45 F.S., relating to mobile home lot rental agreements,
46 rules and regulations, and attorney's fees,
47 respectively, to incorporate the amendment made to s.
48 723.037, F.S., in references thereto; reenacting ss.
49 723.002(2), 723.003(7)(b), and 723.004(5), F.S.,
50 relating to the application of chapter 723, F.S.,
51 definitions, and legislative intent, respectively, to
52 incorporate the amendments made to ss. 723.037 and
53 723.038, F.S., in references thereto; reenacting s.
54 723.033(7), F.S., relating to unreasonable lot rental
55 agreements, to incorporate the amendments made to ss.
56 723.037, 723.038, and 723.0381, F.S., in references
57 thereto; providing an effective date.
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59 Be It Enacted by the Legislature of the State of Florida:

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61 Section 1. Subsection (16) is added to section 723.006,
62 Florida Statutes, to read:

63 723.006 Powers and duties of division.—In performing its
64 duties, the division has the following powers and duties:

65 (16) The division shall adopt rules to carry out the
66 provisions and requirements of this act.

67 Section 2. The Division of Law Revision is directed to
68 replace the phrase "this act" wherever it occurs in subsection
69 (16) of s. 723.006, Florida Statutes, as created by this act,
70 with the assigned chapter number of this act.

71 Section 3. Paragraphs (a) and (b) of subsection (5) of
72 section 723.037, Florida Statutes, are amended, and subsection
73 (7) of that section is reenacted, to read:

74 723.037 Lot rental increases; reduction in services or
75 utilities; change in rules and regulations; mediation.—

76 (5) (a) Within 30 days after the date of the last scheduled
77 meeting described in subsection (4), the homeowners may petition
78 the division to initiate mediation of the dispute pursuant to s.
79 723.038 if a majority of the affected homeowners have
80 designated, in writing, that any of the following applies:

81 1. The rental increase is unreasonable;

82 2. The rental increase has made the lot rental amount
83 unreasonable;

84 3. The decrease in services or utilities is not accompanied
85 by a corresponding decrease in rent or is otherwise
86 unreasonable; or

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

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88 (b) A park owner, within the same time period, may also
89 petition the division to initiate mediation of the dispute as
90 provided in s. 723.038 or, upon filing a written notice with the
91 division of the park owner's intent to initiate mediation of the
92 dispute, may itself, or through a representative, enter into an
93 agreement with the mobile home owners to select a mediator
94 pursuant to s. 723.038(2) and (4).

95
96 The purpose of this subsection is to encourage discussion and
97 evaluation by the parties of the comparable mobile home parks in
98 the competitive market area. The requirements of this subsection
99 are not intended to be enforced by civil or administrative
100 action. Rather, the meetings and discussions are intended to be
101 in the nature of settlement discussions prior to the parties
102 proceeding to litigation of any dispute.

103 (7) The term "parties," for purposes of mediation under
104 this section and s. 723.038, means a park owner and a
105 homeowners' committee selected pursuant to this section.

106 Section 4. Subsections (1), (2), (4), and (6) of section
107 723.038, Florida Statutes, are amended to read:

108 723.038 Dispute settlement; mediation.—

109 (1) Either party may petition the division to appoint a
110 mediator and initiate mediation proceedings or, upon filing a
111 written notice with the division, the parties may immediately
112 agree to select a mediator and initiate mediation proceedings
113 pursuant to subsections (2) and (4).

114 (2) Within 20 days after receipt of a petition, the
115 division ~~upon petition~~ shall appoint a qualified mediator to
116 conduct mediation proceedings and notify the parties, unless the

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117 parties timely notify the division in writing that they have
118 selected a mediator. A person appointed by the division or
119 selected by the parties must ~~shall~~ be a qualified mediator from
120 a list of circuit court mediators in each judicial circuit who
121 has met training and educational requirements established by the
122 Supreme Court. If such a mediator is ~~mediators are~~ not
123 available, the division or the parties may select a mediator
124 from the list maintained by the Florida Growth Management
125 Conflict Resolution Consortium. The division shall adopt
126 ~~promulgate~~ rules of procedure to govern such proceedings in
127 accordance with the rules of practice and procedure adopted by
128 the Supreme Court. The division shall also establish, ~~by rule,~~
129 the fee to be charged by a mediator, which may ~~shall~~ not exceed
130 the fee authorized by the circuit court.

131 (4) After the last scheduled meeting held under s.
132 723.037(4), and upon filing a written notice with the division,
133 the parties to a dispute may immediately agree to select a
134 mediator and initiate mediation proceedings pursuant to this
135 section ~~Upon receiving a petition to mediate a dispute, the~~
136 ~~division shall, within 20 days, notify the parties that a~~
137 ~~mediator has been appointed by the division.~~ The parties may
138 accept the mediator appointed by the division or, within 30
139 days, may select a mediator to mediate the dispute pursuant to
140 subsection (2). The parties shall each pay a \$250 filing fee to
141 the mediator appointed by the division or selected by the
142 parties, within 30 days after the division notifies the parties
143 of the appointment of the mediator. The \$250 filing fee shall be
144 used by the mediator to defray the hourly rate charged for
145 mediation of the dispute. Any portion of the filing fee not used

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146 shall be refunded to the parties.

147 (6) A ~~No~~ resolution arising from a mediation proceeding as
148 provided for in s. 723.037 or this section may not shall be
149 deemed final agency action. ~~Any party,~~ However, any party may
150 initiate an action in the circuit court to enforce a resolution
151 or agreement arising from a mediation proceeding which has been
152 reduced to writing. The court shall consider such resolution or
153 agreement to be a contract for the purpose of providing a remedy
154 to the complaining party.

155 Section 5. Subsection (1) of section 723.0381, Florida
156 Statutes, is amended to read:

157 723.0381 Civil actions; arbitration.—

158 (1) If an aggrieved party serves a request for mediation
159 and the responding party refuses or fails to participate in
160 mediation or, if ~~After~~ mediation of a dispute pursuant to s.
161 723.038 has failed to provide a resolution of the dispute,
162 either party may file an action in the circuit court after a
163 majority of the affected mobile home owners have agreed in
164 writing to file an action.

165 Section 6. Subsection (1) of section 723.051, Florida
166 Statutes, is amended to read:

167 723.051 Invitees; rights and obligations.—

168 (1) An invitee of a mobile home owner, or a live-in health
169 care aide or assistant as provided for in the Fair Housing Act,
170 must shall have ingress and egress to and from the mobile home
171 owner's site without the mobile home owner, ~~or~~ invitee, or live-
172 in health care aide or assistant being required to pay
173 additional rent, a fee, or any charge whatsoever, except that
174 the mobile home owner must pay the cost of a background check

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175 for the live-in health care aide or assistant if one is
176 necessary. Any mobile home park rule or regulation providing for
177 fees or charges contrary to the terms of this section is ~~null~~
178 ~~and~~ void. A live-in health care aide or assistant does not have
179 any rights of tenancy in the park, and the mobile home owner
180 must notify the park owner or park manager of the name of the
181 live-in health care aide or assistant, if that becomes
182 necessary, and cover any costs associated with the removal of a
183 live-in health care aide or assistant.

184 Section 7. Paragraph (a) of subsection (1) and paragraph
185 (a) of subsection (3) of section 723.0611, Florida Statutes, are
186 amended, and paragraph (b) of subsection (4) of that section is
187 reenacted, to read:

188 723.0611 Florida Mobile Home Relocation Corporation.—

189 (1) (a) There is created the Florida Mobile Home Relocation
190 Corporation to address voluntary closures of mobile home parks
191 due to a change in the use of the land. The corporation shall be
192 administered by a board of directors made up of six members,
193 three of whom shall be appointed by the Secretary of Business
194 and Professional Regulation from a list of nominees submitted by
195 the largest nonprofit association representing mobile home
196 owners in this state, and three of whom shall be appointed by
197 the Secretary of Business and Professional Regulation from a
198 list of nominees submitted by the largest nonprofit association
199 representing the manufactured housing industry in this state.
200 All members of the board of directors, including the chair,
201 shall be appointed to serve for staggered 3-year terms.

202 (3) The board of directors shall:

203 (a) Adopt a plan of operation and articles, bylaws, and

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204 operating rules pursuant to ~~the provisions of~~ ss. 120.536 and
205 120.54 to administer ~~the provisions of~~ this section and ss.
206 723.06115, 723.06116, and 723.0612.

207 (4) The corporation may:

208 (b) Borrow from private finance sources in order to meet
209 the demands of the relocation program established in s.
210 723.0612.

211 Section 8. Subsections (1), (4), (7), and (11) of section
212 723.0612, Florida Statutes, are amended to read:

213 723.0612 Change in use; relocation expenses; payments by
214 park owner.—

215 (1) If a mobile home owner is required to move due to a
216 change in use of the land comprising the mobile home park as set
217 forth in s. 723.061(1)(d) and complies with the requirements of
218 this section, the mobile home owner is entitled to payment from
219 the Florida Mobile Home Relocation Corporation of either of the
220 following:

221 (a) The amount of actual moving expenses of relocating the
222 mobile home to a new location within a 50-mile radius of the
223 vacated park, ~~or~~

224 (b) The amount of \$6,500 ~~\$3,000~~ for a single-section mobile
225 home or \$11,500 ~~\$6,000~~ for a multisection mobile home, whichever
226 is less. Moving expenses include the cost of taking down,
227 moving, and setting up the mobile home in a new location.

228 (4) The Florida Mobile Home Relocation Corporation must
229 approve payment within 45 days after receipt of the information
230 set forth in subsection (3), or payment is deemed approved. A
231 copy of the approval must be forwarded to the park owner with an
232 invoice for payment. Upon approval, the corporation shall issue

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233 a voucher in the amount of the contract price for relocating the
234 mobile home. The moving contractor may redeem the voucher from
235 the corporation following completion of the relocation and upon
236 approval of the relocation by the mobile home owner; however,
237 the voucher must be redeemed within 2 years after the date of
238 issuance.

239 (7) In lieu of collecting payment from the Florida Mobile
240 Home Relocation Corporation as set forth in subsection (1), a
241 mobile home owner may abandon the mobile home in the mobile home
242 park and collect \$5,000 ~~\$1,375~~ for a single section and \$7,000
243 ~~\$2,750~~ for a multisection from the corporation as long as the
244 mobile home owner delivers to the park owner the current title
245 to the mobile home duly endorsed by the owner of record and
246 valid releases of all liens shown on the title. If a mobile home
247 owner chooses to abandon the mobile home as provided in this
248 subsection ~~this option~~, the park owner must ~~shall~~ make payment
249 to the corporation of \$1,375 for each single section and \$2,750
250 for each multisection abandoned ~~in an amount equal to the amount~~
251 ~~the mobile home owner is entitled to under this subsection.~~ The
252 mobile home owner's application for funds under this subsection
253 must ~~shall~~ require the submission of a document signed by the
254 park owner stating that the home has been abandoned under this
255 subsection and that the park owner agrees to make payment to the
256 corporation in the amount provided to the home owner under this
257 subsection. However, in the event that the required documents
258 are not submitted with the application, the corporation may
259 consider the facts and circumstances surrounding the abandonment
260 of the home to determine whether the mobile home owner is
261 entitled to payment pursuant to this subsection. The mobile home

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262 owner is not entitled to any compensation under this subsection
263 if there is a pending eviction action for nonpayment of lot
264 rental amount pursuant to s. 723.061(1)(a) which was filed
265 against him or her prior to the mailing date of the notice of
266 change in the use of the mobile home park given pursuant to s.
267 723.061(1)(d).

268 (11) In an action to enforce ~~the provisions of~~ this section
269 and ss. 723.0611, 723.06115, and 723.06116, the prevailing party
270 is entitled to reasonable attorney ~~attorney's~~ fees and costs.

271 Section 9. For the purpose of incorporating the amendment
272 made by this act to section 723.006, Florida Statutes, in a
273 reference thereto, paragraph (i) of subsection (2) of section
274 723.078, Florida Statutes, is reenacted to read:

275 723.078 Bylaws of homeowners' associations.—

276 (2) The bylaws shall provide and, if they do not, shall be
277 deemed to include, the following provisions:

278 (i) *Recall of board members.*—Any member of the board of
279 directors may be recalled and removed from office with or
280 without cause by the vote of or agreement in writing by a
281 majority of all members. A special meeting of the members to
282 recall a member or members of the board of directors may be
283 called by 10 percent of the members giving notice of the meeting
284 as required for a meeting of members, and the notice shall state
285 the purpose of the meeting. Electronic transmission may not be
286 used as a method of giving notice of a meeting called in whole
287 or in part for this purpose.

288 1. If the recall is approved by a majority of all members
289 by a vote at a meeting, the recall is effective as provided in
290 this paragraph. The board shall duly notice and hold a board

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291 meeting within 5 full business days after the adjournment of the
292 member meeting to recall one or more board members. At the
293 meeting, the board shall either certify the recall, in which
294 case such member or members shall be recalled effective
295 immediately and shall turn over to the board within 5 full
296 business days any and all records and property of the
297 association in their possession, or shall proceed under
298 subparagraph 3.

299 2. If the proposed recall is by an agreement in writing by
300 a majority of all members, the agreement in writing or a copy
301 thereof shall be served on the association by certified mail or
302 by personal service in the manner authorized by chapter 48 and
303 the Florida Rules of Civil Procedure. The board of directors
304 shall duly notice and hold a meeting of the board within 5 full
305 business days after receipt of the agreement in writing. At the
306 meeting, the board shall either certify the written agreement to
307 recall members of the board, in which case such members shall be
308 recalled effective immediately and shall turn over to the board,
309 within 5 full business days, any and all records and property of
310 the association in their possession, or shall proceed as
311 described in subparagraph 3.

312 3. If the board determines not to certify the written
313 agreement to recall members of the board, or does not certify
314 the recall by a vote at a meeting, the board shall, within 5
315 full business days after the board meeting, file with the
316 division a petition for binding arbitration pursuant to the
317 procedures of s. 723.1255. For purposes of this paragraph, the
318 members who voted at the meeting or who executed the agreement
319 in writing shall constitute one party under the petition for

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320 arbitration. If the arbitrator certifies the recall of a member
321 of the board, the recall shall be effective upon mailing of the
322 final order of arbitration to the association. If the
323 association fails to comply with the order of the arbitrator,
324 the division may take action under s. 723.006. A member so
325 recalled shall deliver to the board any and all records and
326 property of the association in the member's possession within 5
327 full business days after the effective date of the recall.

328 4. If the board fails to duly notice and hold a board
329 meeting within 5 full business days after service of an
330 agreement in writing or within 5 full business days after the
331 adjournment of the members' recall meeting, the recall shall be
332 deemed effective and the board members so recalled shall
333 immediately turn over to the board all records and property of
334 the association.

335 5. If the board fails to duly notice and hold the required
336 meeting or fails to file the required petition, the member's
337 representative may file a petition pursuant to s. 723.1255
338 challenging the board's failure to act. The petition must be
339 filed within 60 days after expiration of the applicable 5-full-
340 business-day period. The review of a petition under this
341 subparagraph is limited to the sufficiency of service on the
342 board and the facial validity of the written agreement or
343 ballots filed.

344 6. If a vacancy occurs on the board as a result of a recall
345 and less than a majority of the board members are removed, the
346 vacancy may be filled by the affirmative vote of a majority of
347 the remaining directors, notwithstanding any other provision of
348 this chapter. If vacancies occur on the board as a result of a

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349 recall and a majority or more of the board members are removed,
350 the vacancies shall be filled in accordance with procedural
351 rules to be adopted by the division, which rules need not be
352 consistent with this chapter. The rules must provide procedures
353 governing the conduct of the recall election as well as the
354 operation of the association during the period after a recall
355 but before the recall election.

356 7. A board member who has been recalled may file a petition
357 pursuant to s. 723.1255 challenging the validity of the recall.
358 The petition must be filed within 60 days after the recall is
359 deemed certified. The association and the member's
360 representative shall be named as the respondents.

361 8. The division may not accept for filing a recall
362 petition, whether or not filed pursuant to this subsection, and
363 regardless of whether the recall was certified, when there are
364 60 or fewer days until the scheduled reelection of the board
365 member sought to be recalled or when 60 or fewer days have not
366 elapsed since the election of the board member sought to be
367 recalled.

368 Section 10. For the purpose of incorporating the amendment
369 made by this act to section 723.037, Florida Statutes, in a
370 reference thereto, subsection (5) of section 723.031, Florida
371 Statutes, is reenacted to read:

372 723.031 Mobile home lot rental agreements.—

373 (5) The rental agreement must contain the lot rental amount
374 and services included. An increase in lot rental amount upon
375 expiration of the term of the lot rental agreement must be in
376 accordance with ss. 723.033 and 723.037 or s. 723.059(4),
377 whichever is applicable; provided that, pursuant to s.

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378 723.059(4), the amount of the lot rental increase is disclosed
379 and agreed to by the purchaser, in writing. An increase in lot
380 rental amount shall not be arbitrary or discriminatory between
381 similarly situated tenants in the park. A lot rental amount may
382 not be increased during the term of the lot rental agreement,
383 except:

384 (a) When the manner of the increase is disclosed in a lot
385 rental agreement with a term exceeding 12 months and which
386 provides for such increases not more frequently than annually.

387 (b) For pass-through charges as defined in s. 723.003.

388 (c) That a charge may not be collected which results in
389 payment of money for sums previously collected as part of the
390 lot rental amount. The provisions hereof notwithstanding, the
391 mobile home park owner may pass on, at any time during the term
392 of the lot rental agreement, ad valorem property taxes, non-ad
393 valorem assessments, and utility charges, or increases of
394 either, provided that the ad valorem property taxes, non-ad
395 valorem assessments, and utility charges are not otherwise being
396 collected in the remainder of the lot rental amount and provided
397 further that the passing on of such ad valorem taxes, non-ad
398 valorem assessments, or utility charges, or increases of either,
399 was disclosed prior to tenancy, was being passed on as a matter
400 of custom between the mobile home park owner and the mobile home
401 owner, or such passing on was authorized by law. A park owner is
402 deemed to have disclosed the passing on of ad valorem property
403 taxes and non-ad valorem assessments if ad valorem property
404 taxes or non-ad valorem assessments were disclosed as a separate
405 charge or a factor for increasing the lot rental amount in the
406 prospectus or rental agreement. Such ad valorem taxes, non-ad

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407 valorem assessments, and utility charges shall be a part of the
408 lot rental amount as defined by this chapter. The term "non-ad
409 valorem assessments" has the same meaning as provided in s.
410 197.3632(1)(d). Other provisions of this chapter
411 notwithstanding, pass-on charges may be passed on only within 1
412 year of the date a mobile home park owner remits payment of the
413 charge. A mobile home park owner is prohibited from passing on
414 any fine, interest, fee, or increase in a charge resulting from
415 a park owner's payment of the charge after the date such charges
416 become delinquent. A mobile home park owner is prohibited from
417 charging or collecting from the mobile home owners any sum for
418 ad valorem taxes or non-ad valorem tax charges in an amount in
419 excess of the sums remitted by the park owner to the tax
420 collector. Nothing herein shall prohibit a park owner and a
421 homeowner from mutually agreeing to an alternative manner of
422 payment to the park owner of the charges.

423 (d) If a notice of increase in lot rental amount is not
424 given 90 days before the renewal date of the rental agreement,
425 the rental agreement must remain under the same terms until a
426 90-day notice of increase in lot rental amount is given. The
427 notice may provide for a rental term shorter than 1 year in
428 order to maintain the same renewal date.

429 Section 11. For the purpose of incorporating the amendment
430 made by this act to section 723.037, Florida Statutes, in a
431 reference thereto, subsection (2) of section 723.035, Florida
432 Statutes, is reenacted to read:

433 723.035 Rules and regulations.—

434 (2) No rule or regulation shall provide for payment of any
435 fee, fine, assessment, or charge, except as otherwise provided

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436 in the prospectus or offering circular filed under s. 723.012,
437 if one is required to be provided, and until after the park
438 owner has complied with the procedure set forth in s. 723.037.

439 Section 12. For the purpose of incorporating the amendment
440 made by this act to section 723.037, Florida Statutes, in a
441 reference thereto, section 723.068, Florida Statutes, is
442 reenacted to read:

443 723.068 Attorney's fees.—Except as provided in s. 723.037,
444 in any proceeding between private parties to enforce provisions
445 of this chapter, the prevailing party is entitled to a
446 reasonable attorney's fee.

447 Section 13. For the purpose of incorporating the amendments
448 made by this act to sections 723.037 and 723.038, Florida
449 Statutes, in references thereto, subsection (2) of section
450 723.002, Florida Statutes, is reenacted to read:

451 723.002 Application of chapter.—

452 (2) The provisions of ss. 723.035, 723.037, 723.038,
453 723.054, 723.055, 723.056, 723.058, and 723.068 are applicable
454 to mobile home subdivision developers and the owners of lots in
455 mobile home subdivisions.

456 Section 14. For the purpose of incorporating the amendments
457 made by this act to section 723.037 and 723.038, Florida
458 Statutes, in references thereto, paragraph (b) of subsection (7)
459 of section 723.003, Florida Statutes, is reenacted to read:

460 723.003 Definitions.—As used in this chapter, the term:

461 (7)

462 (b) For purposes of mediation under ss. 723.037 and
463 723.038, the term "parties" means a park owner as defined in
464 subsection (13) and a homeowners' committee selected pursuant to

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465 s. 723.037.

466 Section 15. For the purpose of incorporating the amendments
467 made by this act to sections 723.037 and 723.038, Florida
468 Statutes, in references thereto, subsection (5) of section
469 723.004, Florida Statutes, is reenacted to read:

470 723.004 Legislative intent; preemption of subject matter.—

471 (5) Nothing in this chapter shall be construed to prevent
472 the enforcement of a right or duty under this section, s.

473 723.022, s. 723.023, s. 723.031, s. 723.032, s. 723.033, s.
474 723.035, s. 723.037, s. 723.038, s. 723.061, s. 723.0615, s.
475 723.062, s. 723.063, or s. 723.081 by civil action after the
476 party has exhausted its administrative remedies, if any.

477 Section 16. For the purpose of incorporating the amendments
478 made by this act to sections 723.037, 723.038, and 723.0381,
479 Florida Statutes, in references thereto, subsection (7) of
480 section 723.033, Florida Statutes, is reenacted to read:

481 723.033 Unreasonable lot rental agreements; increases,
482 changes.—

483 (7) An arbitrator or mediator under ss. 723.037, 723.038,
484 and 723.0381 shall employ the same standards as set forth in
485 this section.

486 Section 17. This act shall take effect July 1, 2024.