

FINAL BILL ANALYSIS

BILL #: CS/SB 650

FINAL HOUSE FLOOR ACTION:

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SPONSOR: Sen. Jones (Rep. Nunez)

GOVERNOR'S ACTION: Approved

COMPANION BILLS: CS/HB 423

SUMMARY ANALYSIS

CS/SB 650 passed the House on May 4, 2011. The bill was approved by the Governor on June 2, 2011, chapter 2011-105, Laws of Florida, and became effective on that date.

Mobile home parks are regulated by the state. Current law places various obligations on mobile home park owners including providing notices for eviction in the event of sale, following building codes and maintaining common areas. Due to the cost and difficulty in moving mobile homes, current law requires a mobile home park owner to give tenants at least six months notice before eviction can take place due to a change of land use. A change of land use is where the land the park is on will be redeveloped into something other than a mobile home park.

The bill requires that, at the beginning of the six months eviction period, and if the tenants have created a homeowners' association, the park owner must offer to sell the park to the association. The association has 45 days to agree to the owner's asking price and terms. The bill requires the state or local government to consider the adequacy of parks for relocation when a mobile home park owner gives notice of a change of land use.

Mobile home owners also have obligations by lease and by law that includes the obligation to follow building codes and the obligation to keep their premises sanitary and clean. Mobile home park owners report that they are being cited for offenses that were committed by their tenants. This bill requires a local government to cite only the responsible party when citing a violation of a local ordinance.

The bill does not appear to have a fiscal impact on state or local governments.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Change in Land Use

The landlord-tenant relationship between a mobile home park owner and a mobile home owner in a mobile home park is a unique relationship. Traditional landlord-tenant concepts are thought inapplicable where the land is owned by the park and the homes on the property are owned by the home owner. This relationship is impacted by the high cost of moving a mobile home. Chapter 723, F.S, governs the relationship between mobile home park owners and mobile home owners. Section 723.004(1), F.S, provides:

The Legislature finds that there are factors unique to the relationship between a mobile home owner and a mobile home park owner. Once occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and substantial differences in the relationship which distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected.

The Florida Supreme Court, in addressing mobile home park issues, has ruled that:

A hybrid type of property relationship exists between the mobile home owner and the park owner and that the relationship is not simply one of landowner and tenant. Each has basic property rights which must reciprocally accommodate and harmonize. Separate and distinct mobile home laws are necessary to define the relationships and protect the interests of the persons involved.¹

Before the current downturn in real estate values, escalating property values, especially in the coastal areas, prompted a number of mobile home park owners to close their parks so that the land can be used for a different purpose (such as retail, office, apartments or condominiums). As the economy recovers, mobile home parks will likely again be slated for redevelopment.

Section 723.061, F.S., provides the grounds for eviction of a mobile home park resident. One ground for eviction is an eviction of all tenants upon a change in land use. A change in land use is intent to redevelop the land into something other than a mobile home park. Tenants evicted under this provision must be given at least six months notice.

Section 723.071, F.S., requires that a mobile home park owner who offers a mobile home park for sale to the general public must notify the homeowners' association (tenant's association) of the price, terms

¹ *Stewart v. Green*, 300 So.2d 889, 892 (Fla. 1974).

and conditions of sale. The requirement only applies if the tenants have organized a homeowners' association under ch. 723, F.S. The mobile home owners, by and through the homeowners' association, may purchase the park at the price, terms and conditions in the notice if the homeowners execute a purchase contract within 45 days after mailing of the notice. If the park owner later elects to offer the park at a lower price, the home owners have an additional 10 days to meet the price and terms and conditions of the park owner by executing a contract.

The process in s. 723.071, F.S., gives the homeowners an opportunity to purchase the park in situations where the park owner is selling to a third party. Under current law, however, a park owner may elect to close the park and redevelop the land (a change in land use) without selling the land to a third party. In this situation, s. 723.071, F.S., does not apply, and current law does not require the park owner to give the homeowners an opportunity to purchase the park (and avoid having to move).

Section 723.083, F.S., provides that:

No agency of municipal, local, county, or state government shall approve any application for rezoning, or take any other official action, which would result in the removal or relocation of mobile home owners residing in a mobile home park without first determining that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners.

Citations

The unique relationship between the park owner and mobile home owner places various obligations on each party. Section 723.022, F.S., requires a mobile home park owner to:

- Comply with building, housing and health codes.
- Maintain the common areas in a good state of repair.
- Provide access to the common areas.
- Maintain utility connections and systems in proper operating conditions.
- Comply with park rules.

Section 723.023, F.S., requires a mobile home owner to:

- Comply with applicable building, housing and health codes.
- Keep the mobile home lot which he or she occupies clean and sanitary.
- Comply with park rules.

Some confusion may result when local city or county inspectors cite a mobile home park owner for a violation related to an issue that is the responsibility of a mobile home owner pursuant to s. 723.023, F.S. For example, if the mobile home owner does not keep the lot in which he or she occupies clean and sanitary, the local officials may cite the mobile home park owner even though current law provides that it is the mobile home owner's responsibility to keep the lot clean.²

² Section 723.023(2), F.S., requires the mobile home owner to "Keep the mobile home lot which he or she occupies clean and sanitary."

Proposed Changes

Change in Land Use

This bill amends the eviction provisions of s. 723.061(1)(d), F.S., to provide mobile home owners with a process for purchase of the mobile home park from which they are to be evicted due to a change in land use. The purchase terms are similar to those in current law related to a park owner offering the park for sale. The park owner may not evict the homeowners from the park due to a change of land use unless the park owner first follows the process set forth in the bill. Specifically:

- If the homeowners have formed a homeowners' association pursuant to ss. 723.075-723.079, F.S., the bill requires the park owner to give written notice to the homeowners' association of the homeowners' right to purchase the mobile home park at the price, terms and conditions set forth in the notice. The park owner sets the price, terms and conditions.
- The written notice must be provided to the officers of the homeowners' association. The homeowners' association may then execute and deliver a contract for purchase of the park to the park owner within 45 days after the mailing of the written notice. The contract must be for the same price and terms and conditions set forth in the written notice. The park owner may not sell to another interested party if the association agrees to a contract.
- If the park owner and the homeowners' association do not execute a contract within the 45 day period, the park owner may proceed with the eviction. If during the 6 month notice period prior to eviction the park owner elects to offer or sell the park at a price lower than in the initial notice, the park owner must notify the homeowners association and the association has an additional 10 days to agree to the revised offer terms. At the conclusion of the 6 month notice period, the park owner has no further obligation to the association under the amended s. 723.061(1)(d), F.S., or under s. 723.071, F.S.

Citations

The bill creates s. 723.024, F.S., which provides that if a unit of local government finds a violation of a local code or ordinance, the unit of local government may only cite the responsible party. The bill also provides that a lien, penalty, fine or other administrative or civil proceedings may not be brought against a mobile home park owner for a violation under s. 723.023, F.S., and that a lien, penalty, fine or other administrative or civil proceedings may not be brought against a mobile home owner or mobile home tenant for a violation of s. 723.022, F.S.

The bill also requires local governments to consider the adequacy of parks for relocation, when a mobile home park owner gives notice under s. 723.061, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.