

By Senator Detert

28-00597-15

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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 authorizing such amendment; amending s.
9 723.011, F.S.; removing the use of an offering
10 circular; amending s. 723.012, F.S.; removing the use
11 of an offering circular; requiring that additional
12 information be provided in the prospectus which
13 advises the mobile home owner of consequences if the
14 land use is changed; amending s. 723.014, F.S.;
15 removing the use of an offering circular; amending s.
16 723.032, F.S.; requiring the division to enforce
17 certain rental agreement provisions; amending ss.
18 723.035, 723.041, and 723.059, F.S.; removing the use
19 of an offering circular; amending s. 723.061, F.S.;
20 requiring a park owner to provide certain information
21 to residents who are displaced as a result of a
22 mandatory eviction due to a change in use of the land;
23 amending ss. 73.072 and 723.031, F.S.; conforming
24 cross-references to changes made by the act; providing
25 an effective date.

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

28
29 Section 1. Section 723.003, Florida Statutes, is reordered

28-00597-15

2015500__

30 and amended to read:

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

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

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

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

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

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

58 (7) ~~(6)~~ ~~The term~~ "Mobile home park" or "park" means a use of

28-00597-15

2015500__

59 land in which lots or spaces are offered for rent or lease for
60 the placement of mobile homes and in which the primary use of
61 the park is residential.

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

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

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

76 (11)~~(10)~~ The term "Pass-through charge" means the mobile
77 home owner's proportionate share of the necessary and actual
78 direct costs and impact or hookup fees for a governmentally
79 mandated capital improvement, which may include the necessary
80 and actual direct costs and impact or hookup fees incurred for
81 capital improvements required for public or private regulated
82 utilities.

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

28-00597-15

2015500__

88 serving the recreational and common areas and all affected
89 developed lots in the park.

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

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

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

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

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

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

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

114 (8) The division may ~~has the authority~~ by rule ~~to~~ authorize
115 amendments ~~permitted by this chapter~~ to an approved prospectus
116 which are permitted by this chapter ~~or offering circular~~. Before

28-00597-15

2015500__

117 authorizing an amendment to an approved prospectus, the division
118 shall provide notice to the homeowners' association of each
119 proposed amendment in order to solicit feedback.

120 Section 3. Paragraph (b) of subsection (1) and subsections
121 (2), (3), and (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

28-00597-15

2015500__

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 to
160 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, 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.

28-00597-15

2015500__

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 LESSEE,
180 THE RENTAL AGREEMENT IS VOIDABLE BY THE LESSEE FOR A PERIOD OF
181 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 AFTER RECEIVING
184 THE ORDER OR FORFEIT YOUR 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 size
199 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.

28-00597-15

2015500__

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 property
216 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 complete
220 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 or
226 permanent, which are required to be installed by the mobile home
227 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

28-00597-15

2015500__

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

28-00597-15

2015500__

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 to
281 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

28-00597-15

2015500__

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 be

28-00597-15

2015500__

320 specifically set forth in the prospectus ~~or offering circular~~.
321 Any such fee shall be clearly identified in writing at the time
322 that the rental agreement is signed or otherwise concluded.
323

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

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

334 723.059 Rights of purchaser.-

335 (3) The purchaser of a mobile home who becomes a resident
336 of the mobile home park in accordance with this section has the
337 right to assume the remainder of the term of any rental
338 agreement then in effect between the mobile home park owner and
339 the seller and shall be entitled to rely on the terms and
340 conditions of the prospectus ~~or offering circular~~ as delivered
341 to the initial recipient.

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

28-00597-15

2015500__

349 initial ~~offering circular or~~ prospectus and this chapter act.

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

352 723.061 Eviction; grounds, proceedings.—

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

28-00597-15

2015500__

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
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, 2015.