

By Senator Latvala

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1 A bill to be entitled
2 An act relating to mobile homes; amending s. 723.006,
3 F.S.; revising certain notice requirements for written
4 complaints; amending s. 723.031, F.S.; authorizing a
5 mobile home park owner to pass on non-ad valorem
6 assessments to a tenant under certain circumstances;
7 providing that a mobile home park owner is deemed to
8 have disclosed the passing on of certain taxes and
9 assessments under certain circumstances; requiring the
10 non-ad valorem assessments to be a part of the lot
11 rental amount; requiring that a renewed rental
12 agreement remain under the same terms unless certain
13 notice is provided; amending s. 723.059, F.S.;
14 authorizing a mobile home purchaser to cancel or
15 rescind the contract to purchase under certain
16 circumstances; amending s. 723.075, F.S.; revising the
17 rights that mobile home owners exercise if they form
18 an association; authorizing mobile home owners to
19 become members upon incorporation of the association;
20 defining the terms "member" and "shareholder";
21 deleting provisions relating to memberships of
22 successors to home owners; amending s. 723.078, F.S.;
23 specifying voting requirements for homeowners'
24 associations; specifying the requirements for a
25 majority of votes; authorizing members to vote by
26 secret ballot and absentee ballot; providing an
27 effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (6) of section 723.006, Florida Statutes, is amended to read:

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

(6) With regard to any written complaint alleging a violation of any provision of this chapter or any rule adopted ~~promulgated~~ pursuant thereto, the division shall, within 30 days after receipt of a written complaint, ~~periodically~~ notify, in writing, the person who filed the complaint of the status of the complaint. Thereafter, the division shall notify the complainant of the status of the investigation within 90 days after receipt of the written complaint. Upon completion of the investigation, the division ~~investigation, whether probable cause has been found, and the status of any administrative action, civil action, or appellate action, and if the division has found that probable cause exists, it shall notify, in writing, the complainant and the party complained against of the results of the investigation and disposition of the complaint.~~

Section 2. Subsection (5) of section 723.031, Florida Statutes, is amended to read:

723.031 Mobile home lot rental agreements.—

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

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59 rental amount shall not be arbitrary or discriminatory between
60 similarly situated tenants in the park. ~~A~~ ~~Ne~~ lot rental amount
61 may not be increased during the term of the lot rental
62 agreement, except:

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

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

67 (c) That ~~a~~ ~~ne~~ charge may not be collected which ~~that~~
68 results in payment of money for sums previously collected as
69 part of the lot rental amount. The provisions hereof
70 notwithstanding, the mobile home park owner may pass on, at any
71 time during the term of the lot rental agreement, ad valorem
72 property taxes, non-ad valorem assessments, and utility charges,
73 or increases of either, provided that the ad valorem property
74 taxes, non-ad valorem assessments, and ~~the~~ utility charges are
75 not otherwise being collected in the remainder of the lot rental
76 amount and provided further that the passing on of such ad
77 valorem taxes, non-ad valorem assessments, or utility charges,
78 or increases of either, was disclosed prior to tenancy, was
79 being passed on as a matter of custom between the mobile home
80 park owner and the mobile home owner, or such passing on was
81 authorized by law. A park owner shall be deemed to have
82 disclosed the passing on of ad valorem property taxes and non-ad
83 valorem assessments if ad valorem property taxes or non-ad
84 valorem assessments were disclosed as a factor for increasing
85 the lot rental amount in the prospectus or rental agreement.
86 Such ad valorem taxes, non-ad valorem assessments, and utility
87 charges shall be a part of the lot rental amount as defined by

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88 this chapter. Other provisions of this chapter notwithstanding,
89 pass-on charges may be passed on only within 1 year of the date
90 a mobile home park owner remits payment of the charge. A mobile
91 home park owner is prohibited from passing on any fine,
92 interest, fee, or increase in a charge resulting from a park
93 owner's payment of the charge after the date such charges become
94 delinquent. Nothing herein shall prohibit a park owner and a
95 homeowner from mutually agreeing to an alternative manner of
96 payment to the park owner of the charges.

97 (d) If a notice of increase in lot rental amount is not
98 given 90 days before the renewal date of the rental agreement,
99 the rental agreement shall remain under the same terms until a
100 90-day notice of increase in lot rental amount is given. The
101 notice may provide for a rental term shorter than 1 year in
102 order to maintain the same renewal date.

103 Section 3. Subsection (1) of section 723.059, Florida
104 Statutes, is amended to read:

105 723.059 Rights of purchaser.—

106 (1) The purchaser of a mobile home within a mobile home
107 park may become a tenant of the park if such purchaser would
108 otherwise qualify with the requirements of entry into the park
109 under the park rules and regulations, subject to the approval of
110 the park owner, but such approval may not be unreasonably
111 withheld. The purchaser of the mobile home may cancel or rescind
112 the contract for purchase of the mobile home if the purchaser's
113 tenancy has not been approved by the park owner 5 days before
114 the closing of the purchase.

115 Section 4. Subsection (1) of section 723.075, Florida
116 Statutes, is amended to read:

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117 723.075 Homeowners' associations.-

118 (1) In order to exercise the rights provided in this
119 chapter s. 723.071, the mobile home owners shall form an
120 association in compliance with this section and ss. 723.077,
121 723.078, and 723.079, which shall be a corporation for profit or
122 not for profit and of which not less than two-thirds of all of
123 the mobile home owners within the park shall have consented, in
124 writing, to become members or shareholders. Upon incorporation
125 of the association ~~such consent by two-thirds of the mobile home~~
126 ~~owners~~, all consenting mobile home owners in the park may become
127 members or shareholders. The term "member" or "shareholder"
128 means a mobile home owner who consents to be bound by the
129 articles of incorporation, bylaws, and policies of the
130 incorporated homeowners' association ~~and their successors shall~~
131 ~~become members of the association and shall be bound by the~~
132 ~~provisions of the articles of incorporation, the bylaws of the~~
133 ~~association, and such restrictions as may be properly~~
134 ~~promulgated pursuant thereto.~~ The association may not shall have
135 a no member or shareholder who is not a bona fide owner of a
136 mobile home located in the park. Upon incorporation and service
137 of the notice described in s. 723.076, the association shall
138 become the representative of all the mobile home owners in all
139 matters relating to this chapter.

140 Section 5. Paragraph (b) of subsection (2) of section
141 723.078, Florida Statutes, is amended to read:

142 723.078 Bylaws of homeowners' associations.-

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

145 (b) *Quorum; voting requirements; proxies.-*

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146 1. Unless otherwise provided in the bylaws, 30 percent of
147 the total membership is required to constitute a quorum.
148 Decisions shall be made by a majority of members represented at
149 a meeting at which a quorum is present.

150 2. A member may not vote by general proxy but may vote by
151 limited proxies substantially conforming to a limited proxy form
152 adopted by the division. Limited proxies and general proxies may
153 be used to establish a quorum. Limited proxies may be used for
154 votes taken to amend the articles of incorporation or bylaws
155 pursuant to this section, and any other matters for which this
156 chapter requires or permits a vote of members, except that no
157 proxy, limited or general, may be used in the election of board
158 members. If a mobile home or subdivision lot is owned jointly,
159 the owners of the mobile home, or subdivision lot, shall be
160 counted as one for the purpose of determining the number of
161 votes required for a majority. Only one vote per mobile home or
162 subdivision lot shall be counted. Any number greater than 50
163 percent of the total number of votes constitutes a majority.
164 Notwithstanding ~~the provisions of~~ this section, members may vote
165 in person at member meetings or by secret ballot, including
166 absentee ballots.

167 3. A proxy is effective only for the specific meeting for
168 which originally given and any lawfully adjourned meetings
169 thereof. In no event shall any proxy be valid for a period
170 longer than 90 days after the date of the first meeting for
171 which it was given. Every proxy shall be revocable at any time
172 at the pleasure of the member executing it.

173 4. A member of the board of directors or a committee may
174 submit in writing his or her agreement or disagreement with any

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175 action taken at a meeting that the member did not attend. This
176 agreement or disagreement may not be used as a vote for or
177 against the action taken and may not be used for the purposes of
178 creating a quorum.

179 Section 6. This act shall take effect July 1, 2016.