

By Senator Hooper

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1 A bill to be entitled
2 An act relating to manufactured housing; amending s.
3 212.05, F.S.; reducing the percentage of the sales
4 price of certain mobile homes which is subject to
5 sales tax; providing a sales tax exemption for certain
6 mobile homes; amending s. 212.06, F.S.; revising the
7 definition of the term "fixtures" to include certain
8 mobile homes; amending s. 320.77, F.S.; revising a
9 certification requirement for mobile home dealer
10 applicants relating to the applicant's business
11 location; amending s. 320.771, F.S.; exempting certain
12 recreational vehicle dealer applicants from a garage
13 liability insurance requirement; amending s. 320.822,
14 F.S.; revising the definition of the term "code";
15 amending s. 320.8232, F.S.; revising applicable
16 standards for the repair and remodeling of mobile and
17 manufactured homes; amending s. 367.022, F.S.;
18 exempting certain mobile home park and mobile home
19 subdivision owners from regulation by the Florida
20 Public Service Commission relating to water and
21 wastewater systems; revising an exemption from
22 regulation for certain water service resellers;
23 amending s. 723.011, F.S.; providing construction
24 relating to rental agreements and tenancies; providing
25 that a mobile home owner, to become an approved
26 tenant, may be required to install permanent
27 improvements as disclosed in the mobile home park
28 owner's prospectus; amending s. 723.012, F.S.;
29 authorizing mobile home park owners to make certain

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30 prospectus amendments; providing that certain
31 improvements and changes may be, but are not required
32 to be, disclosed by amendment to the prospectus;
33 authorizing park owners to amend prospectuses to
34 provide certain additional facilities and services to
35 the mobile home park under certain circumstances;
36 conforming a provision to changes made by the act;
37 amending s. 723.023, F.S.; adding general obligations
38 for mobile home owners; amending s. 723.031, F.S.;
39 specifying a requirement for disclosing and agreeing
40 to a mobile home lot rental increase; revising
41 construction relating to a park owner's disclosure of
42 certain taxes and assessments; amending s. 723.037,
43 F.S.; authorizing mobile home park owners to give
44 notice of lot rental increases for multiple
45 anniversary dates in one notice; providing
46 construction; specifying the composition of a certain
47 negotiating committee; specifying the lot rental
48 amount increases the committee must address in
49 meetings with the park owner or subdivision developer;
50 amending s. 723.041, F.S.; providing that a mobile
51 home park damaged or destroyed due to natural forces
52 may be rebuilt with the same density as previously
53 approved, permitted, or built; providing construction;
54 amending s. 723.042, F.S.; conforming a provision to
55 changes made by the act; amending s. 723.059, F.S.;
56 deleting certain purchasers' rights to assume the
57 remainder of a rental agreement term; requiring
58 certain purchasers to enter into a new lot rental

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59 agreement with the park owner; revising requirements
60 for the disclosure of lot rental amounts for new
61 tenancies; amending s. 723.061, F.S.; revising a
62 requirement for mailing eviction notices; specifying
63 the waiver and nonwaiver of certain rights of the park
64 owner under certain circumstances; requiring the
65 accounting at final hearing of rents received;
66 requiring a tenant defending certain actions by a
67 landlord to comply with certain requirements; amending
68 s. 723.063, F.S.; revising procedures and requirements
69 for mobile home owners, and revising construction,
70 relating to actions for rent or possession; revising
71 conditions under which a park owner may apply to a
72 court for disbursement of certain funds; providing an
73 effective date.

74

75 Be It Enacted by the Legislature of the State of Florida:

76

77 Section 1. Paragraph (a) of subsection (1) of section
78 212.05, Florida Statutes, is amended to read:

79 212.05 Sales, storage, use tax.—It is hereby declared to be
80 the legislative intent that every person is exercising a taxable
81 privilege who engages in the business of selling tangible
82 personal property at retail in this state, including the
83 business of making mail order sales, or who rents or furnishes
84 any of the things or services taxable under this chapter, or who
85 stores for use or consumption in this state any item or article
86 of tangible personal property as defined herein and who leases
87 or rents such property within the state.

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88 (1) For the exercise of such privilege, a tax is levied on
89 each taxable transaction or incident, which tax is due and
90 payable as follows:

91 (a)1.a. At the rate of 6 percent of the sales price of each
92 item or article of tangible personal property when sold at
93 retail in this state, computed on each taxable sale for the
94 purpose of remitting the amount of tax due the state, and
95 including each and every retail sale.

96 b. Each occasional or isolated sale of an aircraft, boat,
97 mobile home, or motor vehicle of a class or type ~~that~~ ~~which~~ is
98 required to be registered, licensed, titled, or documented in
99 this state or by the United States Government shall be subject
100 to tax at the rate provided in this paragraph. A mobile home
101 shall be assessed sales tax at a rate of 6 percent on 50 percent
102 of the sales price of the mobile home, if subject to sales tax
103 as tangible personal property. However, a mobile home is not
104 subject to sales tax if the mobile home is intended to be
105 permanently affixed to the land and the purchaser signs an
106 affidavit stating that he or she intends to seek a "RP" series
107 sticker pursuant to s. 320.0815(2). The department shall by rule
108 adopt any nationally recognized publication for valuation of
109 used motor vehicles as the reference price list for any used
110 motor vehicle which is required to be licensed pursuant to s.
111 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party
112 to an occasional or isolated sale of such a vehicle reports to
113 the tax collector a sales price ~~that~~ ~~which~~ is less than 80
114 percent of the average loan price for the specified model and
115 year of such vehicle as listed in the most recent reference
116 price list, the tax levied under this paragraph shall be

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117 computed by the department on such average loan price unless the
118 parties to the sale have provided to the tax collector an
119 affidavit signed by each party, or other substantial proof,
120 stating the actual sales price. Any party to such sale who
121 reports a sales price less than the actual sales price is guilty
122 of a misdemeanor of the first degree, punishable as provided in
123 s. 775.082 or s. 775.083. The department shall collect or
124 attempt to collect from such party any delinquent sales taxes.
125 In addition, such party shall pay any tax due and any penalty
126 and interest assessed plus a penalty equal to twice the amount
127 of the additional tax owed. Notwithstanding any other provision
128 of law, the Department of Revenue may waive or compromise any
129 penalty imposed pursuant to this subparagraph.

130 2. This paragraph does not apply to the sale of a boat or
131 aircraft by or through a registered dealer under this chapter to
132 a purchaser who, at the time of taking delivery, is a
133 nonresident of this state, does not make his or her permanent
134 place of abode in this state, and is not engaged in carrying on
135 in this state any employment, trade, business, or profession in
136 which the boat or aircraft will be used in this state, or is a
137 corporation none of the officers or directors of which is a
138 resident of, or makes his or her permanent place of abode in,
139 this state, or is a noncorporate entity that has no individual
140 vested with authority to participate in the management,
141 direction, or control of the entity's affairs who is a resident
142 of, or makes his or her permanent abode in, this state. For
143 purposes of this exemption, either a registered dealer acting on
144 his or her own behalf as seller, a registered dealer acting as
145 broker on behalf of a seller, or a registered dealer acting as

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146 broker on behalf of the purchaser may be deemed to be the
147 selling dealer. This exemption shall not be allowed unless:

148 a. The purchaser removes a qualifying boat, as described in
149 sub-subparagraph f., from the state within 90 days after the
150 date of purchase or extension, or the purchaser removes a
151 nonqualifying boat or an aircraft from this state within 10 days
152 after the date of purchase or, when the boat or aircraft is
153 repaired or altered, within 20 days after completion of the
154 repairs or alterations; or if the aircraft will be registered in
155 a foreign jurisdiction and:

156 (I) Application for the aircraft's registration is properly
157 filed with a civil airworthiness authority of a foreign
158 jurisdiction within 10 days after the date of purchase;

159 (II) The purchaser removes the aircraft from the state to a
160 foreign jurisdiction within 10 days after the date the aircraft
161 is registered by the applicable foreign airworthiness authority;
162 and

163 (III) The aircraft is operated in the state solely to
164 remove it from the state to a foreign jurisdiction.

165
166 For purposes of this sub-subparagraph, the term "foreign
167 jurisdiction" means any jurisdiction outside of the United
168 States or any of its territories;

169 b. The purchaser, within 30 days from the date of
170 departure, provides the department with written proof that the
171 purchaser licensed, registered, titled, or documented the boat
172 or aircraft outside the state. If such written proof is
173 unavailable, within 30 days the purchaser shall provide proof
174 that the purchaser applied for such license, title,

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175 registration, or documentation. The purchaser shall forward to
176 the department proof of title, license, registration, or
177 documentation upon receipt;

178 c. The purchaser, within 10 days of removing the boat or
179 aircraft from Florida, furnishes the department with proof of
180 removal in the form of receipts for fuel, dockage, slippage,
181 tie-down, or hangaring from outside of Florida. The information
182 so provided must clearly and specifically identify the boat or
183 aircraft;

184 d. The selling dealer, within 5 days of the date of sale,
185 provides to the department a copy of the sales invoice, closing
186 statement, bills of sale, and the original affidavit signed by
187 the purchaser attesting that he or she has read the provisions
188 of this section;

189 e. The seller makes a copy of the affidavit a part of his
190 or her record for as long as required by s. 213.35; and

191 f. ~~Unless~~ The nonresident purchaser of a boat of 5 net tons
192 of admeasurement or larger intends to remove the boat from this
193 state within 10 days after the date of purchase or when the boat
194 is repaired or altered, and within 20 days after completion of
195 the repairs or alterations, the nonresident purchaser applies to
196 the selling dealer for a decal which authorizes 90 days after
197 the date of purchase for removal of the boat. The nonresident
198 purchaser of a qualifying boat may apply to the selling dealer
199 within 60 days after the date of purchase for an extension decal
200 that authorizes the boat to remain in this state for an
201 additional 90 days, but not more than a total of 180 days,
202 before the nonresident purchaser is required to pay the tax
203 imposed by this chapter. The department is authorized to issue

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204 decals in advance to dealers. The number of decals issued in
205 advance to a dealer shall be consistent with the volume of the
206 dealer's past sales of boats which qualify under this sub-
207 subparagraph. The selling dealer or his or her agent shall mark
208 and affix the decals to qualifying boats in the manner
209 prescribed by the department, before delivery of the boat.

210 (I) The department is hereby authorized to charge dealers a
211 fee sufficient to recover the costs of decals issued, except the
212 extension decal shall cost \$425.

213 (II) The proceeds from the sale of decals will be deposited
214 into the administrative trust fund.

215 (III) Decals shall display information to identify the boat
216 as a qualifying boat under this sub-subparagraph, including, but
217 not limited to, the decal's date of expiration.

218 (IV) The department is authorized to require dealers who
219 purchase decals to file reports with the department and may
220 prescribe all necessary records by rule. All such records are
221 subject to inspection by the department.

222 (V) Any dealer or his or her agent who issues a decal
223 falsely, fails to affix a decal, mismarks the expiration date of
224 a decal, or fails to properly account for decals will be
225 considered prima facie to have committed a fraudulent act to
226 evade the tax and will be liable for payment of the tax plus a
227 mandatory penalty of 200 percent of the tax, and shall be liable
228 for fine and punishment as provided by law for a conviction of a
229 misdemeanor of the first degree, as provided in s. 775.082 or s.
230 775.083.

231 (VI) Any nonresident purchaser of a boat who removes a
232 decal before permanently removing the boat from the state, or

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233 defaces, changes, modifies, or alters a decal in a manner
234 affecting its expiration date before its expiration, or who
235 causes or allows the same to be done by another, will be
236 considered prima facie to have committed a fraudulent act to
237 evade the tax and will be liable for payment of the tax plus a
238 mandatory penalty of 200 percent of the tax, and shall be liable
239 for fine and punishment as provided by law for a conviction of a
240 misdemeanor of the first degree, as provided in s. 775.082 or s.
241 775.083.

242 (VII) The department is authorized to adopt rules necessary
243 to administer and enforce this subparagraph and to publish the
244 necessary forms and instructions.

245 (VIII) The department is hereby authorized to adopt
246 emergency rules pursuant to s. 120.54(4) to administer and
247 enforce the provisions of this subparagraph.

248
249 If the purchaser fails to remove the qualifying boat from this
250 state within the maximum 180 days after purchase or a
251 nonqualifying boat or an aircraft from this state within 10 days
252 after purchase or, when the boat or aircraft is repaired or
253 altered, within 20 days after completion of such repairs or
254 alterations, or permits the boat or aircraft to return to this
255 state within 6 months from the date of departure, except as
256 provided in s. 212.08(7) (fff), or if the purchaser fails to
257 furnish the department with any of the documentation required by
258 this subparagraph within the prescribed time period, the
259 purchaser shall be liable for use tax on the cost price of the
260 boat or aircraft and, in addition thereto, payment of a penalty
261 to the Department of Revenue equal to the tax payable. This

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262 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
263 The maximum 180-day period following the sale of a qualifying
264 boat tax-exempt to a nonresident may not be tolled for any
265 reason.

266 Section 2. Paragraph (b) of subsection (14) of section
267 212.06, Florida Statutes, is amended to read:

268 212.06 Sales, storage, use tax; collectible from dealers;
269 "dealer" defined; dealers to collect from purchasers;
270 legislative intent as to scope of tax.-

271 (14) For the purpose of determining whether a person is
272 improving real property, the term:

273 (b) "Fixtures" means items that are an accessory to a
274 building, other structure, or land and that do not lose their
275 identity as accessories when installed but that do become
276 permanently attached to realty. However, the term does not
277 include the following items, whether or not such items are
278 attached to real property in a permanent manner:

279 1. Property of a type that is required to be registered,
280 licensed, titled, or documented by this state or by the United
281 States Government, including, but not limited to, mobile homes,
282 except the term includes mobile homes assessed as real property
283 or intended to be qualified and taxed as real property pursuant
284 to s. 320.0815(2).

285 2. ~~For~~ Industrial machinery or equipment.

286
287 For purposes of this paragraph, industrial machinery or
288 equipment is not limited to machinery and equipment used to
289 manufacture, process, compound, or produce tangible personal
290 property. For an item to be considered a fixture, it is not

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291 necessary that the owner of the item also own the real property
292 to which it is attached.

293 Section 3. Paragraph (h) of subsection (3) of section
294 320.77, Florida Statutes, is amended to read:

295 320.77 License required of mobile home dealers.—

296 (3) APPLICATION.—The application for such license shall be
297 in the form prescribed by the department and subject to such
298 rules as may be prescribed by it. The application shall be
299 verified by oath or affirmation and shall contain:

300 (h) Certification by the applicant:

301 1. That the location is a permanent one, not a tent or a
302 temporary stand or other temporary quarters.

303 2. ~~and,~~ Except in the case of a mobile home broker, that
304 the location affords sufficient ~~unoccupied~~ space to display
305 ~~store all mobile homes offered and displayed~~ for sale. A space
306 to display a manufactured home as a model home is sufficient to
307 satisfy this requirement. ~~and that~~ The location must be ~~is~~ a
308 suitable place in which the applicant can in good faith carry on
309 business and keep and maintain books, records, and files
310 necessary to conduct such business, which must ~~will~~ be available
311 at all reasonable hours to inspection by the department or any
312 of its inspectors or other employees.

313
314 This paragraph does ~~subsection shall~~ not preclude a licensed
315 mobile home dealer from displaying and offering for sale mobile
316 homes in a mobile home park.

317
318 The department shall, if it deems necessary, cause an
319 investigation to be made to ascertain if the facts set forth in

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320 the application are true and shall not issue a license to the
321 applicant until it is satisfied that the facts set forth in the
322 application are true.

323 Section 4. Paragraph (j) of subsection (3) of section
324 320.771, Florida Statutes, is amended to read:

325 320.771 License required of recreational vehicle dealers.—

326 (3) APPLICATION.—The application for such license shall be
327 in the form prescribed by the department and subject to such
328 rules as may be prescribed by it. The application shall be
329 verified by oath or affirmation and shall contain:

330 (j) A statement that the applicant is insured under a
331 garage liability insurance policy, which shall include, at a
332 minimum, \$25,000 combined single-limit liability coverage,
333 including bodily injury and property damage protection, and
334 \$10,000 personal injury protection, if the applicant is to be
335 licensed as a dealer in, or intends to sell, recreational
336 vehicles. However, a garage liability policy is not required for
337 the licensure of a mobile home dealer who sells only park
338 trailers.

339
340 The department shall, if it deems necessary, cause an
341 investigation to be made to ascertain if the facts set forth in
342 the application are true and shall not issue a license to the
343 applicant until it is satisfied that the facts set forth in the
344 application are true.

345 Section 5. Paragraph (c) of subsection (2) of section
346 320.822, Florida Statutes, is amended to read:

347 320.822 Definitions; ss. 320.822-320.862.—In construing ss.
348 320.822-320.862, unless the context otherwise requires, the

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349 following words or phrases have the following meanings:

350 (2) "Code" means the appropriate standards found in:

351 (c) The Mobile and Manufactured Home Repair and Remodeling
352 Code and the Used Recreational Vehicle Code.

353 Section 6. Subsection (2) of section 320.8232, Florida
354 Statutes, is amended to read:

355 320.8232 Establishment of uniform standards for used
356 recreational vehicles and repair and remodeling code for mobile
357 homes.—

358 (2) The Mobile and Manufactured Home ~~provisions of the~~
359 Repair and Remodeling Code must be a uniform code, must ~~shall~~
360 ensure safe and livable housing, and may ~~shall~~ not be more
361 stringent than those standards required to be met in the
362 manufacture of mobile homes. Such code must ~~provisions shall~~
363 include, but not be limited to, standards for structural
364 adequacy, plumbing, heating, electrical systems, and fire and
365 life safety. All repairs and remodeling of mobile and
366 manufactured homes must be performed in accordance with
367 department rules.

368 Section 7. Subsections (5) and (9) of section 367.022,
369 Florida Statutes, are amended to read:

370 367.022 Exemptions.—The following are not subject to
371 regulation by the commission as a utility nor are they subject
372 to the provisions of this chapter, except as expressly provided:

373 (5) Landlords providing service to their tenants without
374 specific compensation for the service. This exemption includes
375 an owner of a mobile home park or a mobile home subdivision, as
376 defined in s. 723.003, who is providing service to any person:

377 (a) Leasing a lot;

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378 (b) Leasing a mobile home and a lot; or

379 (c) Who owns a lot in a mobile home subdivision.

380 (9) Any person who resells water service to his or her
381 tenants or to individually metered residents for a fee that does
382 not exceed the actual purchase price of the water and wastewater
383 service plus the actual cost of meter reading and billing, not
384 to exceed 9 percent of the actual cost of service.

385 Section 8. Subsections (3) and (4) of section 723.011,
386 Florida Statutes, are amended to read:

387 723.011 Disclosure prior to rental of a mobile home lot;
388 prospectus, filing, approval.—

389 (3) The prospectus or offering circular, together with its
390 exhibits, is a disclosure document intended to afford protection
391 to homeowners and prospective homeowners in the mobile home
392 park. The purpose of the document is to disclose the
393 representations of the mobile home park owner concerning the
394 operations of the mobile home park. The rental agreement,
395 including the prospectus and rules and regulations, establishes
396 the terms and conditions of a homeowner's tenancy. The tenancy
397 must be for the duration of the tenant's ownership of the mobile
398 home, with a right of survivorship by the tenant's surviving
399 spouse, unless terminated pursuant to s. 723.061.

400 (4) With regard to a tenancy in existence on the effective
401 date of this chapter, the prospectus or offering circular
402 offered by the mobile home park owner must ~~shall~~ contain the
403 same terms and conditions as rental agreements offered to all
404 other mobile home owners residing in the park on the effective
405 date of this act, excepting only rent variations based upon lot
406 location and size, and may ~~shall~~ not require any mobile home

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407 owner to install any permanent improvements, except that the
408 mobile home owner, to become an approved tenant, may be required
409 to install permanent improvements to the mobile home as
410 disclosed in the prospectus.

411 Section 9. Paragraph (c) of subsection (4) and subsections
412 (5) and (7) of section 723.012, Florida Statutes, are amended to
413 read:

414 723.012 Prospectus or offering circular.—The prospectus or
415 offering circular, which is required to be provided by s.
416 723.011, must contain the following information:

417 (4) Beginning on the first page of the text, the following
418 information:

419 (c) A description of the mobile home park property,
420 including, but not limited to:

421 1. The number of lots in each section, the approximate size
422 of each lot, the setback requirements, and the minimum
423 separation distance between mobile homes as required by law.

424 2. The maximum number of lots that will use shared
425 facilities of the park; and, if the maximum number of lots will
426 vary, a description of the basis for variation. A mobile home
427 park owner may amend the prospectus to include additional
428 property and mobile home lots and to increase the maximum number
429 of lots that use the shared facilities of the park.

430 (5) A description of the recreational and other common
431 facilities, if any, that will be used by the mobile home owners,
432 including, but not limited to:

433 (a) The number of buildings and each room thereof and its
434 intended purposes, location, approximate floor area, and
435 capacity in numbers of people.

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436 (b) Each swimming pool, as to its general location,
 437 approximate size and depths, and approximate deck size and
 438 capacity and whether heated.

439 (c) All other facilities and permanent improvements that
 440 ~~which~~ will serve the mobile home owners.

441 (d) A general description of the items of personal property
 442 available for use by the mobile home owners.

443 (e) A general description of the days and hours that
 444 facilities will be available for use.

445 (f) A statement as to whether all improvements are complete
 446 and, if not, their estimated completion dates.

447
 448 Any improvement or change to the facilities or services provided
 449 by the mobile home park may be, but is not required to be,
 450 disclosed by the park owner in an amendment to the prospectus.
 451 If the park owner adds property or lots to the mobile home park
 452 which were not disclosed in the owner's prospectus, the park
 453 owner may amend the prospectus to provide additional facilities
 454 and services to the mobile home park of a type or kind
 455 determined by the park owner.

456 (7) A description of all improvements, whether temporary or
 457 permanent, which are required to be installed by the mobile home
 458 owner as a condition of his or her occupancy in the park,
 459 including improvements that are required upon purchase of the
 460 home by an approved tenant.

461 Section 10. Section 723.023, Florida Statutes, is amended
 462 to read:

463 723.023 Mobile home owner's general obligations.—A mobile
 464 home owner shall ~~at all times~~:

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465 (1) At all times comply with all obligations imposed on
466 mobile home owners by applicable provisions of building,
467 housing, and health codes, including compliance with all
468 building permits and construction requirements for construction
469 on the mobile home and lot. The home owner is responsible for
470 all fines imposed by the local government for noncompliance with
471 any local codes.

472 (2) At all times keep the mobile home lot that ~~which~~ he or
473 she occupies clean, neat, and sanitary, and maintained in
474 compliance with all local codes.

475 (3) At all times comply with properly promulgated park
476 rules and regulations and require other persons on the premises
477 with his or her consent to comply with such rules and to conduct
478 themselves, and other persons on the premises with his or her
479 consent, in a manner that does not unreasonably disturb other
480 residents of the park or constitute a breach of the peace.

481 (4) Receive written approval from the mobile home park
482 owner before making any exterior modification or addition to the
483 home.

484 (5) When vacating the premises, remove any debris and other
485 property of any kind which is left on the mobile home lot.

486 Section 11. Subsection (5) of section 723.031, Florida
487 Statutes, is amended to read:

488 723.031 Mobile home lot rental agreements.—

489 (5) The rental agreement must ~~shall~~ contain the lot rental
490 amount and services included. An increase in lot rental amount
491 upon expiration of the term of the lot rental agreement must
492 ~~shall~~ be in accordance with ss. 723.033 and 723.037 or s.
493 723.059(4), whichever is applicable; ~~it~~ provided that, pursuant to

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494 s. 723.059(4), the amount of the lot rental increase is
495 disclosed and agreed to by the purchaser by executing a rental
496 agreement setting forth the new lot rental amount,~~in writing.~~
497 An increase in lot rental amount shall not be arbitrary or
498 discriminatory between similarly situated tenants in the park. A
499 lot rental amount may not be increased during the term of the
500 lot rental agreement, except:

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

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

505 (c) That a charge may not be collected which results in
506 payment of money for sums previously collected as part of the
507 lot rental amount. The provisions hereof notwithstanding, the
508 mobile home park owner may pass on, at any time during the term
509 of the lot rental agreement, ad valorem property taxes, non-ad
510 valorem assessments, and utility charges, or increases of
511 either, provided that the ad valorem property taxes, non-ad
512 valorem assessments, and utility charges are not otherwise being
513 collected in the remainder of the lot rental amount and provided
514 further that the passing on of such ad valorem taxes, non-ad
515 valorem assessments, or utility charges, or increases of either,
516 was disclosed prior to tenancy, was being passed on as a matter
517 of custom between the mobile home park owner and the mobile home
518 owner, or such passing on was authorized by law. A park owner is
519 deemed to have disclosed the passing on of ad valorem property
520 taxes and non-ad valorem assessments if ad valorem property
521 taxes or non-ad valorem assessments were disclosed as a separate
522 charge or a factor for increasing the lot rental amount in the

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523 prospectus or rental agreement. Such ad valorem taxes, non-ad
524 valorem assessments, and utility charges shall be a part of the
525 lot rental amount as defined by this chapter. The term "non-ad
526 valorem assessments" has the same meaning as provided in s.
527 197.3632(1)(d). Other provisions of this chapter
528 notwithstanding, pass-on charges may be passed on only within 1
529 year of the date a mobile home park owner remits payment of the
530 charge. A mobile home park owner is prohibited from passing on
531 any fine, interest, fee, or increase in a charge resulting from
532 a park owner's payment of the charge after the date such charges
533 become delinquent. Nothing herein shall prohibit a park owner
534 and a homeowner from mutually agreeing to an alternative manner
535 of payment to the park owner of the charges.

536 (d) If a notice of increase in lot rental amount is not
537 given 90 days before the renewal date of the rental agreement,
538 the rental agreement must remain under the same terms until a
539 90-day notice of increase in lot rental amount is given. The
540 notice may provide for a rental term shorter than 1 year in
541 order to maintain the same renewal date.

542 Section 12. Subsection (1) and paragraph (a) of subsection
543 (4) of section 723.037, Florida Statutes, are amended to read:

544 723.037 Lot rental increases; reduction in services or
545 utilities; change in rules and regulations; mediation.—

546 (1) A park owner shall give written notice to each affected
547 mobile home owner and the board of directors of the homeowners'
548 association, if one has been formed, at least 90 days before any
549 increase in lot rental amount or reduction in services or
550 utilities provided by the park owner or change in rules and
551 regulations. The park owner may give notice of all increases in

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552 lot rental amount for multiple anniversary dates in the same 90-
553 day notice. The notice must ~~shall~~ identify all other affected
554 homeowners, which may be by lot number, name, group, or phase.
555 If the affected homeowners are not identified by name, the park
556 owner shall make the names and addresses available upon request.
557 However, this requirement does not authorize the release of the
558 names, addresses, or other private information about the
559 homeowners to the association or any other person for any other
560 purpose. The home owner's right to the 90-day notice may not be
561 waived or precluded by a home owner, or the homeowners'
562 committee, in an agreement with the park owner. Rules adopted as
563 a result of restrictions imposed by governmental entities and
564 required to protect the public health, safety, and welfare may
565 be enforced prior to the expiration of the 90-day period but are
566 not otherwise exempt from the requirements of this chapter.
567 Pass-through charges must be separately listed as to the amount
568 of the charge, the name of the governmental entity mandating the
569 capital improvement, and the nature or type of the pass-through
570 charge being levied. Notices of increase in the lot rental
571 amount due to a pass-through charge must ~~shall~~ state the
572 additional payment and starting and ending dates of each pass-
573 through charge. The homeowners' association shall have no
574 standing to challenge the increase in lot rental amount,
575 reduction in services or utilities, or change of rules and
576 regulations unless a majority of the affected homeowners agree,
577 in writing, to such representation.

578 (4) (a) A committee, not to exceed five in number,
579 consisting of mobile home owners in the park and designated by a
580 majority of the affected mobile home owners or by the board of

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581 directors of the homeowners' association, if applicable, and the
582 park owner shall meet, at a mutually convenient time and place
583 no later than 60 days before the effective date of the change to
584 discuss the reasons for the increase in lot rental amount,
585 reduction in services or utilities, or change in rules and
586 regulations. The negotiating committee shall make a written
587 request for a meeting with the park owner or subdivision
588 developer to discuss those matters addressed in the 90-day
589 notice, and may include in the request a listing of any other
590 issue, with supporting documentation, that the committee intends
591 to raise and discuss at the meeting. The committee shall address
592 all lot rental amount increases that are specified in the notice
593 of lot rental amount increase, regardless of the effective date
594 of the increase.

595

596 This subsection is not intended to be enforced by civil or
597 administrative action. Rather, the meetings and discussions are
598 intended to be in the nature of settlement discussions prior to
599 the parties proceeding to mediation of any dispute.

600 Section 13. Subsections (5) and (6) are added to section
601 723.041, Florida Statutes, to read:

602 723.041 Entrance fees; refunds; exit fees prohibited;
603 replacement homes.—

604 (5) A mobile home park that is damaged or destroyed due to
605 wind, water, or other natural force may be rebuilt on the same
606 site with the same density as was approved, permitted, or built
607 before being damaged or destroyed.

608 (6) This section does not limit the regulation of the
609 uniform firesafety standards established under s. 633.206, but

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610 supersedes any other density, separation, setback, or lot size
611 regulation adopted after initial permitting and construction of
612 the mobile home park.

613 Section 14. Section 723.042, Florida Statutes, is amended
614 to read:

615 723.042 Provision of improvements.—A ~~No~~ person may not
616 ~~shall~~ be required by a mobile home park owner or developer, as a
617 condition of residence in the mobile home park, to provide any
618 improvement unless the requirement is disclosed pursuant to s.
619 723.012(7) ~~s. 723.011~~ prior to occupancy in the mobile home
620 park.

621 Section 15. Section 723.059, Florida Statutes, is amended
622 to read:

623 723.059 ~~Rights of Purchaser of a mobile home within a~~
624 mobile home park.—

625 (1) The purchaser of a mobile home within a mobile home
626 park may become a tenant of the park if such purchaser would
627 otherwise qualify with the requirements of entry into the park
628 under the park rules and regulations, subject to the approval of
629 the park owner, but such approval may not be unreasonably
630 withheld. The purchaser of the mobile home may cancel or rescind
631 the contract for purchase of the mobile home if the purchaser's
632 tenancy has not been approved by the park owner 5 days before
633 the closing of the purchase.

634 (2) Properly promulgated rules may provide for the
635 screening of any prospective purchaser to determine whether or
636 not such purchaser is qualified to become a tenant of the park.

637 (3) The purchaser of a mobile home who intends to become
638 ~~becomes~~ a resident of the mobile home park in accordance with

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639 this section shall enter a new tenancy by entering into a new
640 lot rental agreement, including the prospectus and rules and
641 regulations, with the park owner ~~has the right to assume the~~
642 ~~remainder of the term of any rental agreement then in effect~~
643 ~~between the mobile home park owner and the seller and shall be~~
644 ~~entitled to rely on the terms and conditions of the prospectus~~
645 ~~or offering circular as delivered to the initial recipient.~~

646 (4) The mobile home park owner shall disclose the lot
647 rental amount to be charged for a new tenancy prior to the
648 applicant paying a screening fee and applying for approval for
649 the tenancy ~~However, nothing herein shall be construed to~~
650 ~~prohibit a mobile home park owner from increasing the rental~~
651 ~~amount to be paid by the purchaser upon the expiration of the~~
652 ~~assumed rental agreement in an amount deemed appropriate by the~~
653 ~~mobile home park owner, so long as such increase is disclosed to~~
654 ~~the purchaser prior to his or her occupancy and is imposed in a~~
655 ~~manner consistent with the initial offering circular or~~
656 ~~prospectus and this act.~~

657 (5) Lifetime leases and the renewal provisions in
658 automatically renewable leases, both those existing and those
659 entered into after July 1, 1986, are not assumable unless
660 otherwise provided in the mobile home lot rental agreement or
661 unless the transferee is the home owner's spouse. The right to
662 an assumption of the lease by a spouse may be exercised only one
663 time during the term of that lease.

664 Section 16. Subsection (4) of section 723.061, Florida
665 Statutes, is amended, and subsections (5) and (6) are added to
666 that section, to read:

667 723.061 Eviction; grounds, proceedings.—

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668 (4) Except for the notice to the officers of the
669 homeowners' association under subparagraph (1)(d)1., any notice
670 required by this section must be in writing, and must be posted
671 on the premises and sent to the mobile home owner and tenant or
672 occupant, as appropriate, by United States certified or
673 ~~registered~~ mail, ~~return receipt requested~~, addressed to the
674 mobile home owner and tenant or occupant, as appropriate, at her
675 or his last known address. Delivery of the mailed notice is
676 ~~shall be~~ deemed given 5 days after the date of postmark.

677 (5) If the park owner accepts payment of any portion of the
678 lot rental amount with actual knowledge of noncompliance after
679 notice and termination of the rental agreement due to a
680 violation under paragraph (1)(b), paragraph (1)(c), or paragraph
681 (1)(e), the park owner does not waive the right to terminate the
682 rental agreement or the right to bring a civil action for the
683 noncompliance, but not for any subsequent or continuing
684 noncompliance. Any rent so received must be accounted for at
685 final hearing.

686 (6) A tenant who intends to defend against an action by the
687 landlord for possession for noncompliance under paragraph
688 (1)(a), paragraph (1)(b), paragraph (1)(c), or paragraph (1)(e)
689 shall comply with s. 723.063(2).

690 Section 17. Section 723.063, Florida Statutes, is amended
691 to read:

692 723.063 Defenses to action for rent or possession;
693 procedure.—

694 (1) (a) In any action based upon nonpayment of rent or
695 seeking to recover unpaid rent, or a portion thereof, the mobile
696 home owner may defend upon the ground of a material

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697 noncompliance with any portion of this chapter or may raise any
698 other defense, whether legal or equitable, which he or she may
699 have.

700 (b) The defense of material noncompliance may be raised by
701 the mobile home owner only if 7 days have elapsed after he or
702 she has notified the park owner in writing of his or her
703 intention not to pay rent, or a portion thereof, based upon the
704 park owner's noncompliance with portions of this chapter,
705 specifying in reasonable detail the provisions in default. A
706 material noncompliance with this chapter by the park owner is a
707 complete defense to an action for possession based upon
708 nonpayment of rent, or a portion thereof, and, upon hearing, the
709 court or the jury, as the case may be, shall determine the
710 amount, if any, by which the rent is to be reduced to reflect
711 the diminution in value of the lot during the period of
712 noncompliance with any portion of this chapter. After
713 consideration of all other relevant issues, the court shall
714 enter appropriate judgment.

715 (2) In any action by the park owner or a mobile home owner
716 brought under subsection (1), the mobile home owner shall pay
717 into the registry of the court that portion of the accrued rent,
718 if any, relating to the claim of material noncompliance as
719 alleged in the complaint, or as determined by the court. The
720 court shall notify the mobile home owner of such requirement.
721 The failure of the mobile home owner to pay the rent, ~~or portion~~
722 ~~thereof,~~ into the registry of the court or to file a motion to
723 determine the amount of rent to be paid into the registry within
724 5 days, excluding Saturdays, Sundays, and legal holidays, after
725 the date of service of process constitutes an absolute waiver of

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726 the tenant's defenses other than payment, and the landlord is
727 entitled to an immediate default judgment for removal of the
728 tenant with a writ of possession to issue without further notice
729 or hearing thereon. If a motion to determine rent is filed, the
730 movant must provide sworn documentation in support of his or her
731 allegation that the rent alleged in the complaint is erroneous
732 ~~as required herein constitutes an absolute waiver of the mobile~~
733 ~~home owner's defenses other than payment, and the park owner is~~
734 ~~entitled to an immediate default.~~

735 (3) When the mobile home owner has deposited funds into the
736 registry of the court in accordance with ~~the provisions of this~~
737 ~~section and the park owner is in actual danger of loss of the~~
738 ~~premises or other personal hardship resulting from the loss of~~
739 ~~rental income from the premises,~~ the park owner may apply to the
740 court for disbursement of all or part of the funds or for prompt
741 final hearing, whereupon the court shall advance the cause on
742 the calendar. The court, after preliminary hearing, may award
743 all or any portion of the funds on deposit to the park owner or
744 may proceed immediately to a final resolution of the cause.

745 Section 18. This act shall take effect upon becoming a law.