

By the Committee on Innovation, Industry, and Technology; and  
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      revising an exemption for certain water service  
19      resellers from regulation by the Florida Public  
20      Service Commission relating to water and wastewater  
21      systems; exempting certain mobile home park and mobile  
22      home subdivision owners from such regulation; amending  
23      s. 723.011, F.S.; providing construction relating to  
24      rental agreements and tenancies; providing that a  
25      mobile home owner, to become an approved tenant, may  
26      be required to install permanent improvements as  
27      disclosed in the mobile home park owner's prospectus;  
28      amending s. 723.012, F.S.; authorizing mobile home  
29      park owners to make certain prospectus amendments;

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

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

73  
74 Be It Enacted by the Legislature of the State of Florida:

75  
76 Section 1. Paragraph (a) of subsection (1) of section  
77 212.05, Florida Statutes, is amended to read:

78 212.05 Sales, storage, use tax.—It is hereby declared to be  
79 the legislative intent that every person is exercising a taxable  
80 privilege who engages in the business of selling tangible  
81 personal property at retail in this state, including the  
82 business of making mail order sales, or who rents or furnishes  
83 any of the things or services taxable under this chapter, or who  
84 stores for use or consumption in this state any item or article  
85 of tangible personal property as defined herein and who leases  
86 or rents such property within the state.

87 (1) For the exercise of such privilege, a tax is levied on

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88 each taxable transaction or incident, which tax is due and  
89 payable as follows:

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

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

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

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

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146 selling dealer. This exemption shall not be allowed unless:

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

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

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

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

164  
165 For purposes of this sub-subparagraph, the term "foreign  
166 jurisdiction" means any jurisdiction outside of the United  
167 States or any of its territories;

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

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175 the department proof of title, license, registration, or  
176 documentation upon receipt;

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

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

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

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

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

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

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

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

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

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

230 (VI) Any nonresident purchaser of a boat who removes a  
231 decal before permanently removing the boat from the state, or  
232 defaces, changes, modifies, or alters a decal in a manner



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

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

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

247

248 If the purchaser fails to remove the qualifying boat from this  
249 state within the maximum 180 days after purchase or a  
250 nonqualifying boat or an aircraft from this state within 10 days  
251 after purchase or, when the boat or aircraft is repaired or  
252 altered, within 20 days after completion of such repairs or  
253 alterations, or permits the boat or aircraft to return to this  
254 state within 6 months from the date of departure, except as  
255 provided in s. 212.08(7) (fff), or if the purchaser fails to  
256 furnish the department with any of the documentation required by  
257 this subparagraph within the prescribed time period, the  
258 purchaser shall be liable for use tax on the cost price of the  
259 boat or aircraft and, in addition thereto, payment of a penalty  
260 to the Department of Revenue equal to the tax payable. This  
261 penalty shall be in lieu of the penalty imposed by s. 212.12(2).

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262 The maximum 180-day period following the sale of a qualifying  
263 boat tax-exempt to a nonresident may not be tolled for any  
264 reason.

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

267 212.06 Sales, storage, use tax; collectible from dealers;  
268 "dealer" defined; dealers to collect from purchasers;  
269 legislative intent as to scope of tax.-

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

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

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

284 2. ~~or~~ Industrial machinery or equipment.

285  
286 For purposes of this paragraph, industrial machinery or  
287 equipment is not limited to machinery and equipment used to  
288 manufacture, process, compound, or produce tangible personal  
289 property. For an item to be considered a fixture, it is not  
290 necessary that the owner of the item also own the real property

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291 to which it is attached.

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

294 320.77 License required of mobile home dealers.—

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

299 (h) Certification by the applicant:

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

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

312

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

316

317 The department shall, if it deems necessary, cause an  
318 investigation to be made to ascertain if the facts set forth in  
319 the application are true and shall not issue a license to the

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320 applicant until it is satisfied that the facts set forth in the  
321 application are true.

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

324 320.771 License required of recreational vehicle dealers.—

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

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

338  
339 The department shall, if it deems necessary, cause an  
340 investigation to be made to ascertain if the facts set forth in  
341 the application are true and shall not issue a license to the  
342 applicant until it is satisfied that the facts set forth in the  
343 application are true.

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

346 320.822 Definitions; ss. 320.822-320.862.—In construing ss.  
347 320.822-320.862, unless the context otherwise requires, the  
348 following words or phrases have the following meanings:

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

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

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

354 320.8232 Establishment of uniform standards for used  
355 recreational vehicles and repair and remodeling code for mobile  
356 homes.—

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

367 Section 7. Subsection (9) of section 367.022, Florida  
368 Statutes, is amended, and subsection (14) is added to that  
369 section, 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 (9) Any person who resells water service to his or her  
374 tenants or to individually metered residents for a fee that does  
375 not exceed the actual purchase price of the water and wastewater  
376 service plus the actual cost of meter reading and billing, not  
377 to exceed 9 percent of the actual cost of service.

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378       (14) The owner of a mobile home park operating both as a  
379 mobile home park and a mobile home subdivision, as those terms  
380 are defined in s. 723.003, who provides service within the park  
381 and subdivision to a combination of both tenants and lot owners,  
382 provided that the service to tenants is without specific  
383 compensation.

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

386       723.011 Disclosure prior to rental of a mobile home lot;  
387 prospectus, filing, approval.—

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

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

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

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

413 723.012 Prospectus or offering circular.—The prospectus or  
414 offering circular, which is required to be provided by s.  
415 723.011, must contain the following information:

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

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

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

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

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

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

435 (b) Each swimming pool, as to its general location,

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436 approximate size and depths, and approximate deck size and  
437 capacity and whether heated.

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

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

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

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

446  
447 Any improvement or change to the facilities or services provided  
448 by the mobile home park may be, but is not required to be,  
449 disclosed by the park owner in an amendment to the prospectus.  
450 If the park owner adds property or lots to the mobile home park  
451 which were not disclosed in the owner's prospectus, the park  
452 owner may amend the prospectus to provide additional facilities  
453 and services to the mobile home park of a type or kind  
454 determined by the park owner.

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

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

462 723.023 Mobile home owner's general obligations.—A mobile  
463 home owner shall ~~at all times~~:

464 (1) At all times comply with all obligations imposed on



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

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

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

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

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

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

487 723.031 Mobile home lot rental agreements.-

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

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494 disclosed and agreed to by the purchaser by executing a rental  
495 agreement setting forth the new lot rental amount, ~~in writing.~~

496 An increase in lot rental amount shall not be arbitrary or  
497 discriminatory between similarly situated tenants in the park. A  
498 lot rental amount may not be increased during the term of the  
499 lot rental agreement, except:

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

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

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

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

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

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

543 723.037 Lot rental increases; reduction in services or  
544 utilities; change in rules and regulations; mediation.—

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

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

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

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

594

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

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

601 723.041 Entrance fees; refunds; exit fees prohibited;  
602 replacement homes.—

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

607 (6) This section does not limit the regulation of the  
608 uniform firesafety standards established under s. 633.206, but  
609 supersedes any other density, separation, setback, or lot size

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610 regulation adopted after initial permitting and construction of  
611 the mobile home park.

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

614 723.042 Provision of improvements.—A ~~No~~ person may not  
615 ~~shall~~ be required by a mobile home park owner or developer, as a  
616 condition of residence in the mobile home park, to provide any  
617 improvement unless the requirement is disclosed pursuant to s.  
618 723.012(7) ~~s. 723.011~~ prior to occupancy in the mobile home  
619 park.

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

622 723.059 ~~Rights of Purchaser of a mobile home within a~~  
623 mobile home park.—

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

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

636 (3) The purchaser of a mobile home who intends to become  
637 ~~becomes~~ a resident of the mobile home park in accordance with  
638 this section shall enter a new tenancy by entering into a new

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

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

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

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

666 723.061 Eviction; grounds, proceedings.—

667 (4) Except for the notice to the officers of the

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668 homeowners' association under subparagraph (1)(d)1., any notice  
669 required by this section must be in writing~~7~~, and must be posted  
670 on the premises and sent to the mobile home owner and tenant or  
671 occupant, as appropriate, by United States ~~certified or~~  
672 ~~registered~~ mail, ~~return receipt requested~~, addressed to the  
673 mobile home owner and tenant or occupant, as appropriate, at her  
674 or his last known address. Delivery of the mailed notice is  
675 ~~shall be~~ deemed given 5 days after the date of postmark.

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

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

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

691 723.063 Defenses to action for rent or possession;  
692 procedure.—

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



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697 other defense, whether legal or equitable, which he or she may  
698 have.

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

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

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

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

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