

CHAPTER 97-291

Committee Substitute for Senate Bill No. 750

An act relating to the Florida Mobile Home Act; amending s. 723.021, F.S.; providing for reasonable costs and attorney's fees when the obligation of good faith and fair dealing is breached; amending s. 723.037, F.S.; revising provisions with respect to lot rental increases; amending s. 723.0381, F.S.; revising arbitration procedures; amending s. 723.006, F.S.; revising language with respect to the powers and duties of the Division of Florida Land Sales, Condominiums, and Mobile Homes; providing that the division is authorized to require disclosures to fully and fairly disclose all matters required by ch. 723, F.S.; providing for good faith compliance by park owners or operators; directing the division not to require refunds under certain circumstances; providing a fine for minor violations; providing for certain rules; providing an effective date.

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

Section 1. Section 723.021, Florida Statutes, is amended to read:

723.021 Obligation of good faith and fair dealings.—Every rental agreement or duty within this chapter imposes an obligation of good faith and fair dealings in its performance or enforcement. Either party to a dispute under this chapter may seek an order finding the other party has not complied with the obligations of good faith and fair dealings. Upon such a finding, the court shall award reasonable costs and attorney's fees to the prevailing party for proving the noncompliance.

Section 2. Subsection (4) of section 723.037, Florida Statutes, is amended to read:

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

(4)(a) A committee, not to exceed five in number, designated by a majority of the affected mobile home owners or by the board of directors of the homeowners' association, if applicable, and the park owner shall meet, at a mutually convenient time and place within 30 days after receipt by the homeowners of the notice of change, to discuss the reasons for the increase in lot rental amount, reduction in services or utilities, or change in rules and regulations.

(b) At the meeting, the park owner or subdivision developer shall in good faith disclose and explain all material factors resulting in the decision to increase the lot rental amount, reduce services or utilities, or change rules and regulations, including how those factors justify the specific change proposed. The park owner or subdivision developer may not limit the discussion of the reasons for the change to generalities only, such as, but not limited to, increases in operational costs, changes in economic conditions, or rents

charged by comparable mobile home parks. For example, if the reason for an increase in lot rental amount is an increase in operational costs, the park owner must disclose the item or items which have increased, the amount of the increase, any similar item or items which have decreased, and the amount of the decrease. If an increase is based upon the lot rental amount charged by comparable mobile home parks, the park owner shall disclose the name, address, lot rental amount, and any other relevant factors concerning the mobile home parks relied upon by the park owner. The park owner shall prepare a written summary of the material factors and retain a copy for 3 years. The park owner shall provide the committee a copy of the summary at the meeting.

Section 3. Subsection (2) of section 723.0381, Florida Statutes, is amended to read:

723.0381 Civil actions; arbitration.—

(2) ~~The court may shall refer the action to a panel of three arbitrators for court-annexed nonbinding arbitration pursuant to s. 44.103 and the Florida Rules of Civil Procedure, except that compensation for the arbitrators shall be in accordance with the authorized rate for circuit court mediators in that judicial circuit. The court shall order the hearing to be held informally with presentation of testimony kept to a minimum and matters presented to the arbitrators primarily through the statements and arguments of counsel.~~ The court shall assess the parties equally to pay the compensation awarded to the arbitrators if neither party requests a trial de novo. If a party has filed for a trial de novo, the party shall be assessed the arbitration costs, court costs, and other reasonable costs of the opposing party, including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If subsequent to arbitration a party files for a trial de novo, the arbitration decision may be made known to the judge only after he has entered his order on the merits.

Section 4. Subsections (9) and (10) are added to section 723.006, Florida Statutes, to read:

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

(9) The division shall adopt rules establishing a category of minor violations of this chapter or rules promulgated pursuant hereto. A minor violation means a violation which does not endanger the health, safety or welfare of mobile home residents, which does not involve the failure to make full and fair disclosure, or which does not cause economic harm to mobile home park residents.

(10) The division is authorized to require disclosures to fully and fairly disclose all matters required by chapter 723. If a park owner or operator, in good faith, has attempted to comply with the requirements of this chapter, and if, in fact, the park owner or operator has substantially complied with

the disclosure requirements of this chapter, non-material errors or omissions in the disclosure materials shall not be actionable.

(11) Upon adoption of rules establishing minor violations and a determination by the division that the violation is a minor violation, the division may levy a civil penalty of up to \$250 but shall not require a refund of rent increases, fees, charges or assessments, including pass-through and pass-ons collected from mobile home owners. Until rules have been adopted as provided in this section, the enforcement procedures of the division in existence on the effective date of this act shall be in effect.

Section 5. This act shall take effect July 1, 1997.

Became a law without the Governor's approval June 1, 1997.

Filed in Office Secretary of State May 30, 1997.