

Council Substitute for
Committee Substitute for House Bill No. 411

An act relating to mobile homes; amending s. 215.559, F.S.; specifying the amount of funds to be used to inspect and improve tie-downs for mobile homes; requiring the Department of Community Affairs to contract with a public higher educational institution to serve as an administrative entity and fiscal agent for certain purposes; establishing responsibilities for such administrative entity; requiring a certain Type I Center to develop a work plan for certain purposes; revising the process for establishing an advisory council; requiring an annual report; amending s. 723.003, F.S.; defining the term “proportionate share”; amending s. 723.011, F.S.; requiring the Division of Florida Land Sales, Condominiums, and Mobile Homes to maintain specified records; requiring that copies be provided within a specified time after written request; amending s. 723.012, F.S.; revising provisions relating to statements in a prospectus; amending s. 723.037, F.S.; revising procedures for meetings that determine the status of changes in lot rentals; amending s. 723.061, F.S.; revising timeframes for giving notice of changes in lot rental amounts and use of mobile home parks; creating s. 723.0611, F.S.; creating the Florida Mobile Home Relocation Corporation; providing for a board of directors to be appointed by the Secretary of Business and Professional Regulation; providing for terms of office; specifying powers and duties of the board; authorizing the corporation to borrow from private finance sources; creating s. 723.0612, F.S.; providing for the payment of relocation expenses if a mobile home owner is required to move due to a change in use of the mobile home park; providing exceptions; specifying procedures for payments upon approval of the corporation; authorizing a mobile home owner to abandon the mobile home and collect one-fourth the amount of relocation expenses; providing a penalty; providing for recognition of existing contracts; providing an effective date.

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

Section 1. Section 215.559, Florida Statutes, is amended to read:

215.559 Hurricane Loss Mitigation Program.—

(1) There is created a Hurricane Loss Mitigation Program. The Legislature shall annually appropriate \$10 million of the moneys authorized for appropriation under s. 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to the Department of Community Affairs for the purposes set forth in this section.

(2)(a) Seven million dollars in funds provided in subsection (1) shall be used for programs to improve the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance; cooperative programs with local governments and the Fed-

eral Government; and other efforts to prevent or reduce losses or reduce the cost of rebuilding after a disaster.

(b) Three million dollars in funds provided in subsection (1) shall be used to retrofit existing facilities used as public hurricane shelters. The department must prioritize the use of these funds for projects included in the September 1, 2000, version of the Shelter Retrofit Report prepared in accordance with s. 252.385(3), and each annual report thereafter. The department must give funding priority to projects in regional planning council regions that have shelter deficits and to projects that maximize use of state funds.

~~(3) Forty At least 40 percent of the total appropriation in paragraph (2)(a) shall be used to inspect and improve tie-downs for mobile homes. Within 30 days after the effective date of that appropriation, the department shall contract with a public higher educational institution in this state which has previous experience in administering the programs set forth in this subsection to serve as the administrative entity and fiscal agent pursuant to s. 216.346 for the purpose of administering the programs set forth in this subsection in accordance with established policy and procedures for loans, subsidies, grants, demonstration projects, and direct assistance for the first year of the programs shall be used for mobile homes, including programs to inspect and improve tie-downs, construct and provide safety structures, and provide other means to reduce losses. In the second year of the programs, at least 30 percent of the total appropriation shall be used for mobile homes, and thereafter at least 20 percent shall be used for such purposes. The administrative entity working with the advisory council set up under subsection (5) shall develop a list of mobile home parks and counties that may be eligible to participate in the tie-down program.~~

(4) ~~Of moneys provided to the Department of Community Affairs in paragraph (2)(a), 10 percent shall be allocated to a the Operations and Maintenance Trust Fund in the general office of the Board of Regents, to be used by the Type I Center within the State University System dedicated to hurricane research. The Type I Center shall develop a preliminary work plan approved by the advisory council set forth in subsection (5) to eliminate the state and local barriers to upgrading existing mobile homes and communities, research and develop a program for the recycling of existing older mobile homes, and to support programs of research and development relating to hurricane loss reduction devices and techniques for site-built residences and mobile homes and relating to the development of credible data on potential loss reductions. The State University System also shall consult with the Department of Community Affairs and assist the department with the report required under subsection (7).~~

(5) ~~Except for the program set forth in subsection (3), the Department of Community Affairs shall develop the programs set forth in this section in consultation with an advisory council appointed by the secretary consisting of a representative designated by of the Department of Insurance, a representative designated by the Florida Home Builders Association of home builders, a representative designated by the Florida Insurance Council of insurance companies, a representative designated by of the Federation of~~

~~Manufactured Mobile Home Owners, a representative designated by of the Florida Association of Counties, and a representative designated by of the Florida Manufactured Housing Association who is a mobile home manufacturer or supplier.~~

(6) Moneys provided to the Department of Community Affairs under this section are intended to supplement other funding sources of the Department of Community Affairs and may not supplant other funding sources of the Department of Community Affairs.

(7) On January 1st of ~~each year 2001 and 2002~~, the Department of Community Affairs shall provide a full report and accounting of activities under this section and an evaluation of such activities to the Speaker of the House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate.

(8) This section is repealed June 30, ~~2006~~ 2002.

Section 2. Subsections (11) through (14) of section 723.003, Florida Statutes, are renumbered as subsections (12) through (15), respectively, and a new subsection (11) is added to said section to read:

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

(11) The term “proportionate share” as used in subsection (10) means an amount calculated by dividing equally among the affected developed lots in the park the total costs for the necessary and actual direct costs and impact or hookup fees incurred for governmentally mandated capital improvements serving the recreational and common areas and all affected developed lots in the park.

Section 3. Subsection (1) of section 723.011, Florida Statutes, is amended to read:

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

(1)(a) In a mobile home park containing 26 or more lots, the park owner shall file a prospectus with the division. Prior to entering into an enforceable rental agreement for a mobile home lot, the park owner shall deliver to the homeowner a prospectus approved by the division. This subsection does ~~shall not be construed to invalidate~~ those lot rental agreements for which an approved prospectus was required to be delivered and which was delivered on or before July 1, 1986, if the mobile home park owner had:

1. Filed a prospectus with the division prior to entering into the lot rental agreement;

2. Made a good faith effort to correct deficiencies cited by the division by responding within the time limit set by the division, if one was set; and

3. Delivered the approved prospectus to the mobile home owner within 45 days of approval by the division.

This paragraph ~~does shall~~ not preclude the finding that a lot rental agreement is invalid on other grounds and ~~does shall not be construed to~~ limit any rights of a mobile home owner or ~~to~~ preclude a mobile home owner from seeking any remedies allowed by this chapter, including a determination that the lot rental agreement or any part thereof is unreasonable.

(b) The division shall determine whether the proposed prospectus or offering circular is adequate to meet the requirements of this chapter and shall notify the park owner by mail, within 45 days ~~after~~ after of receipt of the document, that the division has ~~found that either approved~~ the prospectus or offering circular is adequate or has found specified deficiencies. ~~If In the event the division does not make either finding approve the prospectus or advise the park owner of deficiencies within 45 days, the prospectus shall be deemed to have been found adequate be approved.~~

(c)1. Filings for mobile home parks in which lots have not been offered for lease prior to June 4, 1984, shall be accompanied by a filing fee of \$10 per lot offered for lease by the park owner; however, the fee shall not be less than \$100.

2. Filings for mobile home parks in which lots have been offered for lease prior to the effective date of this chapter shall be accompanied by a filing fee as follows:

- a. For a park in which there are 26-50 lots: \$100.
- b. For a park in which there are 51-100 lots: \$150.
- c. For a park in which there are 101-150 lots: \$200.
- d. For a park in which there are 151-200 lots: \$250.
- e. For a park in which there are 201 or more lots: \$300.

(d) The division shall maintain copies of each prospectus and all amendments to each prospectus which are considered adequate by the division. The division shall provide copies of documents requested in writing under this subsection within 10 days after the written request is received.

Section 4. Subsection (1) of section 723.012, Florida Statutes, is amended to read:

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

- (1) The front cover or the first page must contain only:
 - (a) The name of the mobile home park.
 - (b) The following statements in conspicuous type:

1. THIS PROSPECTUS (~~OFFERING CIRCULAR~~) CONTAINS VERY IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS AND

YOUR FINANCIAL OBLIGATIONS MATTERS TO BE CONSIDERED IN LEASING A MOBILE HOME LOT. MAKE SURE THAT YOU READ THE ENTIRE DOCUMENT AND SEEK LEGAL ADVICE IF YOU HAVE ANY QUESTIONS REGARDING THE INFORMATION SET FORTH IN THIS DOCUMENT.

2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE LESSEE SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

3. ORAL REPRESENTATIONS SHOULD NOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE PARK OWNER OR OPERATOR. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

4. UPON DELIVERY OF THE PROSPECTUS TO A PROSPECTIVE LESSEE, THE RENTAL AGREEMENT IS VOIDABLE BY THE LESSEE FOR A PERIOD OF 15 DAYS.

Section 5. Subsection (4) and paragraph (a) of subsection (5) of section 723.037, Florida Statutes, are 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, and provide in writing to the committee at or before the meeting, the name, address, lot rental amount, and any other relevant factors relied upon by the park owner, such as facilities, services, and amenities, concerning the comparable 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 or before the meeting.

(c) If the committee disagrees with a park owner's lot rental amount increase based upon comparable mobile home parks, the committee shall disclose to the park owner the name, address, lot rental amount, and any other relevant factors relied upon by the committee, such as facilities, services, and amenities, concerning the comparable mobile home parks. The committee shall provide to the park owner the disclosure, in writing, within 15 days after the meeting with the park owner, together with a request for a second meeting.

(d) The committee and the park owner may mutually agree, in writing, to extend or continue any meetings required by this section.

(e) Either party may prepare and use additional information to support its position during or subsequent to the meetings required by this section.

(5)(a) Within 30 days after the date of the last scheduled meeting described in subsection (4), the homeowners may petition the division to initiate mediation of the dispute pursuant to s. 723.038 if a majority of the affected homeowners have designated, in writing, that:

1. The rental increase is unreasonable;
2. The rental increase has made the lot rental amount unreasonable;
3. The decrease in services or utilities is not accompanied by a corresponding decrease in rent or is otherwise unreasonable; or
4. The change in the rules and regulations is unreasonable.

Section 6. Section 723.061, Florida Statutes, is amended to read:

723.061 Eviction; grounds, proceedings.—

(1) A mobile home park owner may evict a mobile home owner or a mobile home only on one or more of the grounds provided in this section.

(a) Nonpayment of lot rental amount. If a mobile home owner fails to pay the lot rental amount when due and if the default continues for 5 days after delivery of a written demand by the mobile home park owner for payment of the lot rental amount, the park owner may terminate the tenancy. However, if the mobile home owner pays the lot rental amount due, including any late charges, court costs, and attorney's fees, the court may, for good cause, deny the order of eviction, provided such nonpayment has not occurred more than twice.

(b) Conviction of a violation of a federal or state law or local ordinance, which violation may be deemed detrimental to the health, safety, or welfare of other residents of the mobile home park.

(c) Violation of a park rule or regulation, the rental agreement, or this chapter.

1. For the first violation of any properly promulgated rule or regulation, rental agreement provision, or this chapter which is found by any court having jurisdiction thereof to have been an act which endangered the life, health, safety, or property of the park residents or the peaceful enjoyment of the mobile home park by its residents, the mobile home park owner may terminate the rental agreement, and the mobile home owner will have 7 days from the date that the notice is delivered to vacate the premises.

2. For a second violation of the same properly promulgated rule or regulation, rental agreement provision, or this chapter within 12 months, the mobile home park owner may terminate the tenancy if she or he has given the mobile home owner written notice within 30 days of the first violation, which notice specified the actions of the mobile home owner which caused the violation and gave the mobile home owner 7 days to correct the noncompliance. The mobile home owner must have received written notice of the ground upon which she or he is to be evicted at least 30 days prior to the date on which she or he is required to vacate. A second violation of a properly promulgated rule or regulation, rental agreement provision, or this chapter within 12 months of the first violation is unequivocally a ground for eviction, and it is not a defense to any eviction proceeding that a violation has been cured after the second violation. Violation of a rule or regulation, rental agreement provision, or this chapter after the passage of 1 year from the first violation of the same rule or regulation, rental agreement provision, or this chapter does not constitute a ground for eviction under this section.

No properly promulgated rule or regulation may be arbitrarily applied and used as a ground for eviction.

(d) Change in use of the land comprising the mobile home park, or the portion thereof from which mobile homes are to be evicted, from mobile home lot rentals to some other use, provided all tenants affected are given at least 6 months' 1-year's notice of the projected change of use and of their need to secure other accommodations. The park owner may not give a notice of increase in lot rental amount within 90 days before giving notice of a change in use.

(e) Failure of the purchaser of a mobile home situated in the mobile home park to be qualified as, and to obtain approval to become, a tenant, if such approval is required by a properly promulgated rule.

(2) In the event of eviction for change of land use, homeowners must object to the change in land use by petitioning for administrative or judicial remedies within 90 days of the date of the notice or they will be barred from taking any subsequent action to contest the change in land use. This provision shall not be construed to prevent any homeowner from objecting to a zoning change at any time.

(a) ~~Within 90 days from the time the park owner gives the 1-year notice, she or he shall notify the homeowner of her or his election to either buy the mobile home, relocate the mobile home to another park owned by the park owner, or pay to relocate the mobile home to another mobile home park, as follows:~~

1. ~~Pay as damages the actual cost, including setup fees, to move an evicted mobile home, with comparable and any required appurtenances, to a comparable mobile home park within a 50-mile radius of the mobile home park or other distance agreed upon by the park owner and mobile home owner. Since the amount of damages that a homeowner will suffer due to the change in land use by the park owner cannot be easily estimated and would be difficult and expensive to determine, it is the intent of the Legislature that the payment contained herein be considered in the nature of liquidated damages and not a penalty. It is the intent of the Legislature that the liquidated damages to which the mobile home owner is entitled be limited to the damages defined in this subparagraph only for so long as this subsection remains in effect. The liquidated damages apply only to the harm incurred by the homeowner for having to relocate, and this provision shall not preclude incidental damages that might occur in relocating the mobile home;~~

2. ~~Purchase the mobile home and all appurtenances thereto at a value to be determined as follows:~~

a. ~~A mutually agreed upon appraiser will assess the book value of the mobile home and cash value of all appurtenances thereto and the market value of the mobile home as situated immediately prior to the notice of change in land use. Any nationally recognized publication for valuation of mobile and manufactured homes shall be used as a guide for determining such value.~~

b. ~~The homeowner will be entitled to the book value of the mobile home and cash value of the appurtenances.~~

c. ~~The homeowner will also be entitled to the following portion of the difference between the book value and cash value of the appurtenances and the market value of the mobile home. If the homeowner has resided in the mobile home at the time of notice of land use change by the park owner:~~

0 years up to 5 years	40 percent
5 years up to 15 years	60 percent
15 years up to 20 years	80 percent
20 years or more	100 percent

d. ~~The homeowner who has become a resident of the park within 0-5 years of the notice of change in land use shall be entitled, in addition to the compensation set forth above, to 60 percent of the difference between the book value and the market value of the mobile home.~~

e. ~~Between the date of the appraisals referred to in this subsection and the delivery of title and possession of the mobile home and all appurtenances thereto to the park owner, the mobile home and the appurtenances shall be maintained by the homeowner in the condition existing on the date of the appraisals, ordinary wear and tear excepted; or~~

3. ~~Reach a mutually agreed to settlement between the park owner and the homeowner.~~

~~(b) Either the mobile home owner or the park owner may apply to the circuit court in the county where the mobile home lot is located for purposes of selecting an appraiser to determine the value of the mobile home and appurtenances or for resolution of any other dispute arising under this subsection.~~

~~(c) In any dispute in a circuit court regarding the value of the mobile home as appraised pursuant to this subsection, the court shall determine the amount to be deposited into the registry of the court as will fully secure and fully compensate the homeowner as ultimately determined by the final judgment. The court shall fix the time within which and the terms upon which the homeowner shall be required to surrender possession and title to the park owner. The order of the court shall not become effective unless the deposit of the required sum is made in the registry of the court.~~

~~(3)(d)~~ The provisions of s. 723.083 shall not be applicable to any park where the provisions of this subsection apply.

~~(4)(3)~~ A mobile home park owner applying for the removal of a mobile home owner or a mobile home, or both, shall file, in the county court in the county where the mobile home lot is situated, a complaint describing the lot and stating the facts that authorize the removal of the mobile home owner and the mobile home. The park owner is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on the calendar.

~~(5)(4)~~ Any notice required by this section must be in writing, and must be posted on the premises and sent to the mobile home owner by certified or registered mail, return receipt requested, addressed to the mobile home owner at her or his last known address. Delivery of the mailed notice shall be deemed given 5 days after the date of postmark.

Section 7. Section 723.0611, Florida Statutes, is created to read:

723.0611 Florida Mobile Home Relocation Corporation.—

(1) There is created the Florida Mobile Home Relocation Corporation. The corporation shall be administered by a board of directors made up of six members, three of whom shall be appointed by the Secretary of Business and Professional Regulation from a list of nominees submitted by the largest nonprofit association representing mobile home owners in this state, and three of whom shall be appointed by the Secretary of Business and Professional Regulation from a list of nominees submitted by the largest nonprofit association representing the manufactured housing industry in this state. All members of the board of directors, including the chair, shall be appointed to serve for staggered 3-year terms.

(2)(a) The board of directors may employ or retain such persons as are necessary to perform the administrative and financial transactions and responsibilities of the corporation and to perform other necessary and proper functions not prohibited by law.

(b) Members of the board of directors may be reimbursed from moneys of the corporation for actual and necessary expenses incurred by them as members but may not otherwise be compensated for their services.

(c) There shall be no liability on the part of, and no cause of action of any nature shall arise against, agents or employees of the corporation, members of the board of directors of the corporation, or representatives of the Division of Florida Land Sales, Condominiums, and Mobile Homes for any act or omission of the board of directors in the performance of their powers and duties under this section, unless such act or omission by such person is in intentional disregard of the rights of the claimant.

(d) Meetings of the board of directors are subject to the provisions of s. 286.011.

(3) The board of directors shall:

(a) Adopt a plan of operation and articles, bylaws, and operating rules.

(b) Establish procedures under which applicants for payments from the corporation may have grievances reviewed by an impartial body and reported to the board of directors.

(4) The corporation may:

(a) Sue or be sued.

(b) Borrow from private finance sources in order to meet the demands of the relocation program established in s. 723.0612.

Section 8. Section 723.0612, Florida Statutes, is created to read:

723.0612 Change in use; relocation expenses; payments by park owner.—

(1) If a mobile home owner is required to move due to a change in use of the land comprising the mobile home park as set forth in s. 723.061(1)(d) and complies with the requirements of this section, the mobile home owner is entitled to payment from the Florida Mobile Home Relocation Corporation of:

(a) The amount of actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or

(b) The amount of \$5,000 for a single-section mobile home or \$10,000 for a multisection mobile home,

whichever is less. Moving expenses include the cost of taking down, moving, and setting up the mobile home in a new location.

(2) A mobile home owner shall not be entitled to compensation under subsection (1) when:

(a) The park owner moves a mobile home owner to another space in the mobile home park or to another mobile home park at the park owner's expense;

(b) A mobile home owner is vacating the premises and has informed the park owner or manager before notice of the change in use has been given; or

(c) A mobile home owner abandons the mobile home as set forth in subsection (7).

(3) Except as provided in subsection (7), in order to obtain payment from the Florida Mobile Home Relocation Corporation, the mobile home owner shall submit to the corporation, with a copy to the park owner, an application for payment which includes:

(a) A copy of the notice of eviction due to change in use; and

(b) A contract with a moving or towing contractor for the moving expenses for the mobile home.

(4) The Florida Mobile Home Relocation Corporation must approve payment within 15 days after receipt of the information set forth in subsection (3), or payment is deemed approved. A copy of the approval must be forwarded to the park owner with an invoice for payment. Upon approval, the corporation shall issue a voucher in the amount of the contract price for relocating the mobile home. The moving contractor may redeem the voucher from the corporation following completion of the relocation and upon approval of the relocation by the mobile home owner.

(5) Actions of the Florida Mobile Home Relocation Corporation under this section are not subject to the provisions of chapter 120 but are reviewable only by writ of certiorari in the circuit court in the county in which the claimant resides in the manner and within the time provided by the Florida Rules of Appellate Procedure.

(6) This section does not apply to any proceeding in eminent domain under chapter 73 or chapter 74.

(7) In lieu of collecting payment from the Florida Mobile Home Relocation Corporation as set forth in subsection (1), a mobile home owner may abandon the mobile home in the mobile home park and collect an amount equal to one-fourth of the maximum allowable moving expenses from the corporation as long as the mobile home owner delivers to the park owner the current title to the mobile home duly endorsed by the owner of record and valid releases of all liens shown on the title. If a mobile home owner chooses this option, the park owner shall make payment to the corporation in an amount equal to one-fourth of the maximum allowable moving expenses.

(8) The Florida Mobile Home Relocation Corporation shall not be liable to any person for recovery if funds are insufficient to pay the amounts claimed. In any such event, the corporation shall keep a record of the time and date of its approval of payment to a claimant. If sufficient funds become available, the corporation shall pay the claimant whose unpaid claim is the earliest by time and date of approval.

(9) It is unlawful for any person or his or her agent to file any notice, statement, or other document required under this section which is false or

contains any material misstatement of fact. Any person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Sections 6 and 7 of this act shall not impair the contract providing for the method of purchase of the mobile homes where the contracts for purchase were entered into between the mobile home park owner and the mobile home owners prior to the effective date of this act and the notices of eviction are appropriately provided as required by chapter 723, Florida Statutes.

Section 10. This act shall take effect July 1, 2001.

Approved by the Governor June 13, 2001.

Filed in Office Secretary of State June 13, 2001.