

Committee Substitute for
Committee Substitute for Senate Bill No. 1944

An act relating to mobile home owners; amending s. 48.183, F.S.; providing for service of process in an action for possession of residential premises; creating s. 320.08015, F.S.; providing for a license tax surcharge for deposit in the Florida Mobile Home Relocation Trust Fund; amending s. 320.081, F.S.; conforming to the act; amending s. 715.101, F.S.; including a reference to chapter 723, F.S., in the Disposition of Personal Property Landlord and Tenant Act; amending s. 723.007, F.S.; providing a surcharge under the Florida Mobile Home Act on certain mobile home lots for deposit in the Florida Mobile Home Relocation Trust Fund; amending s. 723.041, F.S.; providing for the placement of any size used or new mobile home on a mobile home lot under certain circumstances; amending s. 723.061, F.S.; revising language to include reference to the eviction of a mobile home tenant or a mobile home occupant; amending s. 723.0611, F.S.; providing that persons who receive compensation from the Florida Mobile Home Relocation Corporation shall not have a claim or cause of action against the corporation or the park owner under certain circumstances; amending s. 723.06115, F.S.; revising language with respect to the Florida Mobile Home Relocation Trust Fund; providing reference to the deposit of certain surcharges into the trust fund; amending s. 723.06116, F.S.; increasing certain fees; providing an additional situation in which a mobile home park owner is not required to make certain payments and is not entitled to certain compensation from the Florida Mobile Home Relocation Corporation; amending s. 723.0612, F.S.; revising language with respect to compensation from the Florida Mobile Home Relocation Corporation; providing an appropriation; providing an effective date.

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

Section 1. Subsection (1) of section 48.183, Florida Statutes, is amended to read:

48.183 Service of process in action for possession of premises.—

(1) In an action for possession of any residential premises, including those under chapters 83, 723, and 513, or nonresidential premises, if the tenant cannot be found in the county or there is no person 15 years of age or older residing at the tenant's usual place of abode in the county after at least two attempts to obtain service as provided above in this subsection, summons may be served by attaching a copy to a conspicuous place on the property described in the complaint or summons. The minimum time delay between the two attempts to obtain service shall be 6 hours. Nothing herein shall be construed as prohibiting service of process on a tenant as is otherwise provided on defendants in civil cases.

Section 2. Section 320.08015, Florida Statutes, is created to read:

320.08015 License tax surcharge.—

(1) Except as provided in subsection (2), there is levied on each license tax imposed under s. 320.08(11) a surcharge in the amount of \$1, which shall be collected in the same manner as the license tax and shall be deposited in the Florida Mobile Home Relocation Trust Fund, as created in s. 723.06115. This surcharge may not be imposed during the next registration and renewal period if the balance in the Florida Mobile Home Relocation Trust Fund exceeds \$10 million on June 30. The surcharge shall be reinstated in the next registration and renewal period if the balance in the Florida Mobile Home Relocation Trust Fund is below \$6 million on June 30.

(2) Any mobile home that is not located in a mobile home park regulated under chapter 723 is exempt from the surcharge.

Section 3. Subsections (3), (4), and (5) of section 320.081, Florida Statutes, are amended to read:

320.081 Collection and distribution of annual license tax imposed on the following type units.—

(3) The owner shall make application for such sticker in the manner provided in s. 320.02, and the tax collectors in the several counties of the state shall collect the license taxes imposed by s. 320.08(10) and (11) and the license tax surcharge imposed by s. 320.08015 in the same manner and under the same conditions and requirements as provided in s. 320.03.

(4) Each tax collector shall make prompt remittance of all moneys collected by him or her to the department at such times and in such manner as provided by law. Upon receipt of the license taxes collected from the tax collectors of the several counties, the department shall pay into the State Treasury for deposit in the General Revenue Fund the sum of \$1.50 on each such sticker issued, and shall pay into the State Treasury for deposit in the Florida Mobile Home Relocation Trust Fund \$1 on each sticker issued as provided in s. 320.08015. The balance remaining shall be paid into a trust fund in the State Treasury designated “License Tax Collection Trust Fund,” and the moneys so deposited shall be paid to the respective counties and cities wherein such units governed by the provisions of this section are located, regardless of where the license taxes are collected, in the manner hereinafter provided.

(5) The department shall keep records showing the total number of stickers issued to each type unit governed by this section, the total amount of license taxes collected, and the county or city wherein each such unit is located and shall from month to month certify to the ~~Chief Financial Officer~~ Comptroller the amount derived from license taxes in each county and each city within the county. Such amount, less the amount of \$1.50 collected on each license and the \$1 license tax surcharge imposed by s. 320.08015, shall be paid to the counties and cities within the counties wherein the unit or units are located as follows: one-half to the district school board and the remainder either to the board of county commissioners, for units which are

located within the unincorporated areas of the county, or to any city within such county, for units which are located within its corporate limits. Payment shall be by warrant drawn by the Chief Financial Officer Comptroller upon the treasury, which amount is hereby appropriated monthly out of the License Tax Collection Trust Fund.

Section 4. Subsection (1) of section 715.101, Florida Statutes, is amended to read:

715.101 Application of ss. 715.10-715.111.—

(1) Sections 715.10-715.111 apply to all tenancies to which part I or part II of chapter 83 are applicable, and to tenancies after a writ of possession has been issued pursuant to s. 723.062.

Section 5. Section 723.007, Florida Statutes, is amended to read:

723.007 Annual fees; surcharge.—

(1) Each mobile home park owner shall pay to the division, on or before October 1 of each year, an annual fee of \$4 for each mobile home lot within a mobile home park which he or she owns. ~~The division may, after December 31, 1993, by rule, increase the amount of the annual fee to an amount not to exceed \$5 for each mobile home lot to fund operation of the division.~~ If the fee is not paid by December 31, the mobile home park owner shall be assessed a penalty of 10 percent of the amount due, and he or she shall not have standing to maintain or defend any action in the courts of this state until the amount due, plus any penalty, is paid.

(2) There is levied on each annual fee imposed under subsection (1) a surcharge in the amount of \$1. The surcharge shall be collected in the same manner as the annual fee and shall be deposited in the Florida Mobile Home Relocation Trust Fund. Collection of the surcharge shall begin during the first calendar year after this subsection takes effect. This surcharge may not be imposed during the next calendar year if the balance in the trust fund exceeds \$10 million on June 30. The surcharge shall be reinstated in the next calendar year if the balance in the trust fund is below \$6 million on June 30. The surcharge imposed by this subsection may not be imposed as a separate charge regardless of any disclosure in the prospectus.

Section 6. Section 723.041, Florida Statutes, is amended to read:

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

(1)(a) Entrance fees on new mobile home placements shall be specifically set forth in the prospectus or offering circular. Any such fee shall be clearly identified in writing at the time that the rental agreement is signed or otherwise concluded.

(b) The failure on the part of a mobile home park owner or developer to disclose fully all fees, charges, or assessments shall prevent the park owner or operator from collecting such fees, charges, or assessments; and a refusal

by the mobile home owner to pay any undisclosed charge shall not be used by the park owner or developer as a cause for eviction in any court of law.

(c) It is unlawful for any mobile home park owner or developer to make any agreement, written or oral, whereby the fees authorized in this subsection will be split between such mobile home park owner or developer and any mobile home dealer, unless otherwise provided for in this chapter. Any person who violates any of the provisions of this paragraph is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d) With respect to the first rental agreement for a mobile home lot in a developing park, the park has the right to condition such initial rental agreement upon the prospective resident's purchasing the mobile home from a dealer chosen by the park developer. A park developer may also buy down rentals on the initial rental agreement of a mobile home lot, and such buy-downs may be split between the owner of a developing park and the dealer.

(e) Whenever an entrance fee is charged by a mobile home park owner or developer for the entrance of a mobile home into the park and such mobile home is moved from the park before 2 years have passed from the date on which the fee was charged, the fee shall be prorated and a portion returned as follows:

1. The entrance fee shall be refunded at the rate of one twenty-fourth of such fee for each month short of 2 years that the mobile home owner maintained his or her mobile home within the park.
2. The entrance fee shall be refunded within 15 days after the mobile home has been physically moved from the park.

No new entrance fee may be charged for a move within the same park. This paragraph does not apply in instances in which the mobile home owner is evicted on the ground of nonpayment of rent; violation of a federal, state, or local ordinance; or violation of a properly promulgated park rule or regulation or leaves before the expiration date of his or her rental agreement. However, the sums due to the park by the mobile home owner may be offset against the balance due on the entrance fee.

(2) No person shall be required by a mobile home park owner to pay an exit fee upon termination of his or her residency.

(3) No entrance fee may be charged by the park owner to the purchaser of a mobile home situated in the park that is offered for sale by a resident of the park.

(4) Except as expressly preempted by the requirements of the Department of Highway Safety and Motor Vehicles, a mobile home owner or the park owner shall be authorized pursuant to this section to site any size new or used mobile home and appurtenances on a mobile home lot in accordance with the lot sizes, separation and setback distances, and other requirements in effect at the time of the approval of the mobile home park.

Section 7. Subsections (1), (4), and (5) of section 723.061, Florida Statutes, are amended to read:

723.061 Eviction; grounds, proceedings.—

(1) A mobile home park owner may evict a mobile home owner, a mobile home tenant, a mobile home occupant, 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 or tenant, whichever is responsible, 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 or tenant, whichever is responsible, 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. The mobile home owner or mobile home tenant will have 7 days from the date that notice to vacate is delivered to vacate the premises. This paragraph shall be grounds to deny an initial tenancy of a purchaser of a home pursuant to s. 723.061(1)(e) or to evict an unapproved occupant of a home.

(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 employees 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, tenant, or occupant 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, tenant, or occupant written notice within 30 days of the first violation, which notice specified the actions of the mobile home owner, tenant, or occupant which caused the violation and gave the mobile home owner, tenant, or occupant 7 days to correct the noncompliance. The mobile home owner, tenant, or occupant 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' 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, prospective tenant, or occupant of a mobile home situated in the mobile home park to be qualified as, and to obtain approval to become, a tenant or occupant of the home, if such approval is required by a properly promulgated rule. If a purchaser or prospective tenant of a mobile home situated in the mobile home park occupies the mobile home before approval is granted, the mobile home owner or mobile home tenant shall have 7 days from the date the notice of the failure to be approved for tenancy is delivered to vacate the premises.

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

Section 8. Paragraph (e) is added to subsection (2) of section 723.0611, Florida Statutes, to read:

723.0611 Florida Mobile Home Relocation Corporation.—

(2)

(e) Any person who receives compensation from the corporation or the park owner pursuant to ss. 723.061-723.0612 shall not have a cause of action against the corporation or the park owner for any claim arising under the rights, duties, and obligations of the corporation or park owner in ss. 723.061-723.0612.

Section 9. Subsection (1) of section 723.06115, Florida Statutes, is amended to read:

723.06115 Florida Mobile Home Relocation Trust Fund.—

(1) There is established within the Department of Business and Professional Regulation the Florida Mobile Home Relocation Trust Fund, to be used by the department for the purpose of funding the administration and operations of the Florida Mobile Home Relocation Corporation. All interest earned from the investment or deposit of moneys in the trust fund shall be deposited in the trust fund. The trust fund shall be funded from the moneys collected by the department under s. 723.06116 from mobile home park owners who change the use of their mobile home parks; the surcharge collected by the department under s. 723.007(2); the surcharge collected by the Department of Highway Safety and Motor Vehicles; and by other appropriated funds.

Section 10. Subsection (1) of section 723.06116, Florida Statutes, is amended and paragraph (d) is added to subsection (2) of said section, to read:

723.06116 Payments to the Florida Mobile Home Relocation Corporation.—

(1) If a mobile home owner is required to move due to a change in use of the land comprising a mobile home park as set forth in s. 723.061(1)(d), the mobile home park owner shall, upon such change in use, pay to the Florida Mobile Home Relocation Corporation for deposit in the Florida Mobile Home Relocation Trust Fund \$2,750 ~~\$2,000~~ for each single-section mobile home and \$3,750 ~~\$2,500~~ for each multisection mobile home for which a mobile home owner has made application for payment of moving expenses. The mobile home park shall make the payments required by this section and by s. 723.0612(7) to the corporation within 30 days after receipt from the corporation of the invoice for payment.

(2) A mobile home park owner is not required to make the payment prescribed in subsection (1), nor is the mobile home owner entitled to compensation under s. 723.0612(1), when:

(d) The mobile home owner has a pending eviction action for nonpayment of lot rental amount pursuant to s. 723.061(1)(a) which was filed against him or her prior to the mailing date of the notice of change in use of the mobile home park given pursuant to s. 723.061(1)(d).

Section 11. Section 723.0612, Florida Statutes, is amended 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 ~~\$3,000~~ \$5,000 for a single-section mobile home or ~~\$6,000~~ \$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); or

(d) The mobile home owner has a pending eviction action for nonpayment of lot rental amount pursuant to s. 723.061(1)(a) which was filed against him or her prior to the mailing date of the notice of change in use of the mobile home park given pursuant to s. 723.061(1)(d).

(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 45 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 \$1,375 for a single section and \$2,750 for a multi-section ~~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. The mobile home owner's application for funds under this subsection shall require the submission of a document signed by the park owner stating that the home has been abandoned under this subsection and that the park owner agrees to make payment to the corporation in the amount provided to the home owner under this section. However, in the event that the required documents are not submitted with the application, the corporation may consider the facts and circumstances surrounding the abandonment of the home to determine whether the mobile home owner is entitled to payment pursuant to this section.

(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) Any person whose application for funding pursuant to subsection (1) or subsection (7) is approved for payment by the corporation shall be barred from asserting any claim or cause of action under this chapter directly relating to or arising out of the change in use of the mobile home park against the corporation, the park owner, or the park owner's successors in interest. No application for funding pursuant to subsection (1) or subsection (7) shall be approved by the corporation if the applicant has either filed a claim or cause of action, is actively pursuing a claim or cause of action, or has a judgment against the corporation, the park owner, or the park owner's successors in interest under this chapter directly relating to or arising out of the change in use of the mobile home park, unless such claim or cause of action is dismissed with prejudice.

~~(10)~~(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 12. For the 2003-2004 fiscal year, the sum of \$500,000 is appropriated from the Florida Mobile Home Relocation Trust Fund to the Florida Mobile Home Relocation Corporation.

Section 13. This act shall take effect upon becoming a law.

Approved by the Governor June 26, 2003.

Filed in Office Secretary of State June 26, 2003.