

House Bill No. 565

An act relating to mobile homes; amending s. 723.037, F.S.; providing intent, requirements, and restrictions regarding information exchanged in meetings between park owners and homeowners' committees and at mediation; providing exceptions; amending s. 723.0611, F.S.; designating the Florida Mobile Home Relocation Corporation as an agency of the state and certain other persons as officers, employees, or agents of the state for application of sovereign immunity provisions; providing rulemaking authority to administer provisions involving the corporation; amending s. 723.0612, F.S.; providing that mobile home owners are not eligible for compensation in certain circumstances involving change in use of the land comprising the mobile home park; providing entitlement to attorney's fees and costs in certain enforcement actions; providing an effective date.

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

Section 1. Subsections (4) and (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)1. 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. The information concerning comparable mobile

home parks to be exchanged by the parties is to encourage a dialogue concerning the reasons used by the park owner for the increase in lot rental amount and to encourage the home owners to evaluate and discuss the reasons for those changes with 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.

2. The park owner shall not limit the comparable mobile home park disclosure to those mobile home parks that are owned or operated by the same owner or operator as the subject park, except in certain circumstances, which include, but are not limited to:

a. That the market area for comparable mobile home parks includes mobile home parks owned or operated by the same entity that have similar facilities, services, and amenities;

b. That the subject mobile home park has unique attributes that are shared with similar mobile home parks;

c. That the mobile home park is located in a geographic or market area that contains few comparable mobile home parks; or

d. That there are similar considerations or factors that would be considered in such a market analysis by a competent professional and would be considered in determining the valuation of the market rent.

(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. The park owner shall meet with the committee at a mutually convenient time and place within 30 days after receipt by the park owner of the request from the committee to discuss the disclosure provided by the committee. At the second meeting, the park owner may take into account the information on comparable parks provided by the committee, may supplement the information provided to the committee at the first meeting, and may modify his or her position, but the park owner may not change the information provided to the committee at the first 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.

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

(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.

(b) A park owner, within the same time period, may also petition the division to initiate mediation of the dispute.

(c) When a dispute involves a rental increase for different home owners and there are different rates or different rental terms for those home owners, all such rent increases in a calendar year for one mobile home park may be considered in one mediation proceeding.

(d) At mediation, the park owner and the homeowners committee may supplement the information provided to each other at the meetings described in subsection (4) and may modify their position, but they may not change the information provided to each other at the first and second meetings.

The purpose of this subsection is to encourage discussion and evaluation by the parties of the comparable mobile home parks in the competitive market area. The requirements of this subsection are not intended to be enforced by civil or administrative action. Rather, the meetings and discussions are intended to be in the nature of settlement discussions prior to the parties proceeding to litigation of any dispute.

Section 2. Paragraph (c) of subsection (2) and paragraph (a) of subsection (3) of section 723.0611, Florida Statutes, are amended to read:

723.0611 Florida Mobile Home Relocation Corporation.—

(2)

(c) The corporation shall, for purposes of s. 768.28, be considered an agency of the state. 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 shall be considered officers, employees, or agents of the state, and actions against them and the corporation shall be governed by s. 768.28. 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.

(3) The board of directors shall:

(a) Adopt a plan of operation and articles, bylaws, and operating rules pursuant to the provisions of ss. 120.536 and 120.54 to administer the provisions of this section and ss. 723.06115, 723.06116, and 723.0612.

Section 3. Subsection (7) of section 723.0612, Florida Statutes, is amended, and section (11) is added to said section, to read:

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

(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 multisection 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 the amount the mobile home owner is entitled to under this subsection. 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 subsection. 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 subsection. The mobile home owner is not entitled to any compensation under this subsection if there is 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 the use of the mobile home park given pursuant to s. 723.061(1)(d).

(11) In an action to enforce the provisions of this section and ss. 723.0611, 723.06115, and 723.06116, the prevailing party is entitled to reasonable attorney's fees and costs.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor May 26, 2005.

Filed in Office Secretary of State May 26, 2005.