

MOBILE HOME PARK RESIDENCY ACT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Janice M. Fisher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies and enacts provisions of the Mobile Home Park Residency Act.

Highlighted Provisions:

This bill:

- ▶ requires mobile home park owners annually to register with and pay a fee to the Department of Commerce;
- ▶ establishes a fund consisting of registration and late fees to pay mediation and administrative costs;
- ▶ modifies a provision relating to a mobile home park owner's change of a due date for rent, fees, and service charges;
- ▶ increases the allowable size of a "for sale" sign;
- ▶ provides that a reduction or restriction of amenities is not valid unless the mobile home park owner complies with statutory notice and meeting requirements;
- ▶ limits a mobile home park owner's rent increase to once a year;
- ▶ modifies the procedure for increasing rent on mobile home park residents;
- ▶ establishes a process for a resident association to challenge a proposed rent or service charge increase and a mediation process to resolve a dispute between a resident association and a mobile home park owner over a rent or service charge increase;
- ▶ authorizes a mobile home park owner to impose an assessment for capital



28 improvements; and

29 ▶ establishes a process for a resident association to challenge a proposed assessment
30 for capital improvements.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **57-16-3**, as last amended by Laws of Utah 2002, Chapter 255

38 **57-16-4**, as last amended by Laws of Utah 2009, Chapter 94

39 ENACTS:

40 **57-16-3.5**, Utah Code Annotated 1953

41 **57-16-16.1**, Utah Code Annotated 1953

42 **57-16-16.2**, Utah Code Annotated 1953



44 *Be it enacted by the Legislature of the state of Utah:*

45 Section 1. Section **57-16-3** is amended to read:

46 **57-16-3. Definitions.**

47 As used in this chapter:

48 (1) "Amenities" means the following physical, recreational or social facilities located at
49 a mobile home park:

50 (a) a club house;

51 (b) a park;

52 (c) a playground;

53 (d) a swimming pool;

54 (e) a hot tub;

55 (f) a tennis court; or

56 (g) a basketball court.

57 (2) "Change of use" means a change of the use of a mobile home park, or any part of it,
58 for a purpose other than the rental of mobile home spaces.

59 (3) "Fees" means other charges incidental to a resident's tenancy including, but not
60 limited to, late fees, charges for pets, charges for storage of recreational vehicles, charges for
61 the use of park facilities, and security deposits.

62 (4) "Mobile home" means a transportable structure in one or more sections with the
63 plumbing, heating, and electrical systems contained within the unit, which when erected on a
64 site, may be used with or without a permanent foundation as a family dwelling.

65 (5) "Mobile home park" means any tract of land on which two or more mobile home
66 spaces are leased, or offered for lease or rent, to accommodate mobile homes for residential
67 purposes.

68 (6) "Mobile home park owner":

69 (a) means the owner of a mobile home park or the owner's agent; and

70 (b) for purposes of notification and other communication required under this chapter,
71 includes a managing agent, leasing agent, or resident manager, unless the written lease
72 agreement provides otherwise.

73 [~~(6)~~] (7) "Mobile home space" means a specific area of land within a mobile home park
74 designed to accommodate one mobile home.

75 [~~(7)~~] (8) "Rent" means charges paid for the privilege of occupying a mobile home
76 space, and may include service charges and fees.

77 [~~(8)~~] (9) "Resident" means an individual who leases or rents space in a mobile home
78 park.

79 [~~(9)~~] (10) "Service charges" means separate charges paid for the use of electrical and
80 gas service improvements which exist at a mobile home space, or for trash removal, sewage
81 and water, or any combination of the above.

82 [~~(10)~~] (11) "Settlement discussion expiration" means:

83 (a) the resident has failed to give a written notice of dispute within the period specified
84 in Subsection 57-16-4.1(2); or

85 (b) the resident and management of the mobile home park have met together under
86 Subsection 57-16-4.1(3) but were unsuccessful in resolving the dispute in their meeting.

87 Section 2. Section **57-16-3.5** is enacted to read:

88 **57-16-3.5. Annual registration of mobile home parks -- Mobile Home Park Fund.**

89 (1) As used in this section:

90 (a) "Department" means the Department of Commerce created in Section 13-1-2.

91 (b) "Fund" means the Mobile Home Park Fund created in Subsection (5).

92 (2) A mobile home park owner shall annually:

93 (a) register with the department in the manner and on the schedule established by the

94 department, subject to Subsection (3); and

95 (b) pay a registration fee as provided in Subsection (4).

96 (3) The department shall require a mobile home park owner registering as required in
97 this section to provide with each annual registration:

98 (a) the name, address, telephone number, and, if applicable, email address of the
99 mobile home park owner;

100 (b) the name and address of the mobile home park;

101 (c) the name, address, telephone number, and, if applicable, email address of the
102 mobile home park landlord or manager; and

103 (d) the number of lots within the mobile home park.

104 (4) (a) The registration fee required under Subsection (2)(b) is equal to \$10 per lot
105 within the mobile home park.

106 (b) A mobile home park owner may not charge a tenant or require a tenant to pay more
107 than \$5 of the registration fee.

108 (5) (a) There is created a restricted special revenue fund known as the Mobile Home
109 Park Fund.

110 (b) The fund consists of:

111 (i) registration fees that the department collects under this section; and

112 (ii) interest and other earnings derived from money in the fund.

113 (c) The department shall administer the fund.

114 (d) Money in the fund may be used to pay:

115 (i) mediation costs as provided in Section 57-16-16.1; and

116 (ii) the department's costs of administering the fund and of carrying out its
117 responsibilities under Section 57-16-16.1.

118 (e) All interest and other earnings derived from money in the fund shall be deposited
119 into the fund.

120 (f) The state treasurer shall invest the money in the fund under Title 51, Chapter 7,

121 State Money Management Act.

122 Section 3. Section **57-16-4** is amended to read:

123 **57-16-4. Termination of lease or rental agreement -- Required contents of lease --**

124 **Increases in rents or fees -- Sale of homes -- Notice regarding planned reduction or**

125 **restriction of amenities.**

126 (1) A mobile home park [~~or its agents~~] owner may not terminate a lease or rental
127 agreement upon any ground other than as specified in this chapter.

128 (2) Each agreement for the lease of mobile home space shall be written and signed by
129 the [~~parties~~] mobile home park owner and resident.

130 (3) Each lease shall contain at least the following information:

131 (a) the name and address of the mobile home park owner and any [~~persons~~] person
132 authorized to act for the mobile home park owner, upon whom notice and service of process
133 may be served;

134 (b) the type of the leasehold, whether it be term or periodic, and, in leases entered into
135 on or after May 6, 2002, a conspicuous disclosure describing the protection a resident has
136 under Subsection (1) against unilateral termination of the lease by the mobile home park except
137 for the causes described in Section 57-16-5;

138 (c) (i) a full disclosure of [~~all~~] rent, service charges, and other fees presently being
139 charged on a periodic basis; and

140 (ii) a full disclosure of utility infrastructure owned by the mobile home park owner [~~or~~
141 ~~its agent~~] that is maintained through service charges and fees charged by the mobile home park
142 owner [~~or its agent~~];

143 (d) the date [~~or dates~~] on which the payment of rent, fees, and service charges are due;
144 and

145 (e) [~~all rules that pertain~~] each rule that pertains to the mobile home park that, if
146 broken, [~~may constitute~~] constitutes grounds for eviction, including, in leases entered into on or
147 after May 6, 2002, a conspicuous disclosure regarding:

148 (i) the [~~causes~~] cause for which the mobile home park owner may terminate the lease
149 as described in Section 57-16-5; and

150 (ii) the resident's rights to:

151 (A) terminate the lease at any time without cause, upon giving the notice specified in

152 the resident's lease; and

153 (B) advertise and sell the resident's mobile home.

154 (4) (a) [~~Increases in rent or fees for periodic tenancies are unenforceable until 60 days~~
155 ~~after notice of the increase is mailed to the resident.~~] A mobile home park owner may increase
156 rent on a lease or rental agreement once a year.

157 (b) A proposed increase under Subsection (4)(a) may not take effect until 90 days after
158 the mobile home park owner sends notice of the proposed increase by registered or certified
159 mail to each resident.

160 (c) The notice required under Subsection (4)(b) shall include the:

161 (i) current rent;

162 (ii) proposed rent; and

163 (iii) date the proposed increase is to take effect.

164 [~~(b)~~] (5) (a) If a service [~~charges are~~] charge is not included in the rent, the mobile
165 home park owner may:

166 (i) increase the service [~~charges~~] charge during the leasehold period after giving notice
167 to the resident; and

168 (ii) pass through [~~increases or decreases~~] an increase or decrease in electricity rates to
169 the resident.

170 [~~(c)~~] (b) Annual income to the park for a service [~~charges~~] charge may not exceed the
171 actual cost to the mobile home park of providing the [~~services~~] service on an annual basis.

172 [~~(d)~~] (c) In determining the [~~costs of the services~~] cost of service, the mobile home
173 park owner may include maintenance costs related to those utilities that are part of [~~the~~] a
174 service [~~charges~~] charge.

175 [~~(e)~~] (d) [~~The mobile home park may not alter~~] A change of the date on which rent,
176 fees, and service charges are due [~~unless~~] does not take effect until 60 days after the mobile
177 home park owner provides [~~a 60-day~~] written notice to the resident [~~before~~] of the change in
178 the due date [~~is altered~~].

179 (5) (6) (a) Except as provided in Subsection (3)(b), a rule or condition of a lease that
180 purports to prevent or unreasonably limit the sale of a mobile home belonging to a resident is
181 void and unenforceable.

182 (b) The mobile home park owner:

- 183 (i) may reserve the right to approve the prospective purchaser of a mobile home who
184 intends to become a resident;
- 185 (ii) may not unreasonably withhold that approval;
- 186 (iii) may require proof of ownership as a condition of approval; or
- 187 (iv) may unconditionally refuse to approve any purchaser of a mobile home who does
188 not register before purchasing the mobile home.

189 ~~[(6)]~~ (7) If ~~[all of the conditions]~~ each condition of Section 41-1a-116 ~~[are]~~ is met, a
190 mobile home park owner may request the names and addresses of the lienholder or owner of
191 any mobile home located in the mobile home park from the Motor Vehicle Division.

192 ~~[(7)]~~ (8) (a) A mobile home park owner may not restrict a resident's right to advertise
193 for sale or to sell a mobile home.

194 (b) A mobile home park owner may limit the size of a "for sale" sign affixed to the
195 mobile home to not more than ~~[144]~~ 288 square inches.

196 ~~[(8)]~~ (9) A mobile home park owner may not compel a resident who wishes to sell a
197 mobile home to sell it, either directly or indirectly, through an agent designated by the mobile
198 home park owner.

199 ~~[(9)]~~ (10) A mobile home park owner may require that a mobile home be removed
200 from the park upon sale if:

201 (a) the mobile home park owner wishes to upgrade the quality of the mobile home
202 park; and

203 (b) the mobile home either does not meet minimum size specifications or is in a
204 rundown condition or is in disrepair.

205 ~~[(10)]~~ (11) (a) Within 30 days after a mobile home park owner proposes reducing or
206 restricting amenities, the mobile home park owner shall:

207 ~~[(a)]~~ (i) schedule and hold at least one meeting for the purpose of discussing the
208 proposed restriction or reduction of amenities with residents; and

209 ~~[(b)]~~ (ii) provide at least 10 days advance written notice of the date, time, location, and
210 purposes of the meeting to each resident.

211 (b) A reduction or restriction of amenities is invalid unless the mobile home park
212 owner schedules and holds at least one meeting as required in Subsection (11)(a)(i) and
213 provides notice of the meeting as required in Subsection (11)(a)(ii).

214 ~~[(H)]~~ (12) If a mobile home park owner uses a single-service meter, the mobile home
215 park owner shall include a full disclosure on a resident's utility bill of the resident's utility
216 charges.

217 ~~[(H2)]~~ (13) The mobile home park owner shall have a copy of this chapter posted at all
218 times in a conspicuous place in the mobile home park.

219 Section 4. Section **57-16-16.1** is enacted to read:

220 **57-16-16.1. Resident association's challenge of rent increase -- Mediation.**

221 (1) As used in this section, "resident association":

222 (a) has the same meaning as defined in Section 57-16-16; and

223 (b) means the primary resident association, as defined in Section 57-16-16, if the
224 mobile home park has more than one resident association.

225 (2) A resident association may challenge a proposed rent increase or a proposed
226 increase in a service charge described in Subsection 57-16-4(5) if:

227 (a) for a proposed rent increase, the proposed rent increase under Section 57-16-4 is
228 more than one percentage point above the most recent United States Consumer Price Index for
229 All Urban Consumers, Housing Component, published by the United States Bureau of Labor
230 Statistics;

231 (b) a majority of the residents of the mobile home park have signed a petition stating
232 the rent or service charge increase is unreasonable; and

233 (c) the resident association forwards the petition to the Department of Commerce and
234 the mobile home park owner by registered or certified mail within 25 days after receiving a rent
235 or service charge increase notice.

236 (3) (a) Upon receipt of the petition, the Department of Commerce shall provide a list of
237 qualified mediators to the resident association and mobile home park owner.

238 (b) If the resident association and mobile home park owner do not agree on a mediator
239 from the list within five business days after receipt of the list, the Department of Commerce
240 shall appoint a mediator.

241 (4) A mediator appointed under this section:

242 (a) may not have any interest in the mobile home park at issue;

243 (b) shall provide written disclosure to the resident association and mobile home park
244 owner of any perceived conflict of interest; and

245 (c) shall conduct one or more mediation sessions, to be completed at least 10 days
246 before the effective date of the proposed rent increase.

247 (5) The mobile home park owner:

248 (a) at least five days before the initial mediation session, shall provide to the mediator
249 and the resident association information to support the proposed rent or service charge
250 increase; and

251 (b) has the burden of providing information to show that the proposed rent or service
252 charge increase is reasonable.

253 (6) (a) Upon completion of the mediation, the mediator shall issue a signed report to
254 the:

255 (i) resident association;

256 (ii) mobile home park owner; and

257 (iii) Department of Commerce.

258 (b) If an agreement is reached in mediation:

259 (i) the mediator's report shall include the terms of the agreement, including, if
260 applicable, the amount of a rent or service charge increase and its effective date; and

261 (ii) the mobile home park owner is not required to provide any additional notice in
262 order for the rent or service charge increase to take effect pursuant to the mediation agreement.

263 (7) (a) Subject to Subsection (7)(b), the Department of Commerce shall pay the cost of
264 mediation with money from the fund established in Section 57-16-3.5.

265 (b) The amount that the Department of Commerce pays for a single mediation under
266 this section may not exceed \$5,000.

267 (c) If the cost of a single mediation exceeds \$5,000, the mobile home park owner shall
268 pay half of the excess cost and the resident association shall pay the other half.

269 Section 5. Section **57-16-16.2** is enacted to read:

270 **57-16-16.2. Infrastructure assessments for capital improvements -- Resident**
271 **association challenge of assessment.**

272 (1) As used in this section, "capital improvement":

273 (a) means an installation or repair of infrastructure in a mobile home park that:

274 (i) is necessary for the delivery of water, sewer, electrical, or other basic service to a
275 resident;

276 (ii) is owned by the mobile home park owner but available for use by a resident; and

277 (iii) costs \$5,000 or more; and

278 (b) includes roads and amenities located within the mobile home park.

279 (2) A mobile home park owner may impose an assessment for a capital improvement

280 if:

281 (a) the assessment is imposed in equal amounts to each resident over half of the
282 estimated useful life of the capital improvement, unless the mobile home park owner and the
283 resident association agree otherwise; and

284 (b) the mobile home park owner provides each resident a 90-day notice of assessment,
285 by registered or certified mail, that includes:

286 (i) a description of the capital improvement;

287 (ii) an estimated cost of the capital improvement;

288 (iii) the amount to be assessed each month; and

289 (iv) the number of months the assessment will be imposed.

290 (3) Notwithstanding Subsection (2), a resident association, as defined in Section

291 57-17-16.1, may challenge an assessment imposed by a mobile home park owner under

292 Subsection (2) in the same manner that the resident association may challenge a rent increase

293 under Section 57-16-16.1.

Legislative Review Note

as of 1-25-11 11:57 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 101

SHORT TITLE: Mobile Home Park Residency Act Amendments

SPONSOR: Fisher, Janice

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this legislation is expected to generate approximately \$100,000 annually in fee revenue to the Mobile Home Park Fund. Annual expenditures, including mediation reimbursements are also estimated at \$100,000 annually.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
Restricted Funds	\$0	\$100,000	\$100,000
Total Revenue	\$0	\$100,000	\$100,000
Expenditure:			
Restricted Funds	\$0	\$100,000	\$100,000
Total Expenditure	\$0	\$100,000	\$100,000
Net Impact, All Funds (Rev.-Exp.)	\$0	\$0	\$0
Net Impact, General/Education Funds	\$0	\$0	\$0

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Mobile Home Park owners would be required to pay the annual fee of \$10 per lot within their park. The total statewide expense is estimated at \$100,000 for 250 parks each with an average of 40 lots. Up to half of this fee can be passed on to mobile home owners in those lots, which would require the estimated 10,000 owners to each pay up to \$5 annually.