

MOBILE HOME PARK RESIDENCY ACT AMENDMENTS

2012 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:

▶ 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 or decrease to once a year;

▶ modifies the procedure for increasing rent on mobile home park residents;

▶ prohibits a mobile home park owner and resident from using force, coercion, or deception to procure the other's signature on a lease agreement;

▶ establishes a process for a resident group to challenge a proposed rent or service charge increase, a proposed rule change, or a proposed assessment for capital

improvements and a mediation process to resolve a dispute between a resident group and a mobile home park owner; and

▶ authorizes a mobile home park owner to impose an assessment for capital improvements.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **57-16-3**, as last amended by Laws of Utah 2002, Chapter 255

34 **57-16-4**, as last amended by Laws of Utah 2009, Chapter 94

35 ENACTS:

36 **57-16-16.1**, Utah Code Annotated 1953

37 **57-16-16.2**, Utah Code Annotated 1953



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

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

41 **57-16-3. Definitions.**

42 As used in this chapter:

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

45 (a) a club house;

46 (b) a park;

47 (c) a playground;

48 (d) a swimming pool;

49 (e) a hot tub;

50 (f) a tennis court; or

51 (g) a basketball court.

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

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

57 (4) "Mobile home" means a transportable structure in one or more sections with the
58 plumbing, heating, and electrical systems contained within the unit, which when erected on a

59 site, may be used with or without a permanent foundation as a family dwelling.

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

63 (6) "Mobile home park owner":

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

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

68 [~~6~~] (7) "Mobile home space" means a specific area of land within a mobile home park
69 designed to accommodate one mobile home.

70 [~~7~~] (8) "Rent" means charges paid for the privilege of occupying a mobile home
71 space, and may include service charges and fees.

72 [~~8~~] (9) "Resident" means an individual who leases or rents space in a mobile home
73 park.

74 [~~9~~] (10) "Service charges" means separate charges paid for the use of electrical and
75 gas service improvements which exist at a mobile home space, or for trash removal, sewage
76 and water, or any combination of the above.

77 [~~10~~] (11) "Settlement discussion expiration" means:

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

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

82 Section 2. Section **57-16-4** is amended to read:

83 **57-16-4. Termination of lease or rental agreement -- Required contents of lease --**
84 **Increases in rents or fees -- Sale of homes -- Notice regarding planned reduction or**
85 **restriction of amenities.**

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

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

90 (b) A mobile home park owner and a resident may not use force, coercion, or deception
91 to procure the signature of the other on a lease of mobile home space.

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

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

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

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

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

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

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

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

112 (ii) the resident's rights to:

113 (A) terminate the lease at any time without cause, upon giving the notice specified in
114 the resident's lease; and

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

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

119 (b) A proposed increase under Subsection (4)(a) may not take effect until 90 days after
120 the mobile home park owner mails or delivers notice of the proposed increase to each resident.

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

122 (i) current rent;

123 (ii) proposed rent; and

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

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

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

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

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

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

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

140 ~~[(5)]~~ (6) (a) Except as provided in Subsection (3)(b), a rule or condition of a lease that
141 purports to prevent or unreasonably limit the sale of a mobile home belonging to a resident is
142 void and unenforceable.

143 (b) The mobile home park owner:

144 (i) may reserve the right to approve the prospective purchaser of a mobile home who
145 intends to become a resident;

146 (ii) may not unreasonably withhold that approval;

147 (iii) may require proof of ownership as a condition of approval; or

148 (iv) may unconditionally refuse to approve any purchaser of a mobile home who does
149 not register before purchasing the mobile home.

150 ~~[(6)]~~ (7) If ~~[all of the conditions]~~ each condition of Section 41-1a-116 ~~[are]~~ is met, a
151 mobile home park owner may request the names and addresses of the lienholder or owner of

152 any mobile home located in the mobile home park from the Motor Vehicle Division.

153 ~~[(7)]~~ (8) (a) A mobile home park owner may not restrict a resident's right to advertise
154 for sale or to sell a mobile home.

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

157 ~~[(8)]~~ (9) A mobile home park owner may not compel a resident who wishes to sell a
158 mobile home to sell it, either directly or indirectly, through an agent designated by the mobile
159 home park owner.

160 ~~[(9)]~~ (10) A mobile home park owner may require that a mobile home be removed
161 from the park upon sale if:

162 (a) the mobile home park owner wishes to upgrade the quality of the mobile home
163 park; and

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

166 ~~[(10)]~~ (11) (a) Within 30 days after a mobile home park owner proposes reducing or
167 restricting amenities, the mobile home park owner shall:

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

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

172 (b) A reduction or restriction of amenities does not take effect until the mobile home
173 park owner schedules and holds at least one meeting as required in Subsection (11)(a)(i) and
174 provides notice of the meeting as required in Subsection (11)(a)(ii).

175 ~~[(11)]~~ (12) If a mobile home park owner uses a single-service meter, the mobile home
176 park owner shall include a full disclosure on a resident's utility bill of the resident's utility
177 charges.

178 ~~[(12)]~~ (13) The mobile home park owner shall have a copy of this chapter posted at all
179 times in a conspicuous place in the mobile home park.

180 Section 3. Section **57-16-16.1** is enacted to read:

181 **57-16-16.1. Resident group's challenge of rent increase, fee increase, or rule**
182 **change -- Mediation.**

183 (1) As used in this section:

184 (a) "Proposed action" means a mobile home park owner's:

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

188 (ii) proposed increase in a service charge described in Subsection 57-16-4(5);

189 (iii) proposed change in a mobile home park rule under Section 57-16-7; or

190 (iv) proposed assessment under Section 57-16-16.2 for a capital improvement.

191 (b) "Resident group":

192 (i) has the same meaning as resident association, as defined in Section 57-16-16,
193 except as provided in Subsection (1)(b)(ii); or

194 (ii) (A) has the same meaning as primary resident association, as defined in Section
195 57-16-16, if the mobile home park has more than one resident association; or

196 (B) means a committee elected by a majority of park residents, if the mobile home park
197 has no resident association.

198 (2) A resident group may challenge a proposed action if:

199 (a) a majority of the residents of the mobile home park have signed a petition stating
200 that the proposed action is unreasonable; and

201 (b) the resident group forwards the petition to the mobile home park owner by
202 registered or certified mail within 25 days after receiving notice of the proposed action.

203 (3) (a) Upon the mobile home park owner's receipt of a petition, the resident group and
204 mobile home park owner shall procure a list of qualified mediators from lists available from a
205 government source or nonprofit agency.

206 (b) Within five business days after procuring a list of qualified mediators, the resident
207 group and mobile home park owner shall appoint a mediator.

208 (4) A mediator appointed under this section:

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

210 (b) shall provide written disclosure to the resident group and mobile home park owner
211 of any perceived conflict of interest; and

212 (c) shall conduct one or more mediation sessions, to be completed at least 10 days
213 before the effective date of the proposed action.

- 214 (5) The mobile home park owner:
- 215 (a) at least five days before the initial mediation session, shall provide to the mediator
- 216 and the resident group information to support the proposed action; and
- 217 (b) has the burden of providing information to show that the proposed action is
- 218 reasonable.
- 219 (6) (a) Upon completion of the mediation, the mediator shall issue a signed report to
- 220 the resident group and mobile home park owner.
- 221 (b) If an agreement is reached in mediation:
- 222 (i) the mediator's report shall include the terms of the agreement, including, if
- 223 applicable, the amount of a rent or service charge increase and its effective date; and
- 224 (ii) the mobile home park owner is not required to provide any additional notice in
- 225 order for the proposed action to take effect pursuant to the mediation agreement.
- 226 (7) The resident group and mobile home park owner shall each pay half of the cost of
- 227 mediation.

228 Section 4. Section **57-16-16.2** is enacted to read:

229 **57-16-16.2. Infrastructure assessments for capital improvements -- Resident**
230 **association challenge of assessment.**

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

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

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

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

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

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

238 (2) A mobile home park owner may impose an assessment for a capital improvement
239 if:

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

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

- 245 (i) a description of the capital improvement;
- 246 (ii) an estimated cost of the capital improvement;
- 247 (iii) the amount to be assessed each month; and
- 248 (iv) the number of months the assessment will be imposed.

Legislative Review Note
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Office of Legislative Research and General Counsel