

HB0143S01 compared with HB0143

~~text~~ shows text that was in HB0143 but was deleted in HB0143S01.

text shows text that was not in HB0143 but was inserted into HB0143S01.

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Representative LaVar Christensen proposes the following substitute bill:

MOBILE HOME PROPERTY RIGHTS AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: LaVar Christensen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Mobile Home Park Residency Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the circumstances under which a violation of a mobile home park rule will allow a mobile home park to terminate a resident's lease;
- ▶ increases the notification period required for an increase in rent or fees;
- ▶ states that the fees charged to a resident shall be reasonable;
- ▶ upon written request from a resident, requires a mobile home park to provide written verification that the service charges assessed to the resident do not exceed the mobile home park's actual costs;

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- ~~{ → upon written request from a resident, requires a mobile home park to provide a written explanation of a refusal to approve a prospective purchaser;~~
- ~~‡~~ ▶ modifies the circumstances under which a mobile home park may require a mobile home to be removed from a mobile home park;
- ▶ increases the notice requirements associated with dispute resolution meetings;
- ▶ modifies certain cure periods required before a mobile home park can terminate a lease for failure to comply with a mobile home park rule;
- ▶ modifies the effective date of certain new and amended mobile home park rules;
- ▶ modifies a mobile home park's entitlement to summary judgment if a resident fails to pay rent;~~‡~~
- ~~→ under certain circumstances, provides a resident 120 days to sell the resident's mobile home after the mobile home park terminates the governing rental agreement;‡~~ and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-16-2, as enacted by Laws of Utah 1981, Chapter 178

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

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

57-16-4.1, as enacted by Laws of Utah 2002, Chapter 255

57-16-5, as last amended by Laws of Utah 2002, Chapter 255

57-16-6, as last amended by Laws of Utah 2008, Chapters 3 and 55

57-16-7, as last amended by Laws of Utah 2002, Chapter 255

57-16-7.5, as enacted by Laws of Utah 1997, Chapter 114

57-16-8, as enacted by Laws of Utah 1981, Chapter 178

57-16-11, as enacted by Laws of Utah 1981, Chapter 178

57-16-13, as last amended by Laws of Utah 2002, Chapter 91

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~~{ENACTS:~~

~~57-16-15.5, Utah Code Annotated 1953~~

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

Section 1. Section **57-16-2** is amended to read:

57-16-2. Purpose of chapter.

The fundamental right to own and protect land and to establish conditions for its use by others necessitate that the owner of a mobile home park be provided with speedy and adequate remedies against those who ~~{}~~abuse ~~{}~~materially default on the terms of a tenancy. The high cost of moving mobile homes, the limited availability of suitable alternative locations to place a mobile home, the requirements of mobile home parks relating to their installation, and the cost of landscaping and lot preparation necessitate that the owners of mobile homes occupied within mobile home parks be provided with protection from actual or constructive eviction. It is the purpose of this chapter to provide protection for both the owners of mobile homes located in mobile home parks and for the owners of mobile home parks.

Section 2. Section **57-16-3** is amended to read:

57-16-3. Definitions.

As used in this chapter:

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

- (a) a club house;
- (b) a park;
- (c) a playground;
- (d) a swimming pool;
- (e) a hot tub;
- (f) a tennis court; or
- (g) a basketball court.

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

(3) "Fees" means ~~{}~~other ~~{}~~charges incidental to a resident's tenancy and disclosed in the lease, including~~[, but not limited to,]~~ late fees, charges for pets, charges for storage of

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recreational vehicles, charges for the use of park facilities, and security deposits.

(4) "Last known address" means the address provided by a resident in the latest rental agreement or the address provided by the resident in a subsequent notice of a change of address.

~~(4)~~ (5) "Mobile home" means a transportable structure in one or more sections with the plumbing, heating, and electrical systems contained within the unit, which when erected on a site, may be used with or without a permanent foundation as a family dwelling.

~~(5)~~ (6) "Mobile home park" means any tract of land on which two or more mobile home spaces are leased, or offered for lease or rent, to accommodate mobile homes for residential purposes.

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

~~(7)~~ (8) "Rent" means charges paid for the ~~[privilege of occupying]~~ contractual right to occupy a mobile home space ~~{}~~, and may include reasonable service charges and fees ~~{}~~ pursuant to a mutually agreed upon lease.

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

~~{~~ ~~——~~ (10) "Residential services" includes improvements for electric and gas service that exist at a mobile home space and service for trash removal, sewage, and water.

~~{~~ ~~(9)~~ ~~(11)~~ (10) "Service charges" means ~~[separate charges paid for the]~~ the costs periodically incurred by a mobile home park owner for a resident's use of electrical and gas service improvements ~~[which]~~ that exist at a mobile home space, ~~[or]~~ and service for trash removal, sewage and water, ~~[or any combination of the above {.]~~ the costs actually incurred by a mobile home park owner for residential services, including maintenance expenses:

~~——~~ ~~(10)~~ ~~(12)~~ including reasonable maintenance.

~~(10)~~ (11) "Settlement discussion expiration" means:

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

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

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

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

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

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

(3) ~~[Each]~~ A lease shall ~~[contain at least]~~ include the following information:

(a) the name and address of the mobile home park owner and any persons authorized to act ~~[for the owner]~~ on the owner's behalf, upon whom notice and service of process may be served;

(b) the type of the leasehold, whether it be a fixed term or periodic~~[-, and,];~~

(c) the term of the leasehold, which for term or periodic leases entered into on or after May 14, 2013, unless the parties otherwise agree in writing, shall:

(i) be no less than one year; and

(ii) automatically renew for one-year terms;

~~(f)(d)~~ in leases entered into on or after May 6, 2002, a conspicuous disclosure describing the protection a resident has under ~~[Subsection (1)]~~ this chapter against unilateral termination of the lease by the mobile home park except for the causes described in Section 57-16-5;

~~(e)(i)~~ ~~(f)(e)~~ ~~(i)~~ a ~~{}~~ full disclosure of ~~{}~~ complete description, including the amount, of all rent, service charges, and other fees ~~[presently being charged on a periodic basis]~~ that may be charged to the resident ~~{as of}~~ during the ~~{date on which the lease is executed}~~ tenancy; and

~~(ii)~~ (f) a full disclosure of the mobile home park's utility infrastructure ~~[owned by the mobile home park owner or its agent]~~ that is maintained through ~~{agreed upon}~~ reasonable service charges and fees charged by the mobile home park owner or its agent;

~~(d)~~ ~~(e)(g)~~ the date or dates on which the payment of rent, fees, and service charges are due; and

~~(e)~~ ~~(f)(h)~~ all rules that pertain to the mobile home park that, if ~~{materially}~~ broken ~~{and not cured after reasonable notice as described in Section 57-16-5}~~, may constitute grounds

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for eviction, including, in leases entered into on or after May 6, 2002, a conspicuous disclosure regarding:

(i) the causes for which the mobile home park may terminate the lease as described in Section 57-16-5; and

(ii) the resident's rights to:

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

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

(4) (a) [~~Increases~~] Except as provided in Subsection (4)(b), an increase in rent or fees [for periodic tenancies are] is unenforceable until [60] ~~120~~90 days after the day on which the written notice of the increase is mailed or delivered to the resident.

(b) If service charges are not included in the rent, [~~the~~] a mobile home park may:

(i) reasonably increase service charges during the leasehold period after giving notice to the resident; and

(ii) pass through actual verifiable increases or decreases in electricity rates to the resident.

(c) Annual income to the park for service charges may not exceed the actual cost to the mobile home park of providing the services on an annual basis.

~~ff~~(d) In determining the costs of the services, the mobile home park may include reasonable maintenance costs related to those utilities that are part of the service charges. ~~ff~~

~~(fde)~~ Within 10 days after the day on which a mobile home park receives a written request from a resident, the mobile home park shall give the resident written verification that any service charges charged to the resident reflect actual costs incurred by the mobile home park.

~~{~~ (e) The amount of fees charged by a mobile home park shall be reasonable.

~~†~~ [~~e~~] (f) The mobile home park may not alter the date on which rent, fees, and service charges are due unless the mobile home park provides a 60-day written notice to the resident before the day on which the date is altered.

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

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(b) The mobile home park owner may:

(i) [~~may~~] subject to Subsection (5)(c), reserve the right to approve [~~the~~] a prospective purchaser of a mobile home who intends to become a resident;

~~[(ii) may not unreasonably withhold that approval;]~~

~~[(iii) (ii) [may] require proof of ownership as a condition of approval; [or] and~~

~~[(iv) (iii) [may unconditionally] refuse to approve [any] a purchaser of a mobile home [who] that does not register with the mobile home park before purchasing the mobile home.~~

(c) A mobile home park owner may not unreasonably withhold approval of a prospective purchaser under Subsection (5)(b).

~~{ (d) If a mobile home park owner withholds approval of a prospective purchaser described in Subsection (5)(b), the mobile home park owner shall, upon written request from the resident, give the resident a written explanation of the reasons for its decision within 10 days after the day on which the written request is received.~~

‡ (6) If all of the conditions of Section 41-1a-116 are met, a mobile home park may request the names and addresses of the lienholder or owner of any mobile home located in the park from the Motor Vehicle Division.

(7) (a) A mobile home park may not restrict a resident's right to advertise for sale or to sell a mobile home.

(b) A mobile home park may limit the size of a "for sale" sign affixed to ~~the mobile home to~~ :

(i) not more than 144 square inches~~[-], if affixed to the mobile home; or~~

(ii) no larger than the average size of a sign that a real estate professional commonly places in the yard of a residential home to advertise the sale of the home.

(8) A mobile home park may not compel a resident who wishes to sell a mobile home to sell it, either directly or indirectly, through an agent designated by the mobile home park.

(9) ~~[A]~~ Subject to the terms of the governing lease, a mobile home park may require that a mobile home be removed from the park upon sale if:

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

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

(b) in comparison with the other mobile homes in the park, the resident's mobile home

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is in a severely rundown condition or is in ~~gross~~ serious disrepair:

(c) the mobile home park gives the resident written notice that states:

(i) the reasonably necessary upgrades or repairs;

(ii) the reason the upgrades or repairs are necessary; and

(iii) a reasonable date, not fewer than 60 days after the day on which the notice is sent,

by which the listed upgrades or repairs must be completed; and

(d) the resident does not complete the upgrades or repairs described in the notice within the time described in Subsection (9)(b)(iii).

(10) Within 30 days after a mobile home park proposes reducing or restricting amenities, the mobile home park shall:

(a) schedule at least one meeting for the purpose of discussing the proposed restriction or reduction of amenities with residents; and

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

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

(12) The mobile home park shall have a copy of this chapter posted at all times in a conspicuous place in the mobile home park.

(13) Beginning July 1, 2013, unless the parties otherwise agree in writing, a leasehold under this chapter that is periodic and month-to-month shall:

(a) renew for a period of one year rather than one month; and

(b) renew for one-year terms after the renewal described in Subsection (13)(a).

Section 4. Section **57-16-4.1** is amended to read:

57-16-4.1. Meeting to attempt resolution of disputes.

(1) If a mobile home park determines that a resident has materially failed to comply with a mobile home park rule that substantially and adversely affects the interests of the mobile home park, the mobile home park may not terminate the lease agreement or commence legal proceedings without first giving a written notice of noncompliance to the resident. The written notice of noncompliance shall:

(a) specify in detail each and every rule violation then claimed by the mobile home park; and

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(b) advise the resident of the resident's rights under Subsection (2).

(2) If the resident disputes the occurrences of noncompliance claimed by the mobile home park in the written notice of noncompliance, the resident has the right to require management of the mobile home park to participate in a meeting with the resident ~~{ }~~by giving to the mobile home park, within [~~five~~] ~~{15}~~seven days after [~~receiving~~] the resident receives the written notice of noncompliance, a written notice disputing the occurrences of breach and requesting a meeting with management of the mobile home park to attempt to resolve the dispute. If the resident fails to give the mobile home park a written notice of dispute within the ~~{ }seven-day~~~~{15-day}~~ period, the resident's right to request a meeting under this section is considered to be waived.

(3) If [~~the~~] a resident or a resident's representative gives a timely written notice under Subsection (2), the resident, the resident's attorney or other representative, if any, and management of the mobile home park shall meet in person in a settlement discussion to attempt to resolve the dispute between the parties. The meeting shall take place within [~~two~~] five days after the day on which the resident gives the written notice under Subsection (2), unless both parties agree to a later date.

(4) Subsections (1), (2), and (3) do not apply to a rule violation arising from:

(a) behavior described in Subsection 57-16-5(1)(c); or

(b) nonpayment or rent, fees, or service charges.

(5) A resident and a mobile home park shall consider, and may engage in, mediation or arbitration to resolve any disputes.

Section 5. Section **57-16-5** is amended to read:

57-16-5. Cause required for terminating lease -- Causes -- Cure periods -- Notice.

(1) An agreement for the lease of mobile home space in a mobile home park may be terminated by mutual agreement or for any [~~one or more~~] of the following causes:

(a) material failure of a resident to comply with a mobile home park rule that **affects health and safety, and** substantially and adversely affects the interests of the mobile home park:

(i) relating to repair, maintenance, or construction of awnings, skirting, decks, or sheds for a period of 60 days after receipt by a resident of a written notice of substantial noncompliance from the mobile home park under Subsection 57-16-4.1(1); or

(ii) relating to any ~~{ }~~other~~{ }~~ park rule ~~{ that substantially and adversely affects the~~

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~~interests of a mobile home park.}~~ for a period of seven days after the ~~[latter to occur of]~~ later of the settlement discussion expiration or receipt by the resident of a written notice of noncompliance, described in Subsection 57-16-4.1(1), from the mobile home park~~[, except relating to maintenance of a resident's yard and space, the mobile home park may elect not to proceed with the seven-day cure period and may provide the resident with written notice as provided in Subsection (2)];~~

(b) repeated failure of a resident to abide by a mobile home park rule ~~{that substantially and adversely affects the interests of the mobile home park}~~ described in Subsection (1)(a), if the original written notice of noncompliance, described in Subsection 57-16-4.1(1), states that another violation of the same or a different rule might result in forfeiture without any further period of cure;

(c) behavior by a resident or any other person who resides with a resident, or who is an invited guest or visitor of a resident, that threatens or substantially endangers the security, safety, well-being, or health of other persons in the park or threatens or damages property in the park including:

- (i) use or distribution of illegal drugs;
- (ii) distribution of alcohol to minors; or
- (iii) commission of a crime against property or a person in the park;
- (d) nonpayment of rent, fees, or service charges without cause for a period of ~~[five]~~ ~~{15}~~ seven days after the due date;

(e) a change in the land use or condemnation of the mobile home park ~~[or any part of it];~~ or

(f) a prospective resident provides materially false information on the application for residency regarding the prospective resident's criminal history.

~~{(2)}~~ (2) If the mobile home park elects not to proceed with the seven-day cure period in Subsection (1)(a)(ii), a 15-day written notice of noncompliance shall: ~~{~~

~~{(a)}~~ (a) state that if the resident does not perform the resident's duties or obligations under the lease agreement or rules of the mobile home park, to the extent reasonably possible, within 15 days after receipt by the resident of the written notice of noncompliance, the mobile home park may enter onto the resident's space and cure any default; ~~{~~

~~{(b)}~~ (b) state the expected reasonable cost of curing the default; ~~{~~

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~~ff~~(c) require the resident to pay all costs reasonably incurred by the mobile home park to cure the default by the first day of the month following receipt of a billing statement from the mobile home park;~~ff~~

~~ff~~(d) state that the payment required under Subsection (2)(b) shall be considered additional rent; and~~ff~~

~~ff~~(e) state that the resident's failure to make the payment required by Subsection (2)(b) in a timely manner shall be a default of the resident's lease and shall subject the resident to all other remedies available to the mobile home park for a default, including remedies available for failure to pay rent.~~ff~~

Section 6. Section **57-16-6** is amended to read:

57-16-6. Action for lease termination -- Prerequisite procedure.

A legal action to terminate a lease based upon a cause set forth in Section 57-16-5 may not be commenced except in accordance with the ~~[following procedure:]~~ requirements of this section.

(1) ~~[Before issuance of any]~~ In accordance with Subsection (2), before issuing a summons and complaint, the mobile home park shall send ~~[or serve]~~ written notice to the resident ~~[or person]:~~

(a) by delivering a copy of the notice personally;

(b) by sending a copy of the notice through registered or certified mail ~~[addressed to the resident or person at the person's place of residence],~~ postage prepaid, to the resident's last known address;

(c) if the resident ~~[or person]~~ is absent from the ~~[person's place of residence]~~ resident's last known address, by leaving a copy of the notice with ~~[some]~~ a person of suitable age and discretion at the ~~[individual's residence]~~ resident's last known address and sending a copy through registered or certified mail ~~[addressed to the resident or person at the person's place of residence],~~ postage prepaid, to the resident's last known address; or

(d) if a person of suitable age or discretion cannot be found, and the resident's last known address is not the resident's mobile home, by affixing a copy of the notice in a conspicuous place on the resident's ~~[or person's]~~ mobile home and ~~[also]~~ sending a copy through registered or certified mail ~~[addressed to the resident or person at the person's place of residence],~~ postage prepaid, to the resident's last known address.

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(2) The notice ~~[required by]~~ described in Subsection (1) shall ~~[set forth]~~ state:

(a) the cause for the notice and ~~{}~~, if the cause is one which can be cured, ~~{}~~ the time within which the resident or person ~~[has]~~ is required to cure; and

(b) the time after which the mobile home park may commence legal action against the resident or person if cure is not effected, as follows:

(i) ~~[It]~~ in the event of a material failure to abide by a mobile home park rule~~[-, the notice shall provide for]~~ that substantially and adversely affects the interests of the mobile home park, a mobile home park may issue a summons and complaint after the day on which a cure period, as provided in [Subsections] Subsection 57-16-5(1)(a) [and (2), except in the case of repeated violations and, shall state that if a cure is not timely effected, or a written agreement made between the mobile home park and the resident allowing for a variation in the rule or cure period, eviction proceedings may be initiated immediately.], or otherwise agreed to by the mobile home park and the resident, expires:

(ii) ~~[If]~~ if a resident, a member, or an invited guest or visitor of the resident's household commits repeated violations of a rule~~[-]~~ that substantially and adversely affects the interests of the mobile home park, the mobile home park may issue a summons and complaint [may be issued] three days after [a] the day on which the notice is served[-]:

(iii) ~~[If]~~ if a resident, a member, or an invited guest or visitor of the resident's household behaves in a manner that threatens or substantially endangers the well-being, security, safety, or health of other persons in the park or threatens or damages property in the park, eviction proceedings may commence immediately~~[-]~~:

(iv) ~~[If]~~ if a resident does not pay rent, fees, or service charges, ~~{}~~ the notice shall provide a ~~[five-day]~~ 15-day cure period and, that if cure is not timely effected, or a written agreement made between the mobile home park and the resident allowing for a variation in the rule or cure period, eviction proceedings may be initiated immediately. ~~{}~~ the mobile home park may issue a summons and complaint after the 15-day cure period expires, or as otherwise agreed to by the mobile home park and the resident, or}

(v) ~~[If]~~ if, ~~without cause,~~ a lease is terminated because of a planned change in land use or condemnation of the park or a portion of the park, the notice required by Section 57-16-18 serves as notice of the termination of the lease.

(3) (a) Eviction proceedings commenced under this chapter and based on causes set

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forth in Subsections 57-16-5(1)(a), (b), (d), and (e) shall be brought in accordance with the Utah Rules of Civil Procedure and may not be treated as unlawful detainer actions under Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer.

(b) Eviction proceedings commenced under this chapter and based on causes of action set forth in [~~Subsections~~] Subsection 57-16-5(1)(c) [~~and (d)~~] ~~(f)~~ may, at the election of the mobile home park, be treated as actions brought under this chapter and the unlawful detainer provisions of Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer.

(c) If unlawful detainer is charged, the court shall endorse on the summons the number of days within which the defendant is required to appear and defend the action, which shall not be less than five days or more than 20 days from the date of service.

Section 7. Section **57-16-7** is amended to read:

57-16-7. Rules of parks.

(1) (a) A mobile home park may [~~promulgate~~] adopt rules related to the health, safety, and appropriate conduct of residents and to the maintenance and upkeep of [~~such~~] the park. [~~No change in rule that is unconscionable is valid.~~] An unreasonable, unconscionable rule is not valid.

(b) (i) [~~No new or amended rule shall~~] A properly adopted new or amended rule may not take effect [~~, nor~~] or provide the basis for an eviction notice, until the expiration of at least:

(A) [~~120~~] 180 days after [~~its promulgation~~] the day on which the rule is adopted, if [~~it is a rule that~~] the rule requires a resident to make exterior, physical improvements to the resident's mobile home or mobile home space and to incur expenses equal to or greater than \$2,000 in order to comply with the rule;

(B) [~~90~~] 120 days after [~~its promulgation~~] the day on which the rule is adopted, if [~~it is a rule that~~] the rule requires a resident to make exterior, physical improvements to the resident's mobile home or mobile home space and to incur expenses greater than \$250 [~~up to~~], but less than \$2,000, in order to comply with the rule; or

(C) ~~(f)~~ 60 ~~(f)~~ 90 days after [~~its promulgation~~] the day on which the rule is adopted, if [~~it is a rule that~~] the rule requires a resident to make exterior, physical improvements to the resident's mobile home or mobile home space and to incur expenses of \$250 or less in order to comply with the rule.

(ii) [~~Each resident, as~~] As a condition precedent to a new or amended rule under this

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Subsection (1)(b) becoming effective, the mobile home park shall ~~[be provided]~~ provide each resident with a copy of [each] the new or amended rule [that does not appear in the resident's lease agreement promptly upon promulgation of the rule] and a written explanation of the need for the new or amended rule.

(iii) For purposes of determining which period of time applies under Subsection (1)(b)(i), the mobile home park may rely upon a good-faith estimate obtained by the mobile home park from a licensed contractor.

(c) Within 30 days after the day on which the mobile home park proposes amendments to the mobile home park rules, the mobile home park shall schedule at least one meeting for the purpose of discussing the proposed rule amendments with residents and shall provide at least 10 days advance written notice of the date, time, location, and purposes of the meeting to all residents.

(2) A mobile home park may specify the type of material used, and the methods used in the installation of, underskirting, awnings, porches, fences, or other additions or alterations to the exterior of a mobile home, and may also specify the tie-down equipment used in a mobile home space, in order to insure the safety and good appearance of the park; but under no circumstances may it require a resident to purchase such material or equipment from a supplier designated by the mobile home park.

(3) No mobile home park may charge an entrance fee, exit fee, nor installation fee, but reasonable landscaping and maintenance requirements may be included in the mobile home park rules. The resident is responsible for all costs incident to connection of the mobile home to existing mobile home park facilities and for the installation and maintenance of the mobile home on the mobile home space.

(4) Nothing in this section shall be construed to prohibit a mobile home park from requiring a reasonable initial security deposit.

Section 8. Section **57-16-7.5** is amended to read:

57-16-7.5. Payment of rent required after notice.

(1) ~~[(a) Any]~~ A resident shall continue to pay the mobile home park all rent required by the lease after ~~[having been]~~ the resident is served with [any] a notice pursuant to this chapter, except a notice for nonpayment of rent.

(2) A resident does not waive any claims, defenses, or rights available under this

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chapter or at law or equity, including setoff, by paying rent described in Subsection (1)(a).

~~[(b)] (3)~~ In cases not involving payment of rent, the mobile home park may accept rent without waiving any rights under this chapter.

~~[(2) If the resident fails to pay rent, the mobile home park shall be entitled to summary judgment for:]~~

~~[(a) the rent owed;]~~

~~[(b) termination of the lease; and]~~

~~[(c) restitution of the premises.]~~

~~[(3) The summary judgment as provided in Subsection (2) shall be granted even if a five-day notice to pay or quit was not served, so long as another appropriate notice under this chapter has been served.]~~

Section 9. Section **57-16-8** is amended to read:

57-16-8. Payment of rent and fees during pendency of eviction proceeding.

If a resident elects to contest an eviction proceeding, all rents, fees, and service charges due and incurred during the pendency of the action shall be paid into court according to the current mobile home park payment schedule. ~~[Failure]~~ Wrongful failure of the resident to pay such amounts may, in the discretion of the court, constitute grounds for granting summary judgment in favor of the mobile home park. ~~{}}~~ Upon final termination of the issues between the parties, the court shall order all amounts paid into court paid to the mobile home park. The prevailing party is also entitled to court costs and reasonable ~~[attorney's]~~ attorney fees.

Section 10. Section **57-16-11** is amended to read:

57-16-11. Rights and remedies not exclusive -- Rights reserved -- Obligation of good faith.

(1) The rights and remedies granted ~~{ to a resident and a mobile home park }~~ by this chapter are cumulative and not exclusive.

(2) A resident and a mobile home park retain all rights, claims, and defenses that may otherwise exist at law or equity to protect the interests of the resident or the mobile home park.

(3) (a) Every duty under this chapter and every act which must be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith and fair dealing in its performance or enforcement.

(b) If a court finds as a matter of law or equity that any part of a rental agreement is

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unfair, inequitable, or unconscionable, the court may:

(i) refuse to enforce the agreement;

(ii) refuse to enforce the unfair, inequitable, or unconscionable provision; or

(iii) limit the application of a provision to avoid an unfair, inequitable, or unconscionable result.

Section 11. Section **57-16-13** is amended to read:

57-16-13. Abandonment.

Abandonment of a mobile home space and a mobile home within a mobile home park is presumed in either of the following situations:

(1) (a) the resident or occupant of the mobile home has not notified the park that the resident or occupant will be absent from the mobile home space or mobile home, and the resident or occupant fails to pay rent within [45] ~~45~~ 60 days after the due date; and

(b) the mobile home park owner has no reasonable evidence, other than the presence of the resident's or occupant's personal property, that the resident or occupant is continuing to occupy the mobile home space and the mobile home; or

(2) (a) the resident or occupant of the mobile home has not notified the park that the resident or occupant will be absent from the mobile home space where the mobile home is located, and the resident or occupant fails to pay rent when due; and

(b) the resident's or occupant's personal property has been removed from the mobile home, and there is no reasonable evidence that the resident or occupant is occupying the mobile home space or mobile home.

~~{ Section 12. Section **57-16-15.5** is enacted to read:~~

~~———— **57-16-15.5. Right to sell following lease termination.**~~

~~———— (1) If a mobile home park lawfully terminates a rental agreement under this chapter, the resident may elect, by written notice to the mobile home park, to sell the resident's mobile home rather than relocate the resident's mobile home.~~

~~———— (2) If the resident gives the mobile home park written notice of election to sell the mobile home under Subsection (1) within 10 days after the day on which the rental agreement is lawfully terminated:~~

~~———— (a) the resident shall sell the mobile home within 120 days after the day on which the mobile home park terminates the rental agreement; and~~

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~~———— (b) the mobile home park has a lien on the proceeds of the sale of the resident's mobile home for the amount of rent, service charges, and fees that accrue from the day the resident gives written notice under Subsection (1) until the day on which the mobile home is sold.~~

~~———— (3) If the resident is not able to sell the resident's mobile home in the time described in Subsection (1)(a), the resident shall vacate the mobile home park in accordance with the terms of the rental agreement and this chapter.~~

Legislative Review Note

~~———— as of 2-12-13 5:49 PM~~

~~———— Office of Legislative Research and General Counsel}~~