

MOBILE HOME PARK RESIDENCY AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Dan R. Eastman

This act modifies the Mobile Home Park Residency Act, the Motor Vehicle Act, and the Government Records Access and Management Act. The act provides specific criteria by which the Motor Vehicle Division may disclose the name and address of the lienholder or mobile home owner of an abandoned mobile home to the owner of a mobile home park. The act modifies provisions related to changes in service charges to residents of mobile home parks. The act modifies provisions related to eviction proceedings. The act amends provisions related to lienholder and owner of a mobile home's rights and liabilities after receipt of a notice of abandonment or issuance of a writ or restitution. The act defines abandonment of a mobile home space or mobile home, and designates park procedure in the event of abandonment. The act amends the procedure after an eviction judgment has been entered by a court. The act allows mobile home park residents to form associations and outlines the requirements of those associations. The act also makes technical revisions. This act provides an effective date.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

41-1a-116, as last amended by Chapters 86 and 255, Laws of Utah 2000

57-16-4, as last amended by Chapter 1, Laws of Utah 1997, First Special Session

57-16-5, as last amended by Chapter 1, Laws of Utah 1997, First Special Session

57-16-6, as last amended by Chapter 1, Laws of Utah 1997, First Special Session

57-16-9 (Effective 07/01/01), as last amended by Chapter 252, Laws of Utah 2000

57-16-15.1, as last amended by Chapters 92 and 225, Laws of Utah 1994

63-2-202, as last amended by Chapter 312, Laws of Utah 1994

ENACTS:

57-16-13, Utah Code Annotated 1953

57-16-14, Utah Code Annotated 1953

57-16-16, Utah Code Annotated 1953

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

Section 1. Section **41-1a-116** is amended to read:

41-1a-116. Records -- Telephone requests for records.

(1) (a) All motor vehicle title and registration records of the division are protected unless the division determines based upon a written request by the subject of the record that the record is public.

(b) In addition to the provisions of this section, access to all division records shall be in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

(2) (a) Access to public records is determined by Section 63-2-201.

(b) A record designated as public under Subsection (1)(a) may be used for advertising or solicitation purposes.

(3) Access to protected records, except as provided in Subsection (4), is determined by Section 63-2-202.

(4) In addition to those persons granted access to protected records under Section 63-2-202, the division may disclose a protected record to a licensed private investigator with a legitimate business need, a person with a bona fide security interest, the owner of a mobile home park subject to Subsection (5), or for purposes of safety, product recall, advisory notices, or statistical reports only upon receipt of a signed acknowledgment that the person receiving that protected record may not:

(a) disclose information from that record to any other person; or

(b) use information from that record for advertising or solicitation purposes.

(5) The division may disclose the name or address, or both, of the lienholder or mobile home owner of record, or both of them, to the owner of a mobile home park, if all of the following conditions are met:

(a) a mobile home located within the mobile home park owner's park has been abandoned under Section 57-16-13 or the resident is in default under the resident's lease;

(b) the mobile home park owner has conducted a reasonable search, but is unable to determine the name or address, or both, of the lienholder or mobile home owner of record; and

(c) the mobile home park owner has submitted a written statement to the division explaining the mobile home park owner's efforts to determine the name or address, or both, of the lienholder or mobile home owner of record before the mobile home park owner contacted the division.

~~[(5)]~~ (6) The division may provide protected information to a statistic gathering entity under Subsection (4) only in summary form.

~~[(6)]~~ (7) A person allowed access to protected records under Subsection (4) may request motor vehicle title or registration information from the division regarding any person, entity, or motor vehicle by submitting a written application on a form provided by the division.

~~[(7)]~~ (8) If a person regularly requests information for business purposes, the division may by rule allow the information requests to be made by telephone and fees as required under Subsection ~~[(8)]~~ (9) charged to a division billing account to facilitate division service. The rules shall require that the:

(a) division determine if the nature of the business and the volume of requests merit the dissemination of the information by telephone;

(b) division determine if the credit rating of the requesting party justifies providing a billing account; and

(c) the requestor submit to the division an application that includes names and signatures of persons authorized to request information by telephone and charge the fees to the billing account.

~~[(8)]~~ (9) (a) The division shall charge a reasonable search fee determined under Section 63-38-3.2 for the research of each record requested.

(b) Fees may not be charged for furnishing information to persons necessary for their compliance with this chapter.

(c) Law enforcement agencies have access to division records free of charge.

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

**57-16-4. Termination of lease or rental agreement -- Required contents of lease --
Increases in rents or fees -- Sale of homes.**

(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 agreement for the lease of mobile home space shall be written and signed by the parties. Each lease shall contain at least the following information:

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

(b) the type of the leasehold, and whether it be term or periodic;

(c) a full disclosure of all rent, service charges, and other fees presently being charged on a periodic basis;

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

(e) all rules that pertain to the mobile home park which, if broken, may constitute grounds for eviction.

(3) (a) Increases in rent or fees for periodic tenancies shall be unenforceable until 60 days after notice of the increase is mailed to the resident. If service charges are not included in the rent, service charges may be increased during the leasehold period after notice to the resident is given, and increases or decreases in electricity rates shall be passed through to the resident. ~~[Increases or decreases in the total cost of other service charges shall be passed through to the resident.]~~ Annual income to the park for service charges may not exceed the actual cost to the park of providing the services on an annual basis. In determining the costs of the services, the park may include maintenance costs related to those utilities which are part of the service charges.

(b) The mobile home park may not alter the date or dates on which rent, fees, and service charges are due unless a 60-day written notice precedes the alteration.

(4) Any rule or condition of a lease purporting to prevent or unreasonably limit the sale of a mobile home belonging to a resident is void and unenforceable. The mobile home park may, however, reserve the right to approve the prospective purchaser of a mobile home who intends to become a resident, but the approval may not be unreasonably withheld. The mobile home park may require proof of ownership as a condition of approval. The mobile home park may unconditionally refuse to approve any purchaser of a mobile home who does not register prior to purchase.

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

home located in the park.

~~[(5)]~~ (6) A mobile home park may not restrict a resident's right to advertise for sale or to sell his mobile home. However, the park may limit the size of a "for sale" sign affixed to the mobile home to not more than 144 square inches.

~~[(6)]~~ (7) A mobile home park may not compel a resident who desires to sell his mobile home, either directly or indirectly, to sell it through an agent designated by the mobile home park.

~~[(7)]~~ (8) In order to upgrade the quality of a mobile home park, it may require that a mobile home be removed from the park upon sale if:

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

Section 3. 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) failure of a resident to comply with a mobile home park rule:
 - (i) relating to repair, maintenance, or construction of awnings, skirting, decks, or sheds for a period of 60 days after receipt of a notice of noncompliance from the mobile home park; or
 - (ii) relating to any other park rule for a period of seven days after receipt of notice of noncompliance 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, if the original notice of noncompliance 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 ~~[which]~~, 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 [and], safety, well-being, or health of [the] other [residents] persons in the park or threatens [the] or damages property in the park;

- (d) nonpayment of rent, fees, or service charges; or
- (e) a change in the land use or condemnation of the mobile home park or any part of it.

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

(a) state that if the resident does not perform [~~his~~] the resident's duties or obligations under the lease agreement or rules of the mobile home park within 15 days, the mobile home park may enter onto the resident's space and cure any default;

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

(c) require the resident to pay all costs 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;

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

(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.

Section 4. 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:

(1) Before issuance of any summons and complaint, the mobile home park shall send or serve written notice to the resident or [~~subtenant~~] 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 [~~subtenant~~] person at [~~his~~] the person's place of residence;

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

resident or ~~subtenant~~ person at ~~his~~ the person's place of residence; or

(d) if a person of suitable age or discretion cannot be found, by affixing a copy of the notice in a conspicuous place on the resident's or ~~subtenant's~~ person's mobile home and also sending a copy through ~~the~~ registered or certified mail addressed to the resident or ~~subtenant~~ person at ~~his~~ the person's place of residence.

(2) The notice shall set forth the cause for the notice and, if the cause is one which can be cured, the time within which the resident or person has to cure. The notice shall also set forth the time after which the mobile home park may commence legal action against the resident or person if cure is not effected, as follows:

(a) In the event of failure to abide by a mobile home park rule, the notice shall provide for a cure period as provided in Subsections 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.

(b) If ~~the~~ a resident, a member, or invited guest or visitor of the resident's household commits repeated violations of a rule, a summons and complaint may be issued three days after a notice is served.

(c) If a resident, a member, or 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 ~~[of other residents]~~ in the park, eviction proceedings may commence immediately.

(d) If a resident does not pay rent, fees, or service charges, the notice shall provide a five-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.

(e) If there is a planned change in land use or condemnation of the park, the notice shall provide that the resident has 90 days after receipt of the notice to vacate the mobile home park if no governmental approval or permits incident to the planned change are required, and if governmental

approval and permits are required, that the resident has 90 days to vacate the mobile home park after all permits or approvals incident to the planned change are obtained.

(3) If the planned change in land use or condemnation requires the approval of a governmental agency, the mobile home park, in addition to the notice required by Subsection (2)(e), shall send written notice of the date set for the initial hearing to each resident at least seven days before the date scheduled for the initial hearing.

(4) Regardless of whether the change of use requires the approval of any governmental agency, if the resident was not a resident of the mobile home park at the time the initial change of use notice was issued to residents the owner shall give notice of the change of use to the resident before he occupies the mobile home space.

(5) (a) Eviction proceedings commenced under this chapter and based on causes set forth in Subsections 57-16-5(1)(a), (b), and (e) shall be brought in accordance with the Utah Rules of Civil Procedure and shall not be treated as unlawful detainer actions under Title 78, Chapter 36, Forcible Entry and Detainer. Eviction proceedings commenced under this chapter and based on causes of action set forth in Subsections 57-16-5(1)(c) and (d) may, at the election of the mobile home park, be treated as actions brought under this chapter and the unlawful detainer provisions of Title 78, Chapter 36, Forcible Entry and Detainer.

(b) 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 5. Section **57-16-9 (Effective 07/01/01)** is amended to read:

57-16-9 (Effective 07/01/01). Lienholder's liability for rent and fees.

(1) Notwithstanding [~~Section~~] Sections 38-3-2 and [~~Section~~] 70A-9a-402, the lienholder of record of a mobile home, or if there is no lienholder, the owner of a mobile home, is primarily liable to the mobile home park owner or operator for rent and service charges if a mobile home is not removed within ten days after receipt of written notice that a mobile home has been abandoned, as defined in Section 57-16-13, or that a writ of restitution has been issued. The lienholder[;] or owner of a mobile home, however, is only liable for rent that accrues [~~after receipt of such~~] from the day

the lienholder or owner of a mobile home receives notice. Rent shall be paid on a monthly basis on the due date established in the lease agreement. The lienholder or owner of a mobile home is not responsible for any rent if the mobile home is removed within ten days after receipt of the notice.

(2) If the lienholder pays rent and service charges as provided by this section, the lienholder shall have the unconditional right to resell the mobile home within the park, subject to the purchaser being approved for residency by the park, which approval cannot be unreasonably withheld, and subject to Subsection (4). If the lienholder or owner of a mobile home does not commence paying rent and service charges to the mobile home park within 30 days after receipt of a written notice provided by Subsection (1), the mobile home park may require the lienholder or owner of a mobile home to remove the mobile home from the park and the lienholder or owner of a mobile home shall be liable for all rent which accrues from the date of the notice to the date the mobile home is removed from the park.

(3) The notice required under Subsection (1) shall be sent to the lienholder or owner of a mobile home by certified mail, return receipt requested, and shall inform the lienholder or owner of a mobile home that the mobile home park may require the lienholder or owner of a mobile home to remove the mobile home from the park if the lienholder or owner of a mobile home has not commenced paying rent and service charges to the park within 30 days after receipt of the notice.

(4) The mobile home park may require the lienholder to remove a mobile home covered by this section from the park if the mobile home, at the time of sale, is in rundown condition or disrepair, if the mobile home does not meet the park's minimum size specifications, or if the mobile home does not comply with reasonable park rules. The lienholder shall have 60 days to make repairs and comply with park rules after notice of required repairs and rule violations is given to the lienholder by the park owner or its agent.

(5) If a lienholder or owner of a mobile home does not commence paying rent and service charges to the park within 30 days after receipt of a written notice provided under Subsection (1), and if the lienholder or owner of a mobile home does not remove the mobile home from the park within the 30-day period, the park has the right to immediately remove the mobile home from the park and store it on behalf of the lienholder or owner of a mobile home. The mobile home park has

the right to recover moving and storage costs from the lienholder or owner of a mobile home.

(6) The prevailing party is entitled to court costs and reasonable attorney fees for any action commenced to enforce any rights under this section.

(7) If a lienholder pays rent and service charges as provided in Subsection (2), the mobile home is not considered abandoned under Section 57-16-13; however, the personal property in the mobile home is considered abandoned.

Section 6. Section **57-16-13** is enacted 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) The resident or occupant of the mobile home has:

(a) 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 days after the due date; and

(b) there is 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.

(2) The resident or occupant of the mobile home has:

(a) 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 7. Section **57-16-14** is enacted to read:

57-16-14. Abandoned premises -- Retaking by owner -- Liability of resident or occupant -- Personal property of resident or occupant left on mobile home space.

(1) In the event of abandonment under Section 57-16-13, the park may retake the mobile home space and attempt to relet the space at a fair rental value. The resident or occupant who

abandoned the premises is liable:

(a) for the entire rent, service charges, and fees that would otherwise be due until the premise is relet or for a period not to exceed 90 days, whichever comes first; and

(b) any costs incurred by the park necessary to relet the mobile home space at fair market value, including the costs of:

(i) moving the mobile home from the mobile home space;

(ii) storing the mobile home; and

(iii) restoring the mobile home space to a reasonable condition, including the cost of replacing or repairing landscaping that was damaged by the resident or occupant.

(2) (a) If the resident or occupant has abandoned the mobile home space, the mobile home, or both, and has left personal property, including the mobile home, on the mobile home space, the park is entitled to remove the property from the mobile home space, store it for the resident or occupant, and recover actual moving and storage costs from the resident, the occupant, or both. With respect to the mobile home, however, the park may elect to contact the lienholder under Section 57-16-9, or to store the mobile home on the mobile home space, while attempting to notify the resident or occupant under Subsection (2)(b)(i).

(b) (i) The park shall make reasonable efforts to notify the resident or occupant of the location of the personal property, and that the personal property will be sold at the expiration of 30 days if not redeemed and removed by the resident or occupant. Reasonable efforts require that the park send written notice by regular mail to the resident or occupant at the last-known address within the park if the park is unaware of any subsequent address. To redeem the personal property, the resident or occupant is required to pay the reasonable storage and moving charges.

(ii) If the personal property has been in storage for over 30 days, notice has been given as required by Subsection (2)(b)(i), and the resident or occupant has made no reasonable effort to recover the personal property, the park may:

(A) sell the personal property and apply the proceeds toward any amount the resident or occupant owes; or

(B) donate the personal property to charity or dispose of the property.

(c) Any excess money from the sale of the personal property, including the mobile home, shall be handled as specified in Title 67, Chapter 4a, Part 2, Standards for Determining When Property is Abandoned or Unclaimed.

(d) Nothing contained in this chapter shall be in derogation of or alter the owner's rights under Title 38, Chapter 3, Lessors' Liens.

Section 8. Section **57-16-15.1** is amended to read:

57-16-15.1. Eviction proceeding.

(1) Eviction proceedings commenced under this chapter and based on causes of action set forth in Subsections 57-16-5(1)[~~-(2), and (5)~~] (a), (b), and (e), and eviction proceedings commenced under this chapter based on causes of action set forth in Subsections 57-16-5[~~(3) and (4)~~, where] (1)(c) and (d), in which a landlord elects to bring an action under this chapter and not under the unlawful detainer provisions of Title 78, Chapter 36, Forcible Entry and Detainer, shall comply with the following:

(a) A judgment may be entered upon the merits or upon default. A judgment entered in favor of the plaintiff may:

- (i) include an order of restitution of the premises; and
- (ii) declare the forfeiture of the lease or agreement.

(b) The jury, or the court if the proceedings are tried without a jury or upon the defendant's default, shall assess the damages resulting to the plaintiff from any of the following:

- (i) waste of the premises during the resident's tenancy, if waste is alleged in the complaint and proved; and
- (ii) the amount of rent due.

(c) If the lease or agreement provides for reasonable attorneys' fees, the court shall order reasonable attorneys' fees to the prevailing party.

(d) Whether or not the lease or agreement provides for court costs and attorneys' fees, if the proceeding is contested, the court shall order court costs and attorneys' fees to the prevailing party.

(e) Except as provided in Subsection (1)(f), after judgment has been entered under this section, judgment and restitution may be enforced no sooner than 15 days from the date the

judgment is entered. The person who commences the action shall mail through registered or certified mail a copy of the judgment to the [lease premises by registered mail within five days of the date the judgment is entered] resident or the resident's agent or attorney as required by the Utah Rules of Civil Procedure.

(f) If a resident tenders to the mobile home park postjudgment rent, in the form of cash, cashier's check, or certified funds, then restitution may be delayed for the period of time covered by the postjudgment rent, which time period shall not exceed 15 days from the date of the judgment unless a longer period is agreed to in writing by the mobile home park.

(2) Eviction proceedings commenced under this chapter and based on causes of action set forth in Subsections 57-16-5~~(3) and (4)~~ (1)(c) and (d), in which the mobile home park has elected to treat as actions also brought under the unlawful detainer provisions of Title 78, Chapter 36, Forcible Entry and Detainer, shall be governed by Sections 78-36-10 and 78-36-10.5 with respect to judgment for restitution, damages, rent, enforcement of the judgment and restitution.

(3) The provisions in Section 78-36-10.5 shall apply to this section except the enforcement time limits in Subsections (1)(e) and (f) shall govern.

Section 9. Section **57-16-16** is enacted to read:

57-16-16. Mobile home park residents' associations.

(1) Residents in mobile home parks shall have the right to form associations comprised of residents of the mobile home park in which they reside.

(2) The membership of the resident association may elect officers of the association at a meeting where a majority of the members are present.

(3) Except in emergency situations, there shall be seven days' notice of an association meeting to all residents of the park. All residents of the park, even if not members of the association, may attend association meetings. The park operator and non-resident employees shall not:

(a) be members of the association;

(b) attend meetings unless invited by the association;

(c) unlawfully interfere with the operation of the association; or

(d) interfere with a resident's right to contact a state or local health department, a

municipality, or other group to complain about the health and safety conditions of the mobile home park.

(4) A resident association may not impose fees, dues, or assessments, upon its members unless a majority of the members agree to the assessment of fees, dues, or assessments.

(5) The park operator shall permit meetings by any resident association located within the park relating to manufactured home living or social or education purposes, including forums for or speeches by public officials or candidates for public office.

(6) Resident associations may schedule with the park operator the use of the common facilities of the park, if any, free of charge. However, the resident association shall be responsible for any damage to the common facilities caused by a member of the resident association while a common facility is in use by the resident association.

Section 10. Section **63-2-202** is amended to read:

63-2-202. Access to private, controlled, and protected documents.

(1) Upon request, a governmental entity shall disclose a private record to:

(a) the subject of the record;

(b) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(c) the legal guardian of a legally incapacitated individual who is the subject of the record;

(d) any other individual who:

(i) has a power of attorney from the subject of the record;

(ii) submits a notarized release from the subject of the record or his legal representative dated no more than 90 days before the date the request is made; or

(iii) if the record is a medical record described in Subsection 63-2-302(1)(b), is a health care provider, as defined in ~~[Subsection]~~ Section 26-33a-102~~(7)~~, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(e) any person to whom the record must be provided pursuant to court order as provided in Subsection (7) or a legislative subpoena as provided in Title 36, Chapter 14.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, psychologist, certified social worker, insurance provider or agent, or a

government public health agency upon submission of a release from the subject of the record that is dated no more than 90 days prior to the date the request is made and a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to court order as provided in Subsection (7) or a legislative subpoena as provided in Title 36, Chapter 14.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, a governmental entity shall disclose a protected record to:

(a) the person who submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made; [or]

(c) any person to whom the record must be provided pursuant to a court order as provided in Subsection (7) or a legislative subpoena as provided in Title 36, Chapter 14[-]; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) A governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, another state, the United States, or a foreign government only as provided by Section 63-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order

signed by a judge from a court of competent jurisdiction, provided that:

- (a) the record deals with a matter in controversy over which the court has jurisdiction;
- (b) the court has considered the merits of the request for access to the record; and
- (c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Subsections 63-2-304(1) and (2), and privacy interests or the public interest in the case of other protected records;
- (d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, outweigh the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) A governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

- (i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;
- (ii) determines that the proposed research is bona fide, and that the value of the research outweighs the infringement upon personal privacy;
- (iii) requires the researcher to assure the integrity, confidentiality, and security of the records and requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;
- (iv) prohibits the researcher from disclosing the record in individually identifiable form, except as provided in Subsection (8)(b), or from using the record for purposes other than the research approved by the governmental entity; and
- (v) secures from the researcher a written statement of his understanding of and agreement to the conditions of this subsection and his understanding that violation of the terms of this subsection may subject him to criminal prosecution under Section 63-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is

disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(9) (a) Under Subsections 63-2-201(5)(b) and 63-2-401(6) a governmental entity may disclose records that are private under Section 63-2-302, or protected under Section 63-2-304 to persons other than those specified in this section.

(b) Under Subsection 63-2-403(11)(b) the Records Committee may require the disclosure of records that are private under Section 63-2-302, controlled under Section 63-2-303, or protected under Section 63-2-304 to persons other than those specified in this section.

(c) Under Subsection 63-2-404(8) the court may require the disclosure of records that are private under Section 63-2-302, controlled under Section 63-2-303, or protected under Section 63-2-304 to persons other than those specified in this section.

Section 11. Effective date.

This act takes effect on April 30, 2001, except that Section 57-16-9 takes effect on July 1, 2001.