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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 the sale of mobile homes. The act modifies the cause required and prerequisite procedure for a mobile home park owner to commence eviction proceedings. The act expands provisions related to the rules of parks. The act amends provisions related to a resident's payment of rent, fees, and service charges after receipt of a notice of noncompliance with the rules of the park. 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

28 57-16-6, as last amended by Chapter 1, Laws of Utah 1997, First Special Session

29 57-16-7, as last amended by Chapter 114, Laws of Utah 1997

30 57-16-7.5, as enacted by Chapter 114, Laws of Utah 1997

31 57-16-9 (Effective 07/01/01), as last amended by Chapter 252, Laws of Utah 2000

32 57-16-12, as enacted by Chapter 178, Laws of Utah 1981

33 57-16-15.1, as last amended by Chapters 92 and 225, Laws of Utah 1994

34 63-2-202, as last amended by Chapter 312, Laws of Utah 1994

35 ENACTS:

36 57-16-13, Utah Code Annotated 1953

37 57-16-14, Utah Code Annotated 1953

38 57-16-16, Utah Code Annotated 1953

39 REPEALS:

40 57-16-8, as enacted by Chapter 178, Laws of Utah 1981

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

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

43 **41-1a-116. Records -- Telephone requests for records.**

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

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

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

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

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

54 (4) In addition to those persons granted access to protected records under Section
55 63-2-202, the division may disclose a protected record to a licensed private investigator with a
56 legitimate business need, a person with a bona fide security interest, the owner of a mobile home
57 park subject to Subsection (5), or for purposes of safety, product recall, advisory notices, or
58 statistical reports only upon receipt of a signed acknowledgment that the person receiving that

59 protected record may not:

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

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

62 (5) The division may disclose the name or address, or both, of the lienholder or mobile
63 home owner of record to the owner of a mobile home park, if each of the following conditions is
64 met:

65 (a) A mobile home located within the mobile home park owner's park has been abandoned
66 under Section 57-16-13.

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

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

73 [~~5~~] (6) The division may provide protected information to a statistic gathering entity
74 under Subsection (4) only in summary form.

75 [~~6~~] (7) A person allowed access to protected records under Subsection (4) may request
76 motor vehicle title or registration information from the division regarding any person, entity, or
77 motor vehicle by submitting a written application on a form provided by the division.

78 [~~7~~] (8) If a person regularly requests information for business purposes, the division may
79 by rule allow the information requests to be made by telephone and fees as required under
80 Subsection [~~8~~] (9) charged to a division billing account to facilitate division service. The rules
81 shall require that the:

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

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

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

89 [~~8~~] (9) (a) The division shall charge a reasonable search fee determined under Section

90 63-38-3.2 for the research of each record requested.

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

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

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

95 **57-16-4. Termination of lease or rental agreement -- Required contents of lease --**
96 **Increases in rents or fees -- Sale of homes.**

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

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

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

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

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

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

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

109 (3) (a) Increases in rent or fees for periodic tenancies shall be unenforceable until 60 days
110 after notice of the increase is mailed to the resident. If service charges are not included in the rent,
111 service charges may be increased during the leasehold period after notice to the resident is given,
112 and increases or decreases in electricity rates shall be passed through to the resident. [~~Increases
113 or decreases in the total cost of other service charges shall be passed through to the resident.~~]

114 Annual income to the park for service charges may not exceed the actual cost to the park of
115 providing such services on an annual basis. In determining the costs of the services, the park may
116 include depreciation and maintenance costs related to those utilities which are part of the service
117 charges.

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

120 (4) Any rule or condition of a lease purporting to prevent or unreasonably limit the sale

121 of a mobile home belonging to a resident is void and unenforceable. The mobile home park may,
 122 however, reserve the right to approve the prospective purchaser of a mobile home who intends to
 123 become a resident, but the approval may not be unreasonably withheld. The mobile home park
 124 may require proof of ownership as a condition of approval. The mobile home park may
 125 unconditionally refuse to approve any purchaser, lessee, sublessee, or occupant of a mobile home
 126 who does not register, and who is not accepted by the park as a resident, prior to purchase. A
 127 mobile home park may unconditionally refuse to allow subleasing within a mobile home park.

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

131 ~~[(5)]~~ (6) A mobile home park may not restrict a resident's right to advertise for sale or to
 132 sell his mobile home. However, the park may limit the size of a "for sale" sign affixed to the
 133 mobile home to not more than 144 square inches.

134 ~~[(6)]~~ (7) A mobile home park may not compel a resident who desires to sell his mobile
 135 home, either directly or indirectly, to sell it through an agent designated by the mobile home park.

136 ~~[(7)]~~ (8) In order to upgrade the quality of a mobile home park, it may require that a mobile
 137 home be removed from the park upon sale if:

138 (a) the mobile home does not meet minimum size specifications; or

139 (b) the mobile home is in rundown condition or in disrepair.

140 Section 3. Section **57-16-5** is amended to read:

141 **57-16-5. Cause required for terminating lease -- Causes -- Cure periods -- Notice.**

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

144 (a) failure of a resident to comply with a mobile home park rule, subject to the following
 145 conditions:

146 (i) the resident shall have a period of 60 days after receipt of a notice of noncompliance
 147 from the mobile home park to cure rule violations relating to repair, maintenance, or construction
 148 of awnings, skirting, decks, siding, or sheds ~~[for a period of 60 days after receipt of a notice of~~
 149 ~~noncompliance from the mobile home park]~~ if the repair, maintenance, or construction, in the
 150 park's estimation, will cost the resident \$500 or more; or

151 (ii) the resident shall have a period of 15 days after receipt of a notice of noncompliance

152 from the mobile home park to cure rule violations, relating to either or both of the following:

153 (A) repair or maintenance of awnings, skirting, decks, siding, or sheds, if the repair or
154 maintenance, in the park's estimation, will cost the resident less than \$500; or

155 (B) any other park rule for a period of seven days after receipt of notice of noncompliance
156 from the mobile home park, except relating to maintenance of a resident's yard and space, the
157 mobile home park may elect not to proceed with the seven-day cure period and may provide the
158 resident with written notice as provided in Subsection (2);

159 (b) repeated failure of a resident to abide by a mobile home park rule, if the original notice
160 of noncompliance [states] was served within one year from the time of the service of the repeated
161 failure notice, and if the original notice of noncompliance stated that another violation of the same
162 or a different rule might result in forfeiture without any further period of cure;

163 (c) behavior by a resident [~~which~~], any other person who resides with a resident, or who
164 is a guest or visitor of a resident, that threatens or substantially endangers the security [and], safety,
165 well-being, or health of [the] other [residents] persons in the park or threatens [the] or damages
166 property in the park;

167 (d) nonpayment of rent, fees, or service charges; or

168 (e) a change in the land use or condemnation of the mobile home park or any part of it.

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

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

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

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

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

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

183 to pay rent.

184 (3) (a) A mobile home park may commence eviction proceedings against any person who:

185 (i) purchases a mobile home without registering and being approved for residency with the
186 park prior to purchase;

187 (ii) subleases or leases a mobile home without park approval; or

188 (iii) occupies a mobile home without park approval.

189 (b) Any person covered by Subsection (3)(a) is not to be considered a resident of a mobile
190 home park and does not have any rights under this chapter.

191 Section 4. Section **57-16-6** is amended to read:

192 **57-16-6. Action for lease termination -- Prerequisite procedure.**

193 A legal action to terminate a lease based upon a cause set forth in [~~Section~~] Subsection
194 57-16-5(1) or (2), or a legal action to evict a person who has no right to a lease based upon a cause
195 set forth in Subsection 57-16-5(3), may not be commenced except in accordance with the
196 following procedure:

197 (1) Before issuance of any summons and complaint, the mobile home park shall send or
198 serve written notice to the resident or [~~subtenant~~] person:

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

200 (b) by sending a copy of the notice through registered or certified mail addressed to the
201 resident or [~~subtenant~~] person at [~~his~~] the person's place of residence;

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

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

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

214 (a) In the event of failure to abide by a mobile home park rule, the notice shall provide for
215 a cure period as provided in Subsections 57-16-5(1)(a) and (2), except in the case of repeated
216 violations and, shall state that if a full and complete cure is not timely effected, or a written
217 agreement made between the mobile home park and the resident allowing for a variation in the rule
218 or cure period, eviction proceedings may be initiated immediately.

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

222 (c) If a resident or a member, visitor, or guest of the resident's household behaves in a
223 manner that threatens or substantially endangers the well-being, security, safety, or health of other
224 persons in the park or threatens or damages property [~~of other residents~~] in the park, eviction
225 proceedings may commence immediately.

226 (d) If a resident does not pay rent, fees, or service charges, the notice shall provide a
227 five-day cure period and, that if a full and complete cure is not timely effected, or a written
228 agreement made between the mobile home park and the resident allowing for a variation in the rule
229 or cure period, eviction proceedings may be initiated immediately.

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

235 (3) If a person is in a mobile home park as provided in Subsection 57-16-5(3), a summons
236 and complaint may be issued five days after a notice to vacate is served.

237 [~~(3)~~] (4) If the planned change in land use or condemnation requires the approval of a
238 governmental agency, the mobile home park, in addition to the notice required by Subsection
239 (2)(e), shall send written notice of the date set for the initial hearing to each resident at least seven
240 days before the date scheduled for the initial hearing.

241 [~~(4)~~] (5) Regardless of whether the change of use requires the approval of any
242 governmental agency, if the resident was not a resident of the mobile home park at the time the
243 initial change of use notice was issued to residents the owner shall give notice of the change of use
244 to the resident before he occupies the mobile home space.

245 ~~[(5)]~~ (6) (a) Eviction proceedings commenced under this chapter and based on causes set
 246 forth in Subsections 57-16-5(1)(a), (b), and (e) shall be brought in accordance with the Utah Rules
 247 of Civil Procedure and shall not be treated as unlawful detainer actions under Title 78, Chapter 36,
 248 Forcible Entry and Detainer. Eviction proceedings commenced under this chapter and based on
 249 causes of action set forth in Subsections 57-16-5(1)(c) and (d) or Subsection 57-16-5(3) may, at
 250 the election of the mobile home park, be treated as actions brought under this chapter and the
 251 unlawful detainer provisions of Title 78, Chapter 36, Forcible Entry and Detainer.

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

255 Section 5. Section **57-16-7** is amended to read:

256 **57-16-7. Rules of parks.**

257 (1) (a) A mobile home park may promulgate rules related to the:

258 (i) health[-];

259 (ii) safety[-and];

260 (iii) appropriate conduct of residents [and to the], guests, family members, visitors, and
 261 household occupants;

262 (iv) maintenance and upkeep of such park[-], including the mobile homes; and

263 (v) appearance and uniformity of the park and mobile homes, including landscaping
 264 requirements, and additions or alterations including skirting, awnings, decks, stairs, sheds, siding,
 265 and fences.

266 (b) No change in rule that is unconscionable is valid.

267 ~~[(b)]~~ (c) No new or amended rule shall take effect, nor provide the basis for an eviction
 268 notice, until the expiration of at least 60 days after its promulgation. Each resident, as a condition
 269 precedent to such rule being in effect, shall be provided with a copy of each new or amended rule
 270 that does not appear in their lease agreement.

271 ~~[(c)]~~ (d) For 30 days after the mobile home park proposes amendments to the mobile home
 272 park rules, the mobile home park shall allow residents, individually or through a representative of
 273 a group of residents, the opportunity to meet with the mobile home park management about the
 274 proposed amendments. The meetings shall be held within 15 days after receipt of written request
 275 for the meeting by the residents or the representative.

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

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

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

289 Section 6. Section **57-16-7.5** is amended to read:

290 **57-16-7.5. Payment of rent required after notice -- Summary judgment.**

291 (1) (a) [~~Any resident shall continue to pay the mobile home park all rent required by the~~
 292 ~~lease after having~~] In cases in which a resident has been served with any notice pursuant to this
 293 chapter, except a notice for nonpayment of rent, the resident shall continue to pay the mobile home
 294 park all rent, fees, and service charges required by the lease.

295 (b) [~~In cases not involving payment of rent, the~~] The mobile home [park may accept] park's
 296 acceptance of rent [without waiving], fees, and service charges under Subsection (1)(a) does not
 297 waive any rights under this chapter.

298 (2) In cases in which a resident has been served with a notice for nonpayment of rent, and
 299 in which the resident elects to contest the eviction proceeding, the resident shall pay the rent, fees,
 300 and service charges due and incurred during the pendency of the action into the district court
 301 according to the current mobile home park payment schedule.

302 [~~(2)~~] (3) If the resident fails to pay rent, fees, and service charges to the mobile home park
 303 as referred to in Subsection (1)(a) or to the district court as referred to in Subsection (2), the mobile
 304 home park shall be entitled to summary judgment for:

305 (a) the rent, fees, and service charges owed;

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

307 (c) restitution of the premises[-]; and
308 (d) reasonable attorney fees and costs.

309 [~~(3)~~] (4) The summary judgment as provided in Subsection (2) shall be granted even if a
310 five-day notice to pay or quit was not served, so long as another appropriate notice under this
311 chapter has been served.

312 (5) Upon determination by the district court of the issues between the parties, the court
313 shall order all amounts paid into the court under Subsection (2) to be disbursed to the party entitled
314 to the funds. The prevailing party is also entitled to court costs and reasonable attorney fees.

315 Section 7. Section **57-16-9 (Effective 07/01/01)** is amended to read:

316 **57-16-9 (Effective 07/01/01). Lienholder's liability for rent and fees.**

317 (1) Notwithstanding [~~Section~~] Sections 38-3-2 and [~~Section~~] 70A-9a-402, the lienholder
318 of record, of a mobile home, or if there is no lienholder, the owner of a mobile home, is primarily
319 liable to the mobile home park owner or operator for rent and service charges if a mobile home is
320 not removed within ten days after receipt of written notice that a mobile home has been abandoned,
321 as defined in Section 57-16-13, or that a writ of restitution has been issued. The lienholder[-] or
322 owner of a mobile home, however, is only liable for rent that accrues [~~after receipt of such~~] from
323 the day the individual receives notice. Rent shall be paid on a monthly basis on the fifth day of
324 each month. The lienholder or owner of a mobile home is not responsible for any rent if the
325 mobile home is removed within ten days after receipt of the notice.

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

335 (3) The notice required under Subsection (1) shall inform the lienholder or owner of a
336 mobile home that the mobile home park may require the lienholder or owner of a mobile home to
337 remove the mobile home from the park if the lienholder or owner of a mobile home has not

338 commenced paying rent and service charges to the park within 30 days after receipt of the notice.

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

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

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

353 Section 8. Section **57-16-12** is amended to read:

354 **57-16-12. Waiver of rights and duties limited.**

355 No park or resident may agree to waive any right, duty, or privilege conferred by this
356 chapter, unless the waiver relates to a written agreement separate and distinct from the parties'
357 lease agreement or the rules of the park, that was negotiated between the parties in response to a
358 problem that arose more than 30 days after the commencement of the resident's tenancy in the
359 park.

360 Section 9. Section **57-16-13** is enacted to read:

361 **57-16-13. Abandonment.**

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

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

365 (a) not notified the park that the resident or occupant will be absent from the mobile home
366 space or mobile home, and the resident or occupant fails to pay rent within 45 days after the due
367 date; and

368 (b) there is no reasonable evidence, other than the presence of the resident's or occupant's

369 personal property, that the resident or occupant is continuing to occupy the mobile home space and
370 the mobile home.

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

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

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

378 Section 10. Section **57-16-14** is enacted to read:

379 **57-16-14. Abandoned premises -- Retaking by owner -- Liability of resident or**
380 **occupant -- Personal property of resident or occupant left on mobile home space.**

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

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

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

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

389 (ii) storing the mobile home; and

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

392 (2) (a) If the resident or occupant has abandoned the mobile home space, the mobile home,
393 or both, and has left personal property, including the mobile home, on the mobile home space, the
394 park is entitled to remove the property from the mobile home space, store it for the resident or
395 occupant, and recover actual moving and storage costs from the resident, the occupant, or both.

396 With respect to the mobile home, however, the park may elect to contact the lienholder under
397 Section 57-16-9, or to store the mobile home on the mobile home space, while attempting to notify
398 the resident or occupant under Subsection (2)(b)(i).

399 (b) (i) The park shall make reasonable efforts to notify the resident or occupant of the

400 location of the personal property, and that the personal property will be sold at the expiration of
401 30 days if not redeemed and removed by the resident or occupant. Reasonable efforts require that
402 the park send written notice by regular mail to the resident or occupant at the last-known address
403 within the park if the park is unaware of any subsequent address. To redeem the personal property,
404 the resident or occupant is required to pay the reasonable storage and moving charges.

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

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

410 (B) donate the personal property to charity or dispose of the property, if either is a
411 commercially reasonable alternative.

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

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

417 Section 11. Section **57-16-15.1** is amended to read:

418 **57-16-15.1. Eviction proceeding.**

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

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

427 (i) include an order of restitution of the premises; and

428 (ii) declare the forfeiture of the lease or agreement.

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

431 (i) waste of the premises during the resident's tenancy, if waste is alleged in the complaint
432 and proved; and

433 (ii) the amount of rent due.

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

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

439 (e) Except as provided in Subsection (1)(f), after judgment has been entered under this
440 section, judgment and restitution may be enforced no sooner than ~~[+5]~~ three days from the date
441 the judgment is entered. The person who commences the action shall mail a copy of the judgment
442 to the [lease premises by registered mail within five days of the date the judgment is entered]
443 resident or the resident's agent or attorney as required by the Utah Rules of Civil Procedure.

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

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

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

456 Section 12. Section **57-16-16** is enacted to read:

457 **57-16-16. Mobile home park residents' associations.**

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

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

462 (3) Except in emergency situations, there shall be at least seven days' notice of an
463 association meeting to all residents of the park. All residents of the park, even if not members of
464 the association, may attend association meetings. The park operator and nonresident employees
465 are not to be members of the association, and may not attend meetings unless invited by the
466 association.

467 (4) A resident association may not impose fees, dues, or assessments upon its members
468 unless two-thirds of the members agree to the assessment of fees, dues, or assessments.

469 (5) It is unlawful for a park owner or operator to increase rent or decrease services to a
470 particular resident, or to bring or threaten to bring an action for eviction or other civil action, or
471 take any other action in retaliation because the particular resident has organized or is a member of
472 a residents' association.

473 (6) A park operator may not harass any resident association, or engage in any unfair or
474 deceptive conduct to inhibit or interfere with the creation or operation of a resident association.

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

478 (8) Resident associations may use common facilities of the park, if any, free of charge.
479 However, any resident who causes damages to the common facilities is liable to the park operator
480 for the damages.

481 Section 13. Section **63-2-202** is amended to read:

482 **63-2-202. Access to private, controlled, and protected documents.**

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

484 (a) the subject of the record;

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

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

488 (d) any other individual who:

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

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

492 (iii) if the record is a medical record described in Subsection 63-2-302(1)(b), is a health

493 care provider, as defined in [~~Subsection~~] Section 26-33a-102[~~(7)~~], if releasing the record or
494 information in the record is consistent with normal professional practice and medical ethics; or

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

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

498 (i) a physician, psychologist, certified social worker, insurance provider or agent, or a
499 government public health agency upon submission of a release from the subject of the record that
500 is dated no more than 90 days prior to the date the request is made and a signed acknowledgment
501 of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

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

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

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

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

511 (a) the person who submitted the record;

512 (b) any other individual who:

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

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

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

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

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

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

526 (7) A governmental entity shall disclose a record pursuant to the terms of a court order
527 signed by a judge from a court of competent jurisdiction, provided that:

528 (a) the record deals with a matter in controversy over which the court has jurisdiction;

529 (b) the court has considered the merits of the request for access to the record; and

530 (c) the court has considered and, where appropriate, limited the requester's use and further
531 disclosure of the record in order to protect privacy interests in the case of private or controlled
532 records, business confidentiality interests in the case of records protected under Subsections
533 63-2-304(1) and (2), and privacy interests or the public interest in the case of other protected
534 records;

535 (d) to the extent the record is properly classified private, controlled, or protected, the
536 interests favoring access, considering limitations thereon, outweigh the interests favoring
537 restriction of access; and

538 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection
539 63-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

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

542 (i) determines that the research purpose cannot reasonably be accomplished without use
543 or disclosure of the information to the researcher in individually identifiable form;

544 (ii) determines that the proposed research is bona fide, and that the value of the research
545 outweighs the infringement upon personal privacy;

546 (iii) requires the researcher to assure the integrity, confidentiality, and security of the
547 records and requires the removal or destruction of the individual identifiers associated with the
548 records as soon as the purpose of the research project has been accomplished;

549 (iv) prohibits the researcher from disclosing the record in individually identifiable form,
550 except as provided in Subsection (8)(b), or from using the record for purposes other than the
551 research approved by the governmental entity; and

552 (v) secures from the researcher a written statement of his understanding of and agreement
553 to the conditions of this subsection and his understanding that violation of the terms of this
554 subsection may subject him to criminal prosecution under Section 63-2-801.

555 (b) A researcher may disclose a record in individually identifiable form if the record is
556 disclosed for the purpose of auditing or evaluating the research program and no subsequent use or
557 disclosure of the record in individually identifiable form will be made by the auditor or evaluator
558 except as provided by this section.

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

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

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

567 (c) Under Subsection 63-2-404(8) the court may require the disclosure of records that are
568 private under Section 63-2-302, controlled under Section 63-2-303, or protected under Section
569 63-2-304 to persons other than those specified in this section.

570 Section 14. **Repealer.**

571 This act repeals:

572 Section **57-16-8, Payment of rent and fees during pendency of eviction proceeding.**

573 Section 15. **Effective date.**

574 This act takes effect on April 30, 2001, except that Section 57-16-9 takes effect on July 1,
575 2001.

Legislative Review Note
as of 1-23-01 3:52 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel