

1 **REPEAL OF MOBILE HOME PARK**
2 **RESIDENCY ACT**

3 2003 GENERAL SESSION
4 STATE OF UTAH

5 **Sponsor: Ed P. Mayne**

6 **This act repeals the Mobile Home Park Residency Act and modifies other code provisions**
7 **to remove references to the Mobile Home Park Residency Act.**

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

9 AMENDS:

10 **41-1a-116**, as last amended by Chapter 256, Laws of Utah 2001

11 **63-2-202**, as last amended by Chapter 256, Laws of Utah 2001

12 REPEALS:

13 **57-16-1**, as enacted by Chapter 178, Laws of Utah 1981

14 **57-16-2**, as enacted by Chapter 178, Laws of Utah 1981

15 **57-16-3**, as last amended by Chapter 255, Laws of Utah 2002

16 **57-16-4**, as last amended by Chapter 255, Laws of Utah 2002

17 **57-16-4.1**, as enacted by Chapter 255, Laws of Utah 2002

18 **57-16-5**, as last amended by Chapter 255, Laws of Utah 2002

19 **57-16-6**, as last amended by Chapter 256, Laws of Utah 2001

20 **57-16-7**, as last amended by Chapter 255, Laws of Utah 2002

21 **57-16-7.5**, as enacted by Chapter 114, Laws of Utah 1997

22 **57-16-8**, as enacted by Chapter 178, Laws of Utah 1981

23 **57-16-9**, as last amended by Chapter 256, Laws of Utah 2001

24 **57-16-10**, as enacted by Chapter 178, Laws of Utah 1981

25 **57-16-11**, as enacted by Chapter 178, Laws of Utah 1981

26 **57-16-12**, as enacted by Chapter 178, Laws of Utah 1981

27 **57-16-13**, as last amended by Chapter 91, Laws of Utah 2002



28 57-16-14, as enacted by Chapter 256, Laws of Utah 2001

29 57-16-15.1, as last amended by Chapter 256, Laws of Utah 2001

30 57-16-16, as enacted by Chapter 256, Laws of Utah 2001

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

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

33 **41-1a-116. Records -- Telephone requests for records.**

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

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

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

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

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

44 (4) In addition to those persons granted access to protected records under Section
45 63-2-202, the division may disclose a protected record to a licensed private investigator with a
46 legitimate business need, a person with a bona fide security interest, ~~[the owner of a mobile~~
47 ~~home park subject to Subsection (5),]~~ or for purposes of safety, product recall, advisory notices,
48 or statistical reports only upon receipt of a signed acknowledgment that the person receiving
49 that protected record may not:

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

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

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

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

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

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

63 ~~[(7)]~~ (5) The division may provide protected information to a statistic gathering entity
64 under Subsection (4) only in summary form.

65 ~~[(7)]~~ (6) A person allowed access to protected records under Subsection (4) may
66 request motor vehicle title or registration information from the division regarding any person,
67 entity, or motor vehicle by submitting a written application on a form provided by the division.

68 ~~[(8)]~~ (7) If a person regularly requests information for business purposes, the division
69 may by rule allow the information requests to be made by telephone and fees as required under
70 Subsection ~~[(9)]~~ (8) charged to a division billing account to facilitate division service. The
71 rules shall require that the:

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

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

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

79 ~~[(9)]~~ (8) (a) The division shall charge a reasonable search fee determined under Section
80 63-38-3.2 for the research of each record requested.

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

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

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

85 **63-2-202. Access to private, controlled, and protected documents.**

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

87 (a) the subject of the record;

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

- 90 (c) the legal guardian of a legally incapacitated individual who is the subject of the
91 record;
- 92 (d) any other individual who:
- 93 (i) has a power of attorney from the subject of the record;
- 94 (ii) submits a notarized release from the subject of the record or his legal representative
95 dated no more than 90 days before the date the request is made; or
- 96 (iii) if the record is a medical record described in Subsection 63-2-302(1)(b), is a health
97 care provider, as defined in Section 26-33a-102, if releasing the record or information in the
98 record is consistent with normal professional practice and medical ethics; or
- 99 (e) any person to whom the record must be provided pursuant to court order as
100 provided in Subsection (7) or a legislative subpoena as provided in Title 36, Chapter 14.
- 101 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:
- 102 (i) a physician, psychologist, certified social worker, insurance provider or agent, or a
103 government public health agency upon submission of a release from the subject of the record
104 that is dated no more than 90 days prior to the date the request is made and a signed
105 acknowledgment of the terms of disclosure of controlled information as provided by
106 Subsection (2)(b); and
- 107 (ii) any person to whom the record must be disclosed pursuant to court order as
108 provided in Subsection (7) or a legislative subpoena as provided in Title 36, Chapter 14.
- 109 (b) A person who receives a record from a governmental entity in accordance with
110 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,
111 including the subject of the record.
- 112 (3) If there is more than one subject of a private or controlled record, the portion of the
113 record that pertains to another subject shall be segregated from the portion that the requester is
114 entitled to inspect.
- 115 (4) Upon request, a governmental entity shall disclose a protected record to:
- 116 (a) the person who submitted the record;
- 117 (b) any other individual who:
- 118 (i) has a power of attorney from all persons, governmental entities, or political
119 subdivisions whose interests were sought to be protected by the protected classification; or
- 120 (ii) submits a notarized release from all persons, governmental entities, or political

121 subdivisions whose interests were sought to be protected by the protected classification or from
122 their legal representatives dated no more than 90 days prior to the date the request is made; or

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

125 [~~(d) the owner of a mobile home park, subject to the conditions of Subsection~~
126 ~~41-1a-116(5).~~]

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

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

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

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

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

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

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

144 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection
145 63-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

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

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

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

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

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

158 (v) secures from the researcher a written statement of his understanding of and
159 agreement to the conditions of this Subsection (8) and his understanding that violation of the
160 terms of this Subsection (8) may subject him to criminal prosecution under Section 63-2-801.

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

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

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

170 (b) Under Subsection 63-2-403(11)(b), the Records Committee may require the
171 disclosure of records that are private under Section 63-2-302, controlled under Section
172 63-2-303, or protected under Section 63-2-304 to persons other than those specified in this
173 section.

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

177 **Section 3. Repealer.**

178 This act repeals:

179 **Section 57-16-1, Short title.**

180 **Section 57-16-2, Purpose of chapter.**

181 **Section 57-16-3, Definitions.**

182 **Section 57-16-4, Termination of lease or rental agreement -- Required contents of**

183 lease --Increases in rents or fees -- Sale of homes -- Notice regarding planned reduction or
184 restriction of amenities.

185 Section 57-16-4.1, Meeting to attempt resolution of disputes.

186 Section 57-16-5, Cause required for terminating lease -- Causes -- Cure periods --
187 Notice.

188 Section 57-16-6, Action for lease termination -- Prerequisite procedure.

189 Section 57-16-7, Rules of parks.

190 Section 57-16-7.5, Payment of rent required after notice -- Summary judgment.

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

192 Section 57-16-9, Lienholder's liability for rent and fees.

193 Section 57-16-10, Utility service to mobile home parks -- Limitation on providers'
194 charges.

195 Section 57-16-11, Rights and remedies not exclusive.

196 Section 57-16-12, Waiver of rights and duties prohibited.

197 Section 57-16-13, Abandonment.

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

201 Section 57-16-15.1, Eviction proceeding.

202 Section 57-16-16, Mobile home park residents' associations.

Legislative Review Note
as of 1-13-03 10:06 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0054

Repeal of Mobile Home Park Residency Act

27-Jan-03

10:40 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst