

HB0063S01 compared with HB0063

~~{deleted text}~~ shows text that was in HB0063 but was deleted in HB0063S01.

inserted text shows text that was not in HB0063 but was inserted into HB0063S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Janice M. Fisher proposes the following substitute bill:

MOBILE HOME PARK RESIDENCY ACT AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Janice M. Fisher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies and enacts provisions of the Mobile Home Park Residency Act.

Highlighted Provisions:

This bill:

- ▶ modifies a provision relating to a mobile home park owner's change of a due date for rent, fees, and service charges;
- ▶ increases the allowable size of a "for sale" sign;
- ▶ provides that a reduction or restriction of amenities is not valid unless the mobile home park owner complies with statutory notice and meeting requirements;
- ▶ limits a mobile home park owner's rent increase or decrease to ~~once~~twice a year;
- ▶ modifies the procedure for increasing rent on mobile home park residents;
- ▶ prohibits a mobile home park owner and resident from using force, coercion, or

HB0063S01 compared with HB0063

deception to procure the other's signature on a lease agreement; and

- ▶ establishes a process for ~~{a resident group to challenge a proposed rent or service charge increase, a proposed rule change, or a proposed assessment for capital improvements and a mediation process to resolve a dispute between a resident group}~~ residents and a mobile home park owner ~~{; and~~

→ ~~authorizes a mobile home park owner to impose an assessment for capital improvements}~~ to petition each other for a meeting to resolve disputes of general concern.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

ENACTS:

~~{57-16-16}~~ 57-16-4, ~~{H}~~ 3, Utah Code Annotated 1953

~~{ 57-16-16.2, Utah Code Annotated 1953~~

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

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

57-16-3. Definitions.

As used in this chapter:

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

- (a) a club house;
- (b) a park;
- (c) a playground;
- (d) a swimming pool;
- (e) a hot tub;

HB0063S01 compared with HB0063

(f) a tennis court; or

(g) a basketball court.

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

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

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

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

(6) "Mobile home park owner":

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

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

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

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

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

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

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

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

(b) the resident and management of the mobile home park have met together under

HB0063S01 compared with HB0063

Subsection 57-16-4.1(3) but were unsuccessful in resolving the dispute in their meeting.

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 -- Notice regarding planned reduction or restriction of amenities.

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

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

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

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

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

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

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

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

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

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

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

HB0063S01 compared with HB0063

(ii) the resident's rights to:

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

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

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

(b) A proposed increase under Subsection (4)(a) may not take effect until ~~90~~60 days after the mobile home park owner mails or delivers notice of the proposed increase to each resident.

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

(i) current rent;

(ii) proposed rent; and

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

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

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

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

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

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

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

~~(5)~~ (6) (a) Except as provided in Subsection (3)(b), a rule or condition of a lease that purports to prevent or unreasonably limit the sale of a mobile home belonging to a resident is

HB0063S01 compared with HB0063

void and unenforceable.

(b) The mobile home park owner:

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

(ii) may not unreasonably withhold that approval;

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

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

~~[(6)]~~ (7) If ~~[all of the conditions]~~ each condition of Section 41-1a-116 ~~[are]~~ is met, a mobile home park owner may request the names and addresses of the lienholder or owner of any mobile home located in the mobile home park from the Motor Vehicle Division.

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

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

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

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

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

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

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

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

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

(b) A reduction or restriction of amenities does not take effect until the mobile home

HB0063S01 compared with HB0063

park owner schedules and holds at least one meeting as required in Subsection (11)(a)(i) and provides notice of the meeting as required in Subsection (11)(a)(ii).

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

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

Section 3. Section ~~{57-16-16}~~57-16-4.~~{1}~~3 is enacted to read:

~~{57-16-16}~~57-16-4.~~{1}~~3.~~{ Resident group's challenge of rent increase, fee increase, or rule change -- Mediation}~~ Meeting of owner and resident committee to resolve dispute of general concern.

(1) As used in this section:

(a) "~~{Proposed action}~~Designee" means a person designated by a mobile home park ~~{owner's:~~

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

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

~~—— (iii) proposed change in a}~~owner and who has been given full authority to act on behalf of the mobile home park ~~{rule under Section 57-16-7; or~~

~~—— (iv) proposed assessment under Section 57-16-16.2 for a capital improvement}~~owner to resolve a dispute.

(b) "Resident committee" means a group~~{":~~

~~—— (i) has the same meaning as}~~ of residents who have been appointed by a resident association, as defined in Section 57-16-16, ~~{except as provided in Subsection (1)(b)(ii); or~~

~~—— (ii) (A) has the same meaning as primary resident association, as defined in Section 57-16-16, if the}~~ and who have been given full authority to act on behalf of residents to resolve a dispute.

(2) (a) A majority of residents may petition a mobile home park ~~{has more than one resident association; or~~

~~—— (B) means a committee elected by a majority of park residents, if the mobile home park~~

HB0063S01 compared with HB0063

~~has no resident association:~~

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

~~—— (a) a majority of the residents} owner for a meeting to resolve a dispute residents have with an aspect of the operation of the mobile home park ~~have signed a petition stating that the proposed action is unreasonable; and~~~~

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

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

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

~~—— (4) A mediator appointed under this section:~~

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

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

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

~~—— (5) The mobile home park owner:~~

~~—— (a) at least five days before the initial mediation session, shall provide to the mediator and the resident group information to support the proposed action; and~~

~~—— (b) has the burden of providing information to show that the proposed action is reasonable.~~

~~—— (6) (a) Upon completion of the mediation, the mediator shall issue a signed report to the resident group and mobile home park owner.~~

~~—— (b) If an agreement is reached in mediation:~~

~~—— (i) the mediator's report shall include the terms of the agreement, including, if applicable, the amount of a rent or service charge increase and its effective date; and~~

~~—— (ii) the mobile home park owner is not required to provide any additional notice in order for the proposed action to take effect pursuant to the mediation agreement.~~

~~—— (7) The resident group and mobile home park owner shall each pay half of the cost of~~

HB0063S01 compared with HB0063

mediation:

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

~~57-16-16.2. Infrastructure assessments for capital improvements -- Resident association challenge of assessment.~~

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

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

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

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

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

~~(b) includes roads and amenities located within the mobile home park:~~

~~(2) of which they are residents, including rent, a fee, and a rule.~~

~~(b) A mobile home park owner may impose an assessment for a capital improvement if:~~

~~(a) the assessment is imposed in equal amounts to each resident over half of the estimated useful life of the capital improvement, unless petition residents for a meeting to resolve a dispute the mobile home park owner and the resident association agree otherwise; and~~

~~(b) has with the behavior of residents generally.~~

~~(3) A petition under Subsection (2) shall:~~

~~(a) contain an explanation of the dispute and any proposed remedy; and~~

~~(b) be mailed or delivered to:~~

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

~~(i) a description of the capital improvement;~~

~~(ii) an estimated cost of the capital improvement;~~

~~(iii) the amount to be assessed each month; and~~

~~(iv) the number of months the assessment will be imposed.~~

HB0063S01 compared with HB0063

Legislative Review Note

~~as of 11-10-11 10:27 AM~~

~~Office of Legislative Research and General Counsel~~; if the petition is on behalf of residents; or

(ii) the president of the resident association, if the petition is on behalf of the mobile home park owner.

(4) (a) Within 10 days after a petition is received, the mobile home park owner or designee shall meet with a resident committee to discuss and attempt to resolve the dispute.

(b) A mobile home park owner or designee and resident committee may hold subsequent meetings, as needed, until the dispute is resolved.