

HB0236S03 compared with HB0236S02

~~{deleted text}~~ shows text that was in HB0236S02 but was deleted in HB0236S03.

Inserted text shows text that was not in HB0236S02 but was inserted into HB0236S03.

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~~{Representative Bruce R. Cutler}~~Senator Karen Mayne proposes the following substitute bill:

MOBILE HOME PARK RESIDENTS' RIGHTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bruce R. Cutler

Senate Sponsor: ~~{Daniel W. Thatcher}~~Karen Mayne

LONG TITLE

General Description:

This bill amends provisions related to mobile homes.

Highlighted Provisions:

This bill:

- ▶ requires a mobile home park resident and a mobile home park to enter into a lease in writing and sign the lease;
- ▶ requires a mobile home park to make a mobile home park resident's lease available on request;
- ▶ provides that, under certain circumstances, a mobile home park may terminate the lease of a mobile home park resident that fails to register with the mobile home park or sign a written lease;

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- ▶ provides that a summons in an action to evict a mobile home park resident shall provide the number of days after the day on which a defendant is served notice of the action before which the defendant is required to appear and defend the action;
- ▶ provides a cause of action for a mobile home park resident against a mobile home park that violates the Mobile Home Park Residency Act; and
- ▶ provides for the award of attorney fees and costs under certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-16-4, as last amended by Laws of Utah 2015, Chapter 233

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

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

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

ENACTS:

57-16-19, Utah Code Annotated 1953

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

Section 1. 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 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.]~~

(2) (a) A mobile home park and a mobile home park resident that enter into an agreement for the lease of a mobile home park space shall:

(i) enter into the lease agreement in writing; and

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(ii) sign the lease agreement.

(b) A mobile home park shall, for each lease entered into by the mobile home park with a mobile home park resident:

(i) maintain a written copy of the lease; and

(ii) make a written copy of the lease available to the mobile home park resident that is a party to the lease:

(A) no more than seven calendar days after the day on which the mobile home park receives a written request from the mobile home park resident; and

(B) except for reasonable copying expenses, at no charge to the mobile home park resident.

(3) 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, 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 to the mobile home park that, if broken, may constitute grounds for eviction, including, in leases entered into on or after May 6, 2002, a conspicuous disclosure regarding:

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

(ii) the resident's rights to:

(A) terminate the lease at any time without cause, upon giving the notice specified in

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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.

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

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

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

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

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

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

(5) (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 void and unenforceable.

(b) The mobile home park:

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

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

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

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home to not more than 144 square inches.

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

(9) A mobile home park may require that a mobile home be removed from the park upon sale if:

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

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

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

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

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

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

(12) The mobile home park shall ensure that the following are posted at all times in a conspicuous place in a common area of the mobile home park:

(a) a copy of this chapter; and

(b) a notice that:

(i) summarizes the rights and responsibilities described in this chapter; and

~~[(ii) includes information on how to use the helpline described in Title 57, Chapter 16a, Mobile Home Park Helpline; and]~~

~~[(iii)]~~ (ii) is in a form approved by the Office of the Attorney General.

Section 2. 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 by a resident of a written notice of noncompliance from the

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mobile home park under Subsection 57-16-4.1(1); or

(ii) relating to any other park rule for a period of seven days after the latter to occur of settlement discussion expiration or receipt by the resident of a written 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 written 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 or any other person who resides with a resident, or who is an invited guest or visitor of a resident, that threatens or substantially endangers the security, safety, well-being, or health of other persons in the park or threatens or damages property in the park including:

(i) use or distribution of illegal drugs;

(ii) distribution of alcohol to minors; or

(iii) commission of a crime against property or a person in the park;

(d) nonpayment of rent, fees, or service charges for a period of five days after the due date;

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

[or]

(f) failure by a ~~{person that owns or resides in a mobile home in the }~~ mobile home park resident to ~~{register with the mobile home park or}~~ enter into a written lease with the mobile home park that is offered by the mobile home park; or

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

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

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

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(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.

(3) Notwithstanding Subsection (1), a mobile home park may evict under Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, an individual who:

(a) has not entered into a written agreement with the mobile home park; and

(b) is residing in the mobile home park in violation of this chapter or a mobile home park rule.

Section 3. 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 person:

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

(b) by sending a copy of the notice through registered or certified mail addressed to the resident or person at the person's place of residence;

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

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residence.

(2) (a) The notice required by Subsection (1) shall set forth:

~~[(a)]~~ (i) 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; and

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

(b) In addition to the requirements described in Subsection (2)(a), the notice shall conform to the following:

(i) 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~~[-]~~;

(ii) If 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~~[-]~~;

(iii) 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 in the park, eviction proceedings may commence immediately~~[-]~~;

(iv) 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~~[-]~~; and

(v) If a lease is terminated because of a planned change in land use or condemnation of the park or a portion of the park, the notice required by Section 57-16-18 serves as notice of the termination of the lease.

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

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

(c) If unlawful detainer is charged, ~~[the court shall endorse on]~~ the summons shall include 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]~~ 21 days from the date of service.

Section 4. Section **57-16-7** is amended to read:

57-16-7. Rules of parks.

(1) (a) (i) ~~[A]~~ Subject to Subsection (1)(a)(ii), a mobile home park may [promulgate] make rules related to the health, safety, and appropriate conduct of residents and to the maintenance and upkeep of ~~[such]~~ the mobile home park. ~~[No change in rule that is unconscionable is valid.]~~

(ii) A mobile home park may not make a rule that is unconscionable.

(b) (i) No new or amended rule shall take effect, nor provide the basis for an eviction notice, until the expiration of at least:

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

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

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

(ii) Each resident, as a condition precedent to a rule under this Subsection (1)(b) becoming effective, shall be provided with a copy of each new or amended rule that does not appear in the resident's lease agreement promptly upon promulgation of the rule.

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

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home park from a licensed contractor.

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

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

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

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

Section 5. Section **57-16-19** is enacted to read:

57-16-19. Violation of chapter by a mobile home park -- Remedies for a resident.

(1) A mobile home park resident may bring a cause of action against a mobile home park for damages or injunctive relief arising from a violation of this chapter.

(2) A court may award reasonable attorney fees and costs to the prevailing party in an action described in Subsection (1).