

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2243**

Introduced by

Senators Dever, Larson, Paulson

Representatives Karls, Kempenich, Louser

1 A BILL for an Act to amend and reenact sections 23-10-06.2, 23-10-12, 27-08.1-01, and
2 47-10-28 of the North Dakota Century Code, relating to the transferability, revocation, and
3 suspension of licenses for a mobile home park, small claims court jurisdiction, and required
4 disclosures to tenants residing in a mobile home park; and to provide a penalty.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 23-10-06.2 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **23-10-06.2. License transferability.**

9 The department shall transfer a license without charge if the proposed new owner applies in
10 writing for a transfer of the license and certifies that the mobile home park, recreational vehicle
11 park, or campground will be operated in accordance with this chapter. A new owner applying for
12 a transfer under this section and a person holding a license issued under section 23-10-03,
13 shall provide the name, address, and telephone number for the mobile home park managers
14 and any individual possessing more than a twenty percent ownership interest in the entity
15 subject to the license to the department once per calendar year. The department may assess a
16 civil penalty not exceeding five thousand dollars for each violation of this section thirty days
17 after issuing a notice of noncompliance. The civil penalty may be assessed without notice and a
18 hearing. The civil penalty must be awarded to the department and deposited into the
19 department's general operating fund for use in regulating compliance with this chapter. A person
20 subject to a civil penalty pursuant to an order issued under this section may request a hearing
21 before the department if a written request is made within ten days after the receipt of the order.
22 Upon receipt of a proper and timely request for a hearing, the department shall conduct an
23 adjudicative proceeding under this section in accordance with chapter 28-32, unless otherwise
24 provided for by law. If the department prevails in an adjudicative proceeding under this section,

1 the department may assess the nonprevailing party for all adjudicative proceeding and hearing
2 costs, including reasonable attorney's fees, investigation fees, and costs and expenses of the
3 action.

4 **SECTION 2. AMENDMENT.** Section 23-10-12 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **23-10-12. Revocation or suspension of license - Penalty for operating without license.**

- 7 1. The department may deny an application or take disciplinary action, up to and
8 including suspension of a license for a mobile home park, recreational vehicle park, or
9 campground, and revocation of a license for a recreational vehicle park or
10 campground, against any applicant or licensee upon the failure of the applicant or
11 licensee to comply with this chapter or with any of the rules adopted by the health
12 council and regulations promulgated by the department.
- 13 2. Before the department takes disciplinary action against a license, the department shall
14 notify the licensee in writing of the reason disciplinary action is being considered and
15 shall provide a reasonable amount of time for correction to be made. Action taken
16 under the authority granted in this section must comply with chapter 28-32. Any person
17 who maintains or operates a mobile home park, recreational vehicle park, or
18 campground without first obtaining a license, or who operates the same ~~after~~
19 ~~revocation~~during suspension of the license, is guilty of an infraction.

20 **SECTION 3. AMENDMENT.** Section 27-08.1-01 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **27-08.1-01. Small claims court - Jurisdictional limits - Venue.**

- 23 1. All judges of the district courts may exercise the jurisdiction conferred by this chapter,
24 and while sitting in the exercise of that jurisdiction must be known and referred to as
25 the "small claims court". The jurisdiction of this court is confined to cases for recovery
26 of money, a tenant's claim for civil damages under subsection 9 of section 47-10-28, or
27 the cancellation of any agreement involving material fraud, deception,
28 misrepresentation, or false promise, when the value of the agreement or the amount
29 claimed by the plaintiff or the defendant does not exceed fifteen thousand dollars.
- 30 2. The proceedings in this court must be commenced:

- 1 a. If the defendant is a corporation, limited liability company, or a partnership, in any
2 county in which the defendant has a place of business or in any county in which
3 the subject matter of the claim occurred.
- 4 b. If the claim is for collection of a check written without sufficient funds or without
5 an account, in the county where the check was passed, or in the county of the
6 defendant's residence or place of business.
- 7 c. If the defendant is an individual and the claim is for collection of an open account
8 on which credit has been extended:
- 9 (1) In the county of the defendant's residence or place of business; or
- 10 (2) If the amount of the claim is less than one thousand dollars and is not from
11 a telephone or mail order transaction, in the county where the transaction
12 occurred or in the county of the defendant's residence or place of business.
- 13 d. If the defendant is an individual and the claim is not made under subdivision b
14 or c, in the county of the defendant's residence.
- 15 e. If the defendant is an individual and the claim arose as the result of the
16 defendant's lease of real property or as the result of a dispute over disposition of
17 earnest money or other money deposit arising from a contract to purchase real
18 property, in the county where the real property is located unless the plaintiff and
19 the defendant consent in writing to a proceeding in a different county.
- 20 f. If the plaintiff is a political subdivision and the claim is for a public utility debt, in
21 the county in which the political subdivision is located.
- 22 g. If the claim is for civil damages under subsection 9 of section 47-10-28, in the
23 county in which the mobile home park is located.
- 24 3. Except for an action under subdivision c, e, ~~or~~ or g of subsection 2, the defendant
25 may elect to remove the action to a small claims court in the defendant's county of
26 residence. A claim may not be filed by an assignee of that claim. A garnishment or
27 attachment may not issue from this court until after judgment is entered.

28 **SECTION 4. AMENDMENT.** Section 47-10-28 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **47-10-28. Mobile home park - Ownership - Transfer of ownership - Tenant rights -**

2 **Penalty.**

- 3 1. A person that owns or purchases an existing mobile home park shall:
- 4 a. Obtain an annual license under section 23-10-03;
- 5 b. Designate an official local office, except if the mobile home park contains fewer
- 6 than twenty-six lots, which must be operational on the fifth business day after the
- 7 change of ownership;
- 8 c. The mobile home park shall:
- 9 (1) Have a designated telephone number manned on weekdays between the
- 10 hours of eight a.m. and five p.m.;
- 11 (2) Have an operational emergency contact number manned at all times;
- 12 (3) Designate at least one individual for the property who has the authority to
- 13 make decisions on behalf of and perform, or direct the performance of,
- 14 duties imposed on the owner; and
- 15 (4) Provide a tenant with the contact information of the individual under
- 16 paragraph 3;
- 17 d. Provide written notice to a tenant of the mobile home park regarding the change
- 18 of ownership within five business days after the change of ownership becomes
- 19 effective. The written notice must include the information required under
- 20 subdivision c; ~~and~~
- 21 e. Acknowledge receipt of tenant inquiries or complaints regarding the park,
- 22 pursuant to section 23-10-10.1, within two business days of receiving the inquiry
- 23 or complaint;
- 24 f. Provide to each tenant, upon a written request by the tenant or the tenant's
- 25 agent, a copy of the existing lease terms along with any modifications or
- 26 amendments, within ten business days of receipt of a written request;
- 27 g. Provide each tenant with the name, address, and telephone number of the legal
- 28 entity that owns the mobile home park; and
- 29 h. Provide the telephone number of any existing property manager or designated
- 30 site agent.

- 1 2. A person that owns or purchases an existing mobile home park may not require a
2 tenant who owns a mobile home located on the property to sell or transfer ownership
3 of the home to the owner of the mobile home park, except as otherwise provided by
4 law.
- 5 3. A person that owns or purchases an existing mobile home park shall provide a tenant
6 advance written notice of any modifications to park rules or regulations at least thirty
7 days before the date the modifications take effect. Except for the rules and regulations
8 under subsections 4 and 5, upon the effective date of modifications to park rules and
9 regulations, an owner shall provide a tenant who owns a dwelling unit that fails to
10 comply with the park rules and regulations written notice of the failure to comply and
11 provide the tenant three months to remedy the failure or vacate the premises before
12 initiating an action for eviction against the tenant. During the three-month period the
13 tenant shall comply with the park rules and regulations that were in effect before the
14 modifications became effective, including the payment of rent and any other financial
15 obligations under the terms of the lease. During the three-month period, if the tenant
16 provides the owner a signed document from a person in the business of relocating
17 mobile homes declaring it is not possible to relocate the tenant's dwelling unit within
18 the three-month period, the three-month period must be extended to a date when the
19 dwelling unit can be relocated or the date that is two months after the end of the
20 three-month period, whichever date occurs first.
- 21 4. A person that owns or purchases an existing mobile home park shall provide a tenant
22 advance written notice of any modifications to park rules and regulations addressing
23 sanitation and safety concerns at least thirty days before the date the modifications
24 take effect.
- 25 5. A person that owns or purchases an existing mobile home park shall provide a tenant
26 advance written notice at least thirty days before implementing a rule or regulation
27 regarding the removal of a tongue hitch, or any other modification to the dwelling unit
28 to comply with state or federal housing or financing requirements.
- 29 6. Mobile home park rules in effect on the date advance written notice regarding
30 modifications is provided to a tenant remain in effect until the date the modified rules
31 or regulations take effect.

- 1 7. A person that purchases an existing mobile home park may not increase the monthly
2 tenant rental obligation for six months if the rental amount was increased within the
3 sixty-day period before the date the new owner acquired ownership of the park. Any
4 month-to-month tenancy agreement must provide a minimum of ninety days' notice to
5 the tenant before any rent increase is effective.
- 6 8. A person that owns or purchases an existing mobile home park may purchase utility
7 services, including water and sewer services on behalf of a tenant, and include the
8 amount in the monthly rental obligation or bill the tenant as a separate charge based
9 on actual usage. An owner may not charge a tenant more than the actual cost per unit
10 amount paid by the landlord to the utility service provider, except for a reasonable
11 administrative fee that may not exceed three dollars. An owner may not charge or
12 back charge for the utility services of a tenant paying for the services as a portion of
13 the tenant's monthly rental obligation, unless the cost of providing the services
14 increases. If the cost of providing utility services increases, an owner of a mobile home
15 park may charge a tenant a reasonable amount to cover the increased cost of
16 providing the service. The owner shall provide the tenant access to the records of
17 meter readings taken at the mobile home lot of the tenant.
- 18 9. A person that violates a provision of this section is subject to a civil penalty not
19 ~~exceeding one~~ less than two thousand five hundred dollars but not exceeding the
20 greater of ten thousand dollars or actual damages, whichever is less, plus
21 ~~reasonable~~ actual attorney's fees and costs.
- 22 10. A mobile home park license, issued under chapter 23-10, may be suspended by the
23 district court of the county where the mobile home park is situated for a violation of this
24 section. The holder of the mobile home park license must be assessed a civil penalty
25 for each day the holder's license remains suspended. The amount of the daily penalty
26 is equal to half of the total rent listed on the rent roll for the mobile home park divided
27 by the number of days in that month. The license holder must prove each violation has
28 been remedied and has satisfied all civil penalties assessed before the license
29 holder's license may be reinstated. The district court has discretion over the terms to
30 be satisfied before a license is reinstated. If a license holder fails to comply with the
31 terms of the district court's order, the district court may revoke the holder's license. All

1 park tenants must be allowed to continue to reside in the mobile home park through
2 the duration of the license suspension, unless the department of health and human
3 services takes further disciplinary action against the license under chapter 23-10.
4 During the period of suspension, the license holder or the license holder's agent may
5 not modify the park rules or regulations, modify any tenant's rental arrangement,
6 increase any tenant's rental rate, or terminate any tenant's lease without cause.
7 11. In a dispute between a landlord and a tenant under this section, the district court of the
8 county in which the dispute arose has original jurisdiction over the dispute relating to
9 the suspension of a license. For the recovery of civil damages under subsection 9, the
10 tenant may elect to commence the action in small claims court or district court. If an
11 action between a landlord and tenant is commenced, the tenant shall continue paying
12 rent and comply with all park rules and regulations in effect at the time the action was
13 commenced. During a pending action under this section, the license holder or the
14 license holder's agent may not modify the park rules or regulations, modify the tenant's
15 rental arrangement, increase a tenant's monthly rental rate, or terminate a tenant's
16 lease without cause.