

MOBILE HOME PARK RESIDENCY AMENDMENTS

2010 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:

- ▶ limits a mobile home park owner's rent increase to once a year;
- ▶ modifies the procedure for increasing rent on mobile home park residents;
- ▶ establishes a process for a resident association to challenge a proposed rent increase and a mediation process to resolve a dispute between a resident association and a mobile home park owner over a rent increase;
- ▶ authorizes a mobile home park owner to impose an assessment for capital improvements; and
- ▶ establishes a process for a resident association to challenge a proposed assessment for capital improvements.

Monies 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



28 **57-16-4**, as last amended by Laws of Utah 2009, Chapter 94

29 ENACTS:

30 **57-16-4.3**, Utah Code Annotated 1953

31 **57-16-4.4**, Utah Code Annotated 1953



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

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

35 **57-16-3. Definitions.**

36 As used in this chapter:

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

39 (a) a club house;

40 (b) a park;

41 (c) a playground;

42 (d) a swimming pool;

43 (e) a hot tub;

44 (f) a tennis court; or

45 (g) a basketball court.

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

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

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

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

57 (6) "Mobile home park owner":

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

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

62 [~~(6)~~] (7) "Mobile home space" means a specific area of land within a mobile home park
 63 designed to accommodate one mobile home.

64 [~~(7)~~] (8) "Rent" means charges paid for the privilege of occupying a mobile home
 65 space, and may include service charges and fees.

66 [~~(8)~~] (9) "Resident" means an individual who leases or rents space in a mobile home
 67 park.

68 (10) "Resident association" means an organization of residents formed to address
 69 common interests and concerns related to the mobile home park.

70 [~~(9)~~] (11) "Service charges" means separate charges paid for the use of electrical and
 71 gas service improvements which exist at a mobile home space, or for trash removal, sewage
 72 and water, or any combination of the above.

73 [~~(10)~~] (12) "Settlement discussion expiration" means:

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

76 (b) the resident and management of the mobile home park have met together under
 77 Subsection 57-16-4.1(3) but were unsuccessful in resolving the dispute in their meeting.

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

79 **57-16-4. Termination of lease or rental agreement -- Required contents of lease --**
 80 **Increases in rents or fees -- Sale of homes -- Notice regarding planned reduction or**
 81 **restriction of amenities.**

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

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

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

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

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

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

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

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

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

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

106 (ii) the resident's rights to:

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

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

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

113 (b) A proposed increase under Subsection (4)(a) may not take effect until 90 days after
114 the mobile home park owner sends notice of the proposed increase by registered or certified
115 mail to each resident.

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

117 (i) current rent;

118 (ii) proposed rent; and

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

120 ~~[(b)]~~ (5) (a) If a service ~~[charges are]~~ charge is not included in the rent, the mobile

121 home park owner may:

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

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

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

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

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

134 [~~(5)~~] (6) (a) Except as provided in Subsection (3)(b), a rule or condition of a lease that
135 purports to prevent or unreasonably limit the sale of a mobile home belonging to a resident is
136 void and unenforceable.

137 (b) The mobile home park owner:

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

140 (ii) may not unreasonably withhold that approval;

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

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

144 [~~(6)~~] (7) If [~~all of the conditions~~] each condition of Section 41-1a-116 [~~are~~] is met, a
145 mobile home park owner may request the names and addresses of the lienholder or owner of
146 any mobile home located in the mobile home park from the Motor Vehicle Division.

147 [~~(7)~~] (8) (a) A mobile home park owner may not restrict a resident's right to advertise
148 for sale or to sell a mobile home.

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

151 [~~(8)~~] (9) A mobile home park owner may not compel a resident who wishes to sell a

152 mobile home to sell it, either directly or indirectly, through an agent designated by the mobile
153 home park owner.

154 ~~[(9)]~~ (10) A mobile home park owner may require that a mobile home be removed
155 from the park upon sale if:

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

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

160 ~~[(10)]~~ (11) Within 30 days after a mobile home park owner proposes reducing or
161 restricting amenities, the mobile home park owner shall:

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

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

166 ~~[(11)]~~ (12) If a mobile home park owner uses a single-service meter, the mobile home
167 park owner shall include a full disclosure on a resident's utility bill of the resident's utility
168 charges.

169 ~~[(12)]~~ (13) The mobile home park owner shall have a copy of this chapter posted at all
170 times in a conspicuous place in the mobile home park.

171 Section 3. Section **57-16-4.3** is enacted to read:

172 **57-16-4.3. Resident association's challenge of rent increase -- Mediation.**

173 (1) A resident association may challenge a proposed rent increase if:

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

177 (b) a majority of the residents have signed a petition stating the rent increase is
178 unreasonable; and

179 (c) the resident association forwards the petition to the Department of Commerce and
180 the mobile home park owner by registered or certified mail within 25 days of receiving a rent
181 increase notice.

182 (2) (a) Upon receipt of the petition, the Department of Commerce shall provide a list of

183 qualified mediators to the resident association and mobile home park owner.

184 (b) If the resident association and mobile home park owner do not agree on a mediator
185 from the list within five business days after receipt of the list, the Department of Commerce
186 shall appoint a mediator.

187 (3) A mediator appointed under this section:

188 (a) may not have any interest in the mobile park at issue;

189 (b) shall provide written disclosure to the resident association and mobile park owner
190 of any perceived conflict of interest; and

191 (c) shall conduct one or more mediation sessions, to be completed at least 10 days
192 before the effective date of the proposed rent increase.

193 (4) The mobile home park owner:

194 (a) at least five days before the initial mediation session, shall provide to the mediator
195 and the resident association information to support the proposed rent increase; and

196 (b) has the burden of providing information to show that the proposed rent increase is
197 reasonable.

198 (5) (a) Upon completion of the mediation, the mediator shall issue a signed report to
199 the:

200 (i) resident association;

201 (ii) mobile home park owner; and

202 (iii) Department of Commerce.

203 (b) If an agreement is reached in mediation:

204 (i) the mediator's report shall include the terms of the agreement, including, if
205 applicable, the amount of a rent increase and its effective date; and

206 (ii) the mobile home park owner is not required to provide any additional notice in
207 order for the rent increase to take effect pursuant to the mediation agreement.

208 (6) The cost of mediation shall be divided equally between the resident association and
209 the mobile home park owner.

210 Section 4. Section **57-16-4.4** is enacted to read:

211 **57-16-4.4. Infrastructure assessments for capital improvements -- Resident**
212 **association challenge of assessment.**

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

214 (a) means an installation or repair of infrastructure in a mobile home park that:
215 (i) is necessary for the delivery of water, sewer, electrical, or other basic service to a
216 resident;

217 (ii) is owned by the mobile home park owner but available for use by a resident; and
218 (iii) costs \$5,000 or more; and

219 (b) includes roads and amenities located within the mobile home park.

220 (2) A mobile home park owner may impose an assessment for a capital improvement
221 if:

222 (a) the assessment is imposed in equal amounts to each resident over half of the
223 estimated useful life of the capital improvement, unless the mobile home park owner and the
224 resident association agree otherwise; and

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

227 (i) a description of the capital improvement;

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

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

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

231 (3) Notwithstanding Subsection (2), a resident association may challenge an
232 assessment imposed by a mobile home park owner under Subsection (2) in the same manner
233 that the resident association may challenge a rent increase under Section 57-16-4.3.

Legislative Review Note
as of 2-25-10 8:11 AM

Office of Legislative Research and General Counsel

H.B. 389 - Mobile Home Park Residency Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Mediation and other legal costs are estimated at \$5,000. Commerce Service Fund expenditures affect the annual transfer to the General Fund.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$5,000)	(\$5,000)
Commerce Service Fund	\$0	\$5,000	\$5,000	\$0	\$0	\$0
Total	\$0	\$5,000	\$5,000	\$0	(\$5,000)	(\$5,000)

Individual, Business and/or Local Impact

Owners of mobile homes could benefit from the provisions of this bill. Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments.
