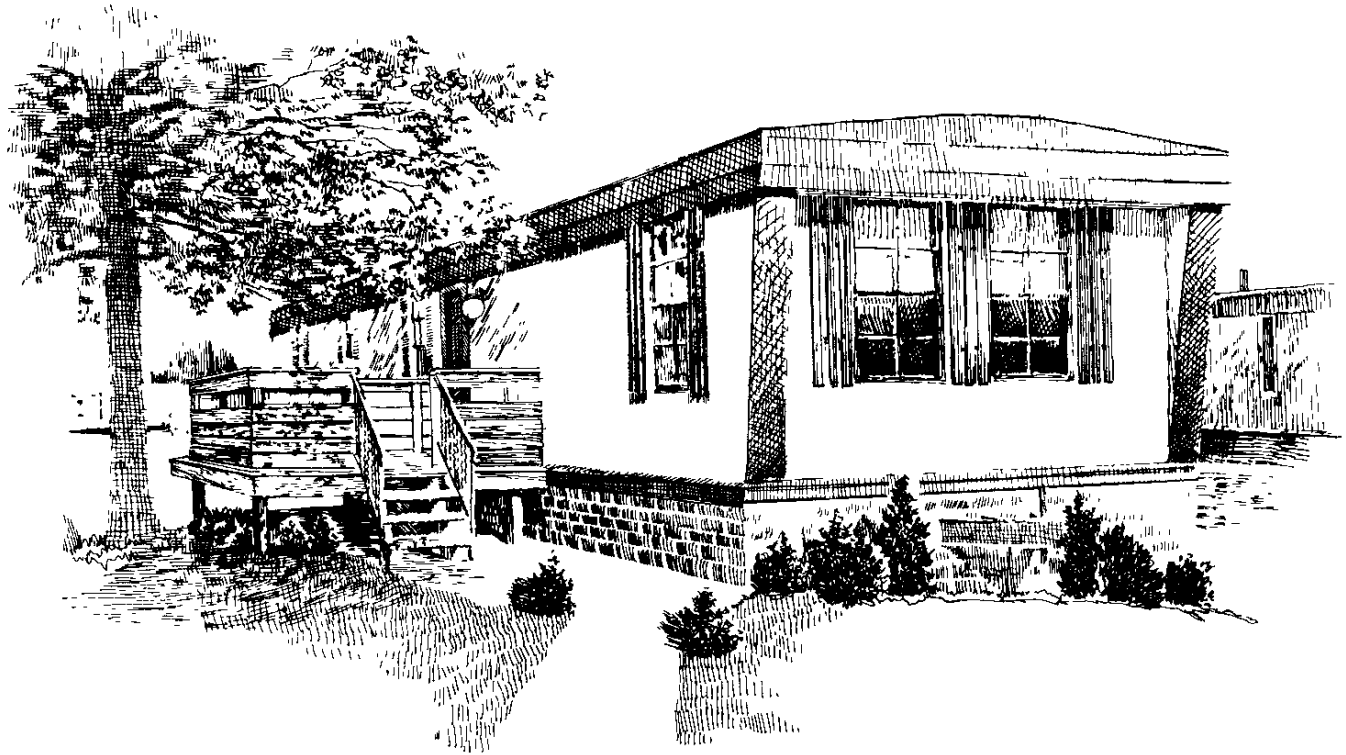


MOBILEHOME RESIDENCY LAW

1989

Civil Code Provisions Governing Mobilehome Park Tenancies in California



Compliments
of
**SENATE SELECT COMMITTEE
ON
MOBILEHOMES**
William A. Craven
Chairman

WILLIAM A. CRAVEN
CHAIRMAN
RALPH C. DILLS
JOHN DOOLITTLE
DAN MCCORQUODALE
HENRY MELLO
ROBERT PRESLEY



California Legislature

Senate Select Committee on Mobilehomes

SENATOR WILLIAM A. CRAVEN
CHAIRMAN

COMMITTEE ADDRESS
1100 J STREET
ROOM 511
SACRAMENTO CA 95814
(916) 324 4282
COMMITTEE CONSULTANT
JOHN G. TENNYSON
COMMITTEE CONSULTANT
MARSHA CONKEY

THE CALIFORNIA MOBILEHOME RESIDENCY LAW

BACKGROUND

The Mobilehome Residency Law (MRL) was enacted in 1978 by Senate Bill 2119 (Mills), which brought under one fold a variety of existing statutes relating to mobilehome park tenancies which had been scattered throughout the California Civil Code. Since 1978, many provisions of the MRL have been added or amended.

The Mobilehome Residency Law is basically a set of rules by which park owners and park residents should operate. Violations of those rules, like most other Civil Code provisions, are self-enforcing - that is, it is up to the parties in question to enforce the Mobilehome Residency Law against one another in court. The Department of Housing and Community Development does not have the authority to enforce the Mobilehome Residency Law. For example, it is up to the park owner, not the state, to evict a tenant because of non-payment of rent. By the same token, a park resident, not the state, must take the owner to court to enforce a notice or other requirement of the Mobilehome Residency Law, or obtain an injunction, if the park owner will not otherwise abide by its provisions.

The Mobilehome Residency Law is divided into nine areas or articles, as indicated in the accompanying table of sections.

This is an updated January, 1989 copy of the specific provisions of the Mobilehome Residency Law (California Civil Code). Underlined portions of the main text indicate changes made by the Legislature and signed into law in 1988.

MOBILEHOME RESIDENCY LAW

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CIVIL CODE

Division 2

Part 2

Chapter 2.5

MOBILEHOME RESIDENCY LAW

Article 1

GENERAL

Sec. 798 Title and Application

This chapter shall be known and may be cited as the "Mobile-home Residency Law." It shall apply only to a mobilehome that requires a permit to be moved on a street or highway.

Sec. 798.1 Application of Definitions

Unless the provisions or context otherwise requires, the following definitions shall govern the construction of this chapter.

Sec. 798.2 Definition of Management

"Management" means the owner of a mobilehome park or an agent or representative authorized to act on his behalf in connection with matters relating to a tenancy in the park.

Sec. 798.3 Definition of Mobilehome

"Mobilehome" is a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the Vehicle Code. Mobilehome includes a manufactured home, as defined in Section 18007 of the Health and Safety Code, and a mobilehome, as defined in Section 18008 of the Health and Safety Code, but does not include a recreational vehicle, as defined in Section 799.24 of this code and Section 18010 of the Health and Safety Code or a commercial coach as defined in Section 18001.8 of the Health and Safety Code.

Sec. 798.4 Definition of Mobilehome Park

"Mobilehome park" is an area of land where two or more mobilehome sites are rented, or held out for rent, to accommodate mobilehomes used for human habitation.

Sec. 798.6 Definition of Park

"Park" is a mobilehome park.

Sec. 798.8 Definition of Rental Agreement

"Rental agreement" is an agreement between the management and the homeowner establishing the terms and conditions of a park tenancy. A lease is a rental agreement.

Sec. 798.9 Definition of Homeowner

"Homeowner" is a person who has a tenancy in a mobilehome park under a rental agreement.

Sec. 798.10 Definition of Change of Use

"Change of use" means a use of the park for a purpose other than the rental, or the holding out for rent, of two or more mobilehome sites to accommodate mobilehomes used for human habitation, and does not mean the adoption, amendment, or repeal of a park rule or regulation. A change of use may affect an entire park or any portion thereof. "Change of use" includes, but is not limited to, a change of the park or any portion thereof to a condominium, stock cooperative, planned unit development, or any form of ownership where spaces within the park are to be sold.

Sec. 798.11 Definition of Resident

"Resident" is a homeowner or other person who lawfully occupies a mobilehome.

Sec. 798.12 Definition of Tenancy

"Tenancy" is the right of a homeowner to the use of a site within a mobilehome park on which to locate, maintain, and occupy a mobilehome, site improvements, and accessory structures for human habitation, including the use of the services and facilities of the park.

Sec. 798.14 Delivery of Notice

Unless otherwise provided, all notices required by this chapter shall be either delivered personally to the homeowner or deposited in the United States Mail, postage pre-paid, addressed to the homeowner at his or her site within the mobilehome park.
(AB 3720 Hauser, 1988)

Article 2
RENTAL AGREEMENT

Sec. 798.15 In Writing and Required Contents

The rental agreement shall be in writing and shall contain, in addition to the provisions otherwise required by law to be included, all of the following:

- (a) The term of the tenancy and the rent therefor.
- (b) The rules and regulations of the park.
- (c) A copy of the text of this chapter shall be attached as an exhibit and shall be incorporated into the rental agreement by reference. Management shall provide all homeowners with a copy of this chapter prior to February 1 of each year, if a significant change was made in the chapter by legislation enacted in the prior year.
- (d) A provision specifying that it is the responsibility of the management to provide and maintain physical improvements in the common facilities in good working order and condition.
- (e) A description of the physical improvements to be provided the homeowner during his or her tenancy.
- (f) A provision listing those services which will be provided at the time the rental agreement is executed and will continue to be offered for the term of tenancy and the fees, if any, to be charged for those services.
- (g) A provision stating that management may charge a reasonable fee for services relating to the maintenance of the land and premises upon which a mobile-home is situated in the event the homeowner fails to maintain such land or premises in accordance with the rules and regulations of the park after written notification to the homeowner and the failure of the homeowner to comply within 14 days. The written notice shall state the specific condition to be corrected and an estimate of the charges to be imposed by management if the services are performed by management or its agent.
- (h) All other provisions governing the tenancy.

Sec. 798.16 Inclusion of Other Provisions

The rental agreement may include such other provisions permitted by law, but need not include specific language contained in state or local laws not a part of this chapter.

Sec. 798.17 Rental Agreements Exempt from Rent Control

- (a) Rental agreements meeting the criteria of subdivision (b) shall be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent. The terms of such a rental agreement shall prevail over conflicting provisions of such an ordinance, rule, regulation, or initiative measure limiting or restricting rents in mobilehome parks only during the term of the rental agreement or one or more uninterrupted, continuous extensions thereof. If the rental agreement is not extended and no new rental agreement in excess of 12 months' duration is entered into, then the last rental rate charged for the space under the previous rental agreement shall be the base rent for purposes of applicable provisions of law concerning rent regulation, if any.

The first paragraph of a rental agreement entered into pursuant to this section shall contain a provision notifying the homeowner that the agreement will be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent.

- (b) Rental agreements subject to this section shall meet all of the following criteria:
- (1) The rental agreement shall be in excess of 12 months' duration.
 - (2) The rental agreement shall be entered into between the management and a homeowner for the personal and actual residence of the homeowner.
 - (3) The homeowner shall have at least 30 days from the date the rental agreement is first offered to the homeowner to accept or reject the agreement.
 - (4) The homeowner who executes a rental agreement offered pursuant to this section may void

such agreement by notifying management in writing within 72 hours of the homeowner's execution of the rental agreement.

- (c) The homeowner shall have the option to reject the offered rental agreement and instead accept a rental agreement for a term of 12 months or less from the date the offered agreement begins. In the event the homeowner elects to have a rental agreement for a term of 12 months or less, including a month-to-month agreement, the agreement shall contain the same "rental charges" terms and conditions as the offered rental agreement during the first 12 months, except for options contained in the offered rental agreement to extend or renew the agreement.
- (d) Nothing in subdivision (c) shall be construed to prohibit management from offering gifts of value, other than rental rate reductions, to homeowners who execute a rental agreement pursuant to this section.

This section does not apply to or supersede other provisions of this part or other state law.

Sec. 798.18 Optional Length of Agreement; Comparable Monthly Terms

- (a) A homeowner shall be offered a rental agreement for
 - (1) a term of 12 months, or
 - (2) a lesser period as the homeowner may request, or
 - (3) a longer period as mutually agreed upon by both the homeowner and management.
- (b) No such agreement shall contain any terms or conditions with respect to charges for rent, utilities, or incidental reasonable service charges that would be different during the first 12 months of the agreement from the corresponding terms or conditions that would be offered to the homeowners on a month-to-month basis.

Sec. 798.19 No Waiver of Chapter 2.5 Rights

No rental agreement for a mobilehome shall contain a provision by which the homeowner waives his or her rights under the provisions of Articles 1 to 8 inclusive, of this chapter. Any such waiver shall be deemed contrary to public policy and void.

Sec. 798.20 No Private Club Discrimination

Membership in any private club or organization which is a condition for tenancy in a park shall not be denied on the basis of race, color, religion, sex, national origin, ancestry, or marital status.

Sec. 798.22 Recreational Vehicles in Parks

- (a) In any new mobilehome park that is developed after January 1, 1982, mobilehome spaces shall not be rented for the accommodation of recreational vehicles as defined by Section 799.24 unless the mobilehome park has a specifically designated area within the park for recreational vehicles, which is separate and apart from the area designated for mobilehomes. Recreational vehicles may be located only in the specifically designated area.
- (b) Any new mobilehome park that is developed after January 1, 1982, is not subject to the provisions of this section until 75 percent of the spaces have been rented for the first time.

Article 3

RULES AND REGULATIONS

Sec. 798.24 Common Area Facility Hours

Each common area facility shall be open or available to residents at all reasonable hours and the hours of the common area facility shall be posted at the facility.

Sec. 798.25 Amendments to Rules and Regulations - Notice

A rule or regulation of the park may be amended at any time with the consent of a homeowner, or without his or her consent upon written notice to him or her of not less than six months, except for regulations applicable to recreational facilities which may be amended without his or her consent upon written notice to him or her of not less than 60 days. Written notice to a new homeowner, whose tenancy commences within the required period of notice, of a proposed amendment shall constitute compliance with this section where the written notice is given to him or her before the inception of his or her tenancy.

Sec. 798.26 Management Entry into Mobilehomes

- (a) Except as provided in subdivision (b), and notwithstanding any other provision of law to the contrary,

the ownership or management of a park, subdivision, cooperative, or condominium for mobilehomes shall have no right of entry to a mobilehome without the prior written consent of the resident. Such consent may be revoked in writing by the resident at any time. The ownership or management shall have a right of entry upon the land upon which a mobilehome is situated for maintenance of utilities, for maintenance of the premises in accordance with the rules and regulations of the park when the homeowner or resident fails to so maintain the premises, and protection of the mobilehome park, subdivision, cooperative, or condominium at any reasonable time, but not in a manner or at a time which would interfere with the resident's quiet enjoyment.

- (b) The ownership or management of a park, subdivision, cooperative, or condominium for mobilehomes may enter a mobilehome without the prior written consent of the resident in case of an emergency or when the resident has abandoned the mobilehome.

Sec. 798.27 Notice of Zoning or Use Permit

- (a) The management shall give written notice to all homeowners and prospective homeowners concerning the following matters: (1) The nature of the zoning or use permit under which the mobilehome park operates. If the mobilehome park is operating pursuant to a permit subject to a renewal or expiration date, the relevant information and dates shall be included in the notice. (2) The duration of any lease of the mobilehome park, or any portion thereof, in which the management is a lessee.
- (b) If a change occurs concerning the zoning or use permit under which the park operates or a lease in which the management is a lessee, all homeowners shall be given written notice within 30 days of such change. Notification regarding the change of use of the park, or any portion thereof, shall be governed by subdivision (f) of Section 798.56. A prospective homeowner shall be notified prior to the inception of the tenancy.

Sec. 798.28 Disclosure of Park Owner's Name

The management of a mobilehome park shall disclose, in writing, the name of the mobilehome park owner upon the request of a homeowner.

Sec. 798.29 Notice of Mobilehome Ombudsman

The management shall post on a sign provided by the Department of Housing and Community Development only the name, address, and telephone number of the Mobilehome Ombudsman designated under Chapter 9 (commencing with Sec. 18150) of Part 2 of Division 13 of the Health and Safety Code, in a conspicuous public place within the mobilehome park.
(AB 1527 Longshore, 1988)

Article 4

FEES AND CHARGES

Sec. 798.30 Notice of Rent Increase

The management shall give a homeowner written notice of any increase in his or her rent at least 60 days before the date of the increase.

Sec. 798.31 Authorized Fees Charged

A homeowner shall not be charged a fee for other than rent, utilities, and incidental reasonable charges for services actually rendered. A homeowner shall not be charged a fee for obtaining a lease on a mobilehome lot for (1) a term of 12 months, or (2) a lesser period as the homeowner may request. A fee may be charged for a lease of more than one year if the fee is mutually agreed upon by both the homeowner and management.

Sec. 798.32 Unlisted Services Without Notice - No Fees

A homeowner shall not be charged a fee for services actually rendered which are not listed in the rental agreement unless he or she has been given written notice thereof by the management, at least 60 days before imposition of the charge.

Sec. 798.33 Pet Fees

A homeowner shall not be charged a fee for keeping a pet in the park unless the management actually provides special facilities or services for pets. If special pet facilities are maintained by the management, the fee charge shall reasonably relate to the cost of maintenance of the facilities or services and the number of pets kept in the park.

Sec. 798.34 Guest Fees

- (a) A homeowner shall not be charged a fee for a guest who does not stay with him or her for more than a total of 20 consecutive days or a total of 30 days

in a calendar year. Such a guest will not be required to register with the management.

- (b) A homeowner who is living alone and who wishes to share his or her mobilehome with one person may do so, and a fee shall not be imposed by management for such person. Such person shall be considered a guest of the homeowner and any agreement between the homeowner and such person shall not change the terms and conditions of the rental agreement between management and the homeowner. Such guest shall comply with the provisions of the rules and regulations of the mobilehome park.

Sec. 798.35 Members of Immediate Family - No Fees

A homeowner shall not be charged a fee based on the number of members in his or her immediate family. As used in this section, the "immediate family" includes the homeowner, his or her spouse, their parents, and their children.

Sec. 798.36 Enforcement of Park Rules - No Fees

A homeowner shall not be charged a fee for the enforcement of any of the rules and regulations of the park, except a reasonable fee may be charged by management for the maintenance of the land and premises upon which the mobilehome is situated in the event the homeowner fails to do so in accordance with the rules and regulations of the park after written notification to the homeowner and the failure of the homeowner to comply within 14 days. The written notice shall state the specific condition to be corrected and an estimate of the charges to be imposed by management if the services are performed by management or its agent.

Sec. 798.37 Entry, Installation or Hookup - No Fees; Landscaping and Maintenance Charges

A homeowner shall not be charged a fee for the entry, installation, hookup, or landscaping as a condition of tenancy except for an actual fee or cost imposed by a local governmental ordinance or requirement directly related to the occupancy of the specific site upon which the mobilehome is located and not incurred as a portion of the development of the mobilehome park as a whole. However, reasonable landscaping and maintenance requirements may be included in the park rules and regulations. The management shall not require a homeowner or prospective homeowner to purchase, rent, or lease goods or services for landscaping from any person, company, or corporation.

Sec. 798.38 Utility Service; Billing; Rate Schedule

Where the management provides both master and submeter service of utilities to a homeowner, for each billing period the cost of the charges for the period shall be separately stated along with the opening and closing readings for his meter. The management shall post in a conspicuous place, the prevailing residential utilities rate schedule as published by the serving utility.

Sec. 798.39 Security Deposits

- (a) The management may only demand a security deposit on or before initial occupancy and the security deposit may not be in an amount or value in excess of an amount equal to two months' rent that is charged at the inception of the occupancy, in addition to any rent for the first month. In no event shall additional security deposits be demanded of a homeowner following the initial occupancy.
- (b) After the homeowner has promptly paid to the management within 5 days of the date the amount is due, all of the rent, utilities, and reasonable service charges for any 12 consecutive month period subsequent to the collection of the security deposit by management, or upon resale of the mobilehome, whichever occurs earlier, management shall, upon the receipt of a written request from the homeowner, refund to the homeowner the amount of the security deposit within 30 days following the end of the 12 consecutive month period of the prompt payment or the date of the resale of the mobilehome.
- (c) In the event that the interest in the mobilehome park is transferred to any other party or entity, the successor in interest shall have the same obligations of management contained in this section with respect to the security deposit.
- (d) The management shall not be required to place any security deposit collected in an interest-bearing account or to provide a homeowner with any interest on the security deposit collected.
- (e) This section applies to all security deposits collected on or after January 1, 1989. However, any security deposit collected on other than initial occupancy from a homeowner between January 1, 1988 and the effective date of this section shall be refunded on or before January 31, 1989.
(AB 296 McClintock, 1988)

Sec. 798.40 No Lien or Security Interest Except by Mutual Agreement

The management shall not acquire a lien or security interest, other than an interest arising by reason of process issued to enforce a judgment of any court, in a mobilehome located in the park unless it is mutually agreed upon by both the homeowner and management. Any billing and payment upon the obligation shall be kept separate from current rent.

Article 5

HOMEOWNER MEETINGS

Sec. 798.50 Use of Community or Recreation Halls

The management shall permit meetings by homeowners or residents of a mobilehome in the park, or any or all of them, relating to mobilehome living or social or educational purposes, including forums for or speeches of public officials or candidates for public office, to be held in any of the park community or recreation halls if the meeting is held at a reasonable hour and when the facility is not otherwise in use.

Sec. 798.51 Management Meetings with Residents

The management shall meet and consult with the homeowners, upon written request, within 30 days of the request, either individually, collectively, or with representatives of a group of homeowners who have signed a request to be so represented on the following matters:

- (a) Amendments to park rules and regulations.
- (b) Standards for maintenance of physical improvements in the park.
- (c) Addition, alteration, or deletion of service, equipment or physical improvements.
- (d) Rental agreements offered pursuant to Section 798.17.

Any collective meeting shall be conducted only after notice thereof has been given to all the requesting homeowners 10 days or more before the meeting.

Article 6

TERMINATION OF TENANCY

Sec. 798.55 Legislative Intent; Terminations for Cause;
60-Day Notice

- (a) The Legislature finds and declares that, because of the high cost of moving mobilehomes, the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, and the cost of landscaping or lot preparation, it is necessary that the owners of mobilehomes occupied within mobilehome parks be provided with the unique protection from actual or constructive eviction afforded by the provisions of this chapter.
- (b) The management shall not terminate or refuse to renew a tenancy, except for a reason specified in this article and upon the giving of written notice to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure, to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner, as defined in Section 18005.8 of the Health and Safety Code, each junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, and the registered owner of the mobilehome, if other than the homeowner, by United States mail within 10 days after notice to the homeowner, addressed to the legal owner, each junior lienholder, and the registered owner at their addresses, as set forth in the registration card specified in Section 18091.5 of the Health and Safety Code.

Sec. 798.56 The Six Authorized Reasons for Termination of Tenancy

A tenancy shall be terminated by the management only for one or more of the following reasons:

- (a) Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.
- (b) Conduct by the homeowner or resident, upon the park premises, which constitutes a substantial annoyance to other homeowners or residents.

- (c) Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park as set forth in which is part of the rental agreement or any amendment thereto.

No act or omission of the homeowner or resident shall constitute such a failure to comply with a reasonable rule or regulation unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner or resident has failed to adhere to the rule or regulation within seven days. However, if a homeowner has been given a written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12 month period after the homeowner or resident has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been violated.
(AB 3720 Hauser, 1988)

- (d) (1) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided, that the amount due has been unpaid for a period of at least five days from its due date, and provided that the homeowner shall be given a three-day written notice subsequent to that five-day period to pay the amount due or to vacate the tenancy. The three-day written notice shall be given to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure. The notice may be given at the same time as the 60 days' notice required for termination of the tenancy.

Payment by the homeowner prior to the expiration of the three-day notice period shall cure a default under this subdivision.

- (2) However, if a homeowner has been given a three-day notice to pay the amount due or to vacate the tenancy on three or more occasions within the preceding 12-month period, no written three-day notice shall be required for a subsequent nonpayment of rent, utility charges, or reasonable incidental service charges.

- (3) Payment by the legal owner, as defined in Section 18005.8 of the Health and Safety Code, any junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, or the registered owner, as defined in Section 18009.5 of the Health and Safety Code, if other than the homeowner, on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner, each junior lienholder, and the registered owner provided in subdivision (b) of Section 798.55, shall cure a default under this subdivision with respect to that payment.
- (4) The homeowner shall remain liable for all payments due up until the time the tenancy is vacated.
- (5) Cure of a default of rent, utility charges, or reasonable incidental service charges by the legal owner, any junior lienholder, or the registered owner, if other than the homeowner, as provided by this subdivision, may not be exercised more than twice during a 12-month period.

(e) Condemnation of the park.

(f) Change of use of the park or any portion thereof, provided:

- (1) The management gives the homeowners at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.
- (2) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give the homeowners six months' or more written notice of termination of tenancy.

If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

- (3) The management gives each proposed homeowner written notice thereof prior to the inception of his or her tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.
- (4) The notice requirements for termination of tenancy set forth in Sections 798.56 and 798.57 shall be followed if the proposed change actually occurs.
- (5) A notice of a proposed change of use given prior to January 1, 1980, which conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall be governed by the law in effect at the time the notice was given.

(g) The report required pursuant to subdivisions (b) and (i) of section 65863.7 of the Government Code shall be given to the homeowners or residents at the same time that notice is required pursuant to paragraph (1) of subdivision (f) of this section.
(AB 3085 Cortese, 1988)

Sec. 798.57 Statements of Reasons in Notice

The management shall set forth in a notice of termination, the reason relied upon for the termination with specific facts to permit determination of the date, place, witnesses, and circumstances concerning that reason. Neither reference to the section number or a subdivision thereof, nor a recital of the language of this article will constitute compliance with this section.

Sec. 798.58 No Termination to Make Space for a Buyer of a Mobilehome from Park Owner

No tenancy shall be terminated for the purpose of making a homeowner's site available for a person who purchased a mobilehome from the owner of the park or his agent.

Sec. 798.59 60-day Notice by Resident of Termination

A homeowner shall give written notice to the management of not less than 60 days before vacating his or her tenancy.

Sec. 798.60 Application of Other Unlawful Detainer Laws

The provisions of this article shall not affect any rights or proceedings set forth in Chapter 4 (commencing with Section 1159)

of Title 3 of Part 3 of the Code of Civil Procedure except as otherwise provided herein.

Sec. 798.61 Abandoned Mobilehomes - Procedures

- (a) As used in this section, "abandoned mobilehome" means a mobilehome (1) less than 12 feet in width, (2) located in a mobilehome park on a site for which no rent has been paid to the management for the preceding 60 days, (3) that is unoccupied, and (4) which the management reasonably believes to be abandoned.
- (b) After determining a mobilehome in a mobilehome park to be an abandoned mobilehome, the management shall post a notice to that effect on the mobilehome for not less than 30 days, and shall deposit copies of the notice in the United States mail, postage prepaid, addressed to the homeowner at the last known address and to any known registered owner, if different from the homeowner, and to any known holder of a security interest in the mobilehome. This notice shall be mailed by registered mail with a return receipt requested.
- (c) Thirty or more days following posting pursuant to subdivision ~~(a)~~ (b), the management may file a petition in the municipal or justice court for the judicial district in which the mobilehome park is located for a judicial declaration of abandonment of the mobile-home. Copies of the petition shall be served upon the homeowner, any known registered owner, and any known person having a lien or security interest of record in the mobilehome. ~~This service may be by publication under the conditions and in the manner specified in Section 415-50 of the Code of Civil Procedure.~~ by mailing copies to those persons at their last known address by registered mail with a return receipt requested in the United States mail, postage prepaid.
(AB 3720 Hauser, 1988)
- (d) Hearing on the petition shall be given precedence over other matters on the court's calendar. In no event shall the hearing be scheduled more than 60 days following initial posting under subdivision (b). If, upon the hearing, the petitioner shows by a preponderance of the evidence that the mobilehome meets the criteria for an abandoned mobilehome and no party establishes an interest therein at the hearing, the court shall enter a judgment of abandonment, determine the amount of charges to which

the petitioner is entitled, and award costs to the petitioner. However, at any time prior to sale under this section, any person having a right to possession of the mobilehome may recover it upon payment to the management of all rent or other charges due, including reasonable costs of storage and other costs awarded by the court.

- (e) Within 10 days following a judgment of abandonment, the management shall enter the abandoned mobilehome and complete an inventory of the contents and submit the inventory to the court. During this period the management shall post and mail notice of intent to sell the abandoned mobilehome and its contents under this section, and announcing the date of sale, in the same manner as provided for the notice of determination of abandonment under subdivision (b), and by publication in a newspaper of general circulation published in the city in which the park is located or, if located in an unincorporated area, in the county where the park is located.
- (f) Prior to the sale, the abandoned mobilehome and its contents shall not be moved from its site, but the management shall be entitled to storage costs in the same amount as the contract rent and other charges that would be applicable if the mobilehome had not been abandoned.
- (g) Not less than 30 days following the judgment of abandonment, the management may conduct a public sale of the abandoned mobilehome and its contents. The management may bid at the sale and shall have the right to offset its bids to the extent of the total amount due it under this section. The proceeds of the sale shall be retained by the management, but any unclaimed amount thus retained over and above the amount to which the management is entitled under this section shall be deemed abandoned property and shall be paid into the treasury of the county in which the sale took place within 30 days of the date of the sale. The former homeowner or any other owner may claim any or all of that unclaimed amount within one year from the date of payment to the county by making application to the county treasurer or other official designated by the county. If the county pays any or all of that unclaimed amount to a claimant, neither the county nor any officer or employee of the county is liable to any other claimant as to the amount paid.

- (h) Within 30 days of the date of the sale, the management shall submit to the court an accounting of the moneys received from the sale and the disposition of the money and the items contained in the inventory submitted to the court pursuant to subdivision (e).
- (i) The management shall provide the purchaser at the sale with a copy of the judgment of abandonment and evidence of title, as shall be specified by the State Department of Housing and Community Development, which shall register title in the mobilehome to the purchaser upon presentation thereof. The sale shall pass title to the mobilehome to the purchaser free of any prior interest, including any security interest or lien, in the mobilehome.

Article 7

TRANSFER OR SALE OF MOBILEHOME OR PARK

Sec. 798.70 For Sale Signs

A homeowner or his or her agent may advertise the sale or exchange of his or her mobilehome, or if not prohibited by the terms of an agreement with the management, may advertise the rental of his or her mobilehome, by displaying a sign in the window of the mobilehome, or by a sign posted on the side of the mobilehome facing the street, stating that the mobilehome is for sale or exchange or, if not prohibited, for rent by the owner of the mobilehome or his or her agent. The sign shall state the name, address, and telephone number of the owner of the mobilehome or his or her agent and shall not exceed 24 inches in width and 18 inches in height.

Sec. 798.71 Management Showing or Listing - Prohibitions

- (a) The management shall not show or list for sale a manufactured home or mobilehome without first obtaining the owner's written authorization. The authorization shall specify the terms and conditions regarding the showing or listing.
- (b) The management shall prohibit neither the listing nor the sale of a manufactured home or mobilehome within the park by the homeowner, or an agent of the homeowner other than the management, nor require the selling homeowner to authorize the management to act as the agent in the sale of a manufactured home or mobilehome as a condition of management's approval of the buyer or prospective homeowner for residency in the park.

(SR 2230 Craven, 1988)

Nothing in this section shall be construed as affecting the provisions of the Health and Safety Code governing the licensing of manufactured home or mobilehome salespersons or dealers.

Sec. 798.72 No Transfer or Selling Fee

- (a) The management shall not charge a homeowner or his or her agent a transfer or selling fee as a condition of a sale of his mobilehome within a park unless the management performs a service in the sale. The management shall not perform any such service in connection with the sale unless so requested, in writing, by the homeowner or his or her agent.
- (b) The management shall not charge a prospective homeowner or his or her agent, upon purchase of a mobilehome, a fee as a condition of approval for residency in a park unless the management performs a specific service in the sale. The management shall not impose a fee, other than for a credit check in accordance with subdivision (b) of Sec. 798.74, for an interview of a prospective homeowner.
(SB 2230 Craven, 1988)

Sec. 798.73 Removal of Mobilehome Upon Third Party Sale

The management shall not require the removal of a mobilehome from the park in the event of its sale to a third party during the term of the homeowner's rental agreement. However, in the event of a sale to a third party, in order to upgrade the quality of the park, the management may require that a mobilehome be removed from the park where:

- (a) It is less than 10 feet wide.
- (b) It is more than 20 years old, or more than 25 years old if manufactured after September 15, 1971, and is 20 feet wide or more and the mobilehome does not comply with the health and safety standards provided in Sections 18550, 18552, and 18605 of the Health and Safety Code, and the regulations established thereunder.
- (c) The mobilehome is more than 17 years old, or more than 25 years old if manufactured after September 15, 1971, and is less than 20 feet wide and the mobilehome does not comply with the construction and safety standards under Sections 18550, 18552, and 18605 of the Health and Safety Code, and the regulations established thereunder.

- (d) It is in a significantly rundown condition or in disrepair, as determined by the general condition of the mobilehome and its acceptability to the health and safety of the occupants and to the public, exclusive of its age. The management shall use reasonable discretion in determining the general condition of the mobilehome and its accessory structures. The management shall bear the burden of demonstrating that the mobilehome is in a significantly rundown condition or in disrepair.

Sec. 798.74 Management Approval of Buyer; Credit Rating Refund

- (a) The management may require the right of prior approval of a purchaser of a mobilehome that will remain in the park and that the selling homeowner or his or her agent give notice of the sale to the management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the rent and charges of the park unless the management reasonably determines that, based on the purchaser's prior tenancies, he or she will not comply with the rules and regulations of the park. In determining whether the purchaser has the financial ability to pay the rent and charges of the park, the management shall not require the purchaser to submit copies of any personal income tax returns in order to obtain approval for residency in the park. However, management may require the purchaser to document the amount and source of his or her gross monthly income or means of financial support. If the ownership or management rejects a purchaser as a prospective homeowner, the ownership or management shall inform the selling homeowner in writing of its reasons for the rejection. If the approval of a purchaser is withheld for any reason other than those stated in this article, the management or owner may be held liable for all damages proximately resulting therefrom.
(SB 1934 Craven, 1988)
- (b) If the management collects a fee or charge from a prospective purchaser of a mobilehome in order to obtain a financial report or credit rating, the full amount of the fee or charge shall be credited toward payment of the first month's rent for that mobilehome purchaser. If, for whatever reason, the prospective purchaser is rejected by the management, the management shall refund to the prospective purchaser the full amount of that fee or charge within 30 days from the date of rejection. If the prospective purchaser is approved by the management, but,

for whatever reason, the prospective purchaser elects not to purchase the mobilehome, the management may retain the fee, or a portion thereof, to defray its administrative costs under this section.

Sec. 798.75 Rental Agreement Required for Park Occupancy

- (a) An escrow, sale, or transfer agreement involving a mobilehome located in a park at the time of the sale, where the mobilehome is to remain in the park, shall contain a provision signed by the purchaser stating that, by such signature he or she has agreed to the terms of a rental agreement. A copy of a fully executed rental agreement signed by both the purchaser and park management will satisfy the requirements of this section.
- (b) In the event the purchaser fails to execute the rental agreement, the purchaser shall not have any rights of tenancy.
- (c) In the event that an occupant of a mobilehome has no rights of tenancy and is not otherwise entitled to occupy the mobilehome pursuant to this chapter, the occupant is considered an unlawful occupant if, after a demand is made for the surrender of the mobilehome park site, for a period of five days, the occupant refuses to surrender the site to the mobilehome park management. In the event the unlawful occupant fails to comply with the demand, the unlawful occupant shall be subject to the proceedings set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure.
- (d) The occupant of the mobilehome shall not be considered an unlawful occupant and shall not be subject to the provisions of subdivision (c) if all of the following conditions are present:
 - (1) The occupant is the registered owner of the mobilehome.
 - (2) The management has determined that the occupant has the financial ability to pay the rent and charges of the park; will comply with the rules and regulations of the park, based on the occupant's prior tenancies; and will comply with this article.
 - (3) The management failed or refused to offer the occupant a rental agreement.

Sec. 798.76 Adults Only Restrictions

The management may require that a purchaser of a mobilehome which will remain in the park, comply with any rule or regulation limiting residency to adults only.

Sec. 798.77 No Waiver of Rights

No rental or sale agreement shall contain a provision by which the purchaser or homeowner waives his or her rights under this chapter. Any such waiver shall be deemed contrary to public policy and shall be void and unenforceable.

Sec. 798.78 Rights of Heir or Joint Tenant of Owner

An heir or joint tenant who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who is a homeowner shall have the right to sell the mobilehome to a third party in accordance with the provisions of this article, but only if all the homeowner's responsibilities and liabilities to the management regarding rent, utilities, and reasonable maintenance of the mobilehome and its premises which have arisen after the transfer of ownership to the heir or joint tenant have been satisfied up until the date the mobilehome is resold.

Sec. 798.79 Repossession of Mobilehome; Sale to Third Party

Any legal owner or junior lienholder who forecloses on his or her security interest in a mobilehome located in a mobilehome park shall have the right to sell the mobilehome within the park to a third party in accordance with the provisions of this article, but only if all the homeowner's responsibilities and liabilities to the management regarding rent, utilities, and reasonable maintenance of a mobilehome and its premises are satisfied by the foreclosing creditor through the date the mobilehome is resold.

Sec. 798.80 Sale of Park - Notice by Management

- (a) When the owner of a mobilehome park enters into a written listing agreement with a licensed real estate broker, as defined in Article 1 (commencing with Section 10130) of Chapter 2 of Part 1 of Division 4 of the Business and Professions Code, for the sale of the park, or offers to sell the park to any party, the owner shall provide written notice by first-class mail or by personal delivery to the president, secretary, and treasurer of a resident organization formed pursuant to Section 50561 of the Health and Safety Code, not less than 10 days but no more than 30 days prior to entering into any written listing agreement for the sale of the park, or

making any offer to sell the park to any party. An offer to sell a park shall not be construed as an offer under this subdivision unless it is initiated by the park owner or agent.

- (b) An owner of a mobilehome park shall not be required to comply with subdivision (a) unless the following conditions are met:
 - (1) The resident organization has first furnished the park owner or park manager a written notice of the name and address of the president, secretary, and treasurer of the resident organization to whom the notice of sale shall be given.
 - (2) The resident organization has first notified the park owner or manager in writing that the park residents are interested in purchasing the park. The initial notice by the resident organization shall be made prior to a written listing or offer to sell the park by the park owner, and the resident organization shall give subsequent notice once each year thereafter that the park residents are interested in purchasing the park.
 - (3) The resident organization has furnished the park owner or park manager a written notice, within five days, of any change in the name or address of the officers of the resident organization to whom the notice of sale shall be given.
- (c) Nothing in this section affects the validity of title to real property transferred in violation of this section, although a violation shall subject the seller to civil action pursuant to Article 8 (commencing with Section 798.84) by homeowner residents of the park or the resident organization.
- (d) Nothing in this section affects the ability of a licensed real estate broker, as defined in Article 1 (commencing with Section 10130) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, to collect a commission pursuant to an executed contract between the broker and the mobilehome park owner.

(e) This section does not apply to any of the following:

- (1) Any sale or other transfer by a park owner who is a natural person to any relation specified in Section 6401 or 6402 of the Probate Code.
- (2) Any transfer by gift, devise, or operation of law.
- (3) Any transfer by a corporation to an affiliate. As used in this paragraph, "affiliate" means any shareholder of the transferring corporation, any corporation or entity owned or controlled, directly or indirectly, by the transferring corporation, or any other corporation or entity controlled, directly or indirectly, by any shareholder of the transferring corporation.
- (4) Any transfer by a partnership to any of its partners.
- (5) Any conveyance resulting from the judicial or nonjudicial foreclosure of a mortgage or deed of trust encumbering a mobilehome park or any deed given in lieu of such a foreclosure.
- (6) Any sale or transfer between or among joint tenants or tenants in common owning a mobilehome park.
- (7) The purchase of a mobilehome park by a governmental entity under its powers of eminent domain.

Sec. 798.81 Listing or Sales - Prohibitions

The management (1) shall not prohibit the listing or sale of a used mobilehome within the park by the homeowner, or an agent of the homeowner other than the management, (2) nor require the selling homeowner to authorize the management to act as the agent in the sale of a mobilehome as a condition of approval of the buyer or prospective homeowner for residency in the park.
(AB 3506 Bradley, 1988)

Article 8

LEGAL ACTIONS, PROCEEDINGS, AND PENALTIES

Sec. 798.84 Notice of Lawsuit for Failure to Maintain

- (a) No action based upon the management's alleged failure to maintain the physical improvements in the common facilities in good working order or condition or alleged reduction of service may be commenced by a homeowner unless the management has been given at least 30 days' prior notice of the intention to commence the action.
- (b) The notice shall be in writing, signed by the homeowner or homeowners making the allegations, and shall notify the management of the basis of the claim, the specific allegations, and the remedies requested. A notice by one homeowner shall be deemed to be sufficient notice of the specific allegation to the management of the park by all of the homeowners in the park.
- (c) The notice may be served in the manner prescribed in Chapter 5 commencing with Sec. 1010) of Title 14 of Part 2 of the Code of Civil Procedure.
- (d) For purposes of this section, management shall be deemed to be notified of an alleged failure to maintain the physical improvements in the common facilities in good working order or condition or of an alleged reduction of services upon substantial compliance by the homeowner or homeowners with the provisions of subdivisions (b) and (c), or when management has been notified by the alleged failure to maintain or the alleged reduction of services by a state or local agency.
- (e) If the notice is served within 30 days of the expiration of the applicable statute of limitations, the time for the commencement of the action shall be extended 30 days from the service of the notice.
- (f) This section does not apply to actions for personal injury or wrongful death.
(AB 4012 Costa, 1988)

Sec. 798.85 Attorney's Fees and Costs

In any action arising out of the provisions of this chapter the prevailing party shall be entitled to reasonable attorney's

fees and costs. A party shall be deemed a prevailing party for the purposes of this section if the judgment is rendered in his or her favor or where the litigation is dismissed in his or her favor prior to or during the trial, unless the parties otherwise agree in the settlement or compromise.

Sec. 798.86 Management Penalty for Willful Violation

In the event a homeowner or former homeowner of a park is the prevailing party in a civil action against the management to enforce his or her rights under the provisions of this chapter, the homeowner, in addition to damages afforded by law, may, in the discretion of the court, be awarded an amount not to exceed five hundred dollars (\$500) for each willful violation of those provisions by the management.

Sec. 798.87 Public Nuisances and Abatement

- (a) The substantial failure of the management to provide and maintain physical improvements in the common facilities in good working order and condition shall be deemed a public nuisance. Notwithstanding the provisions of Section 3491, such a nuisance only may be remedied by a civil action or abatement.
- (b) The substantial violation of a mobilehome park rule shall be deemed a public nuisance. Notwithstanding the provisions of Section 3491, such a nuisance only may be remedied by a civil action or abatement.

Article 9

SUBDIVISIONS, COOPERATIVES, AND CONDOMINIUMS

Sec. 799 Definitions

As used in this article:

- (a) "Ownership or management" means the ownership or management of a subdivision, cooperative, or condominium for mobilehomes.
- (b) "Resident" means a person who maintains a residence in a subdivision, cooperative, or condominium for mobilehomes.

Sec. 799.1 Advertising Sale of Home; For Sale Signs

A resident may advertise the sale or exchange of his or her mobilehome or, if not prohibited by the terms of an agreement with the management or ownership, may advertise the rental of his

or her mobilehome by displaying a sign in the window of his or her mobilehome stating that the mobilehome is for sale or exchange or, if not prohibited, for rent by the owner of the mobilehome or his or her agent. The sign shall state the name, address, and telephone number of the owner of the mobilehome or his or her agent, and may be at least 12 inches in width and 12 inches in length.

Sec. 799.2 Listing or Showing of Home by Park Management

The ownership or management shall not show or list for sale a mobilehome owned by a resident without first obtaining the resident's written authorization. The authorization shall specify the terms and conditions regarding the showing or listing.

Nothing contained in this section shall be construed to affect the provisions of the Health and Safety Code governing the licensing of mobilehome salesmen.

Sec. 799.3 Removal of Mobilehome upon Third Party Sale

The ownership or management shall not require the removal of a mobilehome from a subdivision, cooperative, or condominium in the event of its sale to a third party.

Sec. 799.4 Withholding Prior Approval of Purchaser

The ownership or management may require the right to prior approval of the purchaser of a mobilehome that will remain in the subdivision, cooperative, or condominium for mobilehomes and that the selling resident or his or her agent give notice of the sale to the ownership or management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the fees and charges of the subdivision, cooperative, or condominium, unless the ownership or management reasonably determines that, based on the purchaser's prior residences, he or she will not comply with the rules and regulations of the subdivision, cooperative, or condominium.

Sec. 799.5 Adults Only Restrictions

The ownership or management may require that a purchaser of a mobilehome which will remain in the subdivision, cooperative, or condominium for mobilehomes, comply with any rule or regulation limiting residence therein to adults only.

Sec. 799.6 No Waiver of Rights

No agreement shall contain any provision by which the purchaser waives his or her rights under the provisions of this article. Any such waiver shall be deemed contrary to public policy and void and unenforceable.

Senate Select Committee on Mobilehomes
1100 J Street, Room 511
Sacramento, California 95814