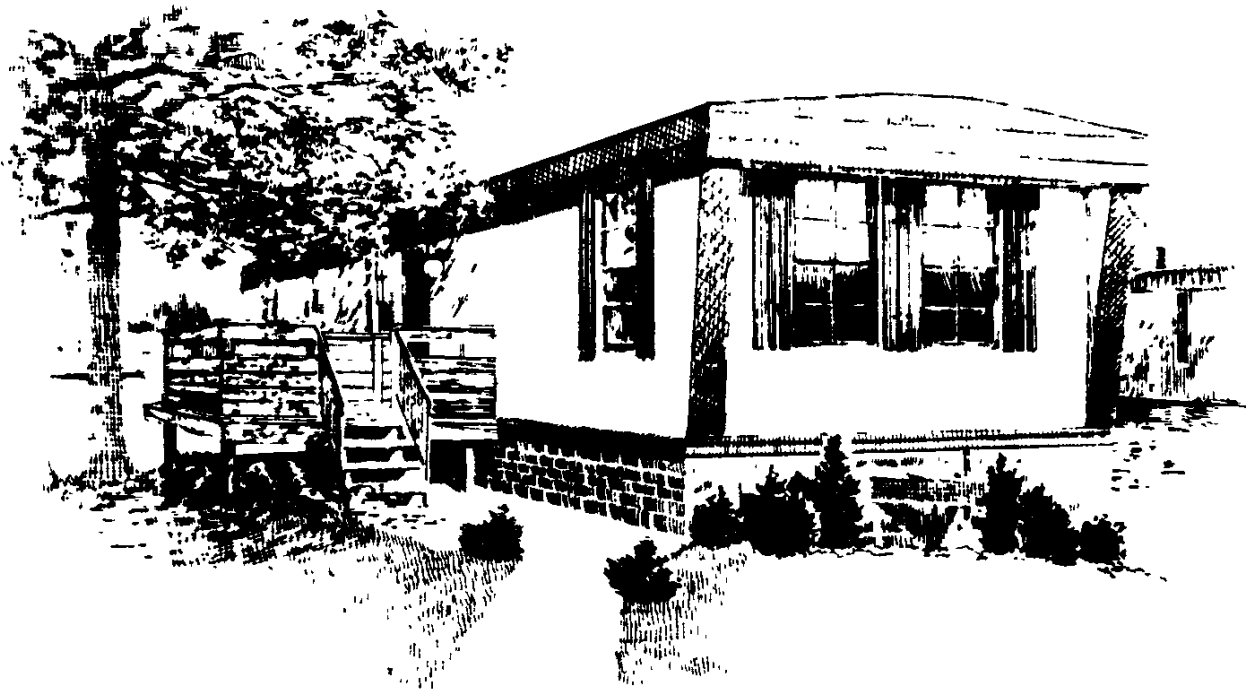


MOBILEHOME RESIDENCY LAW

1988

Civil Code Provisions Governing Mobilehome Park Tenancies in California



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

California Legislature

Senate Select Committee on Mobilehomes

SENATOR WILLIAM A. CRAVEN
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THE 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 Civil Code. Since 1978, a number of the 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.

In this regard the Mobilehome Residency Law is more comprehensive than provisions which exist for other landlord-tenant relationships. The major areas addressed in the Mobilehome Residency Law include: rental agreements, rules and regulations, notices, eviction and termination of tenancy, transfer or sale of a mobilehome, resident fees and charges, and clubhouse meetings.

The following is an updated January, 1988 copy of the specific provisions of the Mobilehome Residency Law (California Civil Code). Underlined portions of the main text indicate changes made in the 1987 legislative session.

CIVIL CODE

Part 2

Chapter 2.5

MOBILEHOME RESIDENCY LAW

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Article 1

Sec. 798. Citation and application of chapter

This chapter shall be known and may be cited as the "Mobilehome 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 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 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 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 Park

"Park" is a mobilehome park.

Sec. 798.8 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 Homeowner

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

Sec. 798.10 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 Resident

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

Sec. 798.12 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.

Article 2
RENTAL AGREEMENT

Sec. 798.15 Writing; 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.

(Amended by Statutes of 1987, Chapter 126, AB 254--Stirling)

- (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 Long-term 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 Term; comparable monthly charges

- (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 Waiver of rights; public policy

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 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 mobilehome parks; designated areas

- (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 facilities; 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; time; consent of homeowner; 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 Right of entry by ownership or management; consent; revocation

- (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 Written notice of nature of zoning permit and duration of lease to homeowners and prospective homeowners

- (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 mobilehome park owner

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

Article 4

FEEES 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

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 Charge for unlisted services; notice

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 Pets

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 Guests

- (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 Number of immediate family members

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 Rule enforcement

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 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 meter 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. 798.40 Lien or security interest by mutual agreement; exception

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.
(Amended by Statutes of 1987, Chapter 33, SB 94--Craven)

Sec. 798.51 Meetings and consultation by management with tenants; notice

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 Protection from actual or constructive eviction; termination or refusal to renew; reasons; notice; time

- (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 Authorized reasons for termination

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 the rental agreement or any amendment thereto.

No act or omission of the homeowner or resident shall constitute such a failure to comply 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.

- (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.

(Amended by Statutes of 1987, Chapter 883, SB 929--Costa and Chapter 55, AB 744--Chacon)

(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.

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 Termination to make space for buyer of mobilehome from park owner prohibited

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 Notice by tenant; time

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 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; definition; determination; notice; petition for declaration of abandonment; hearing; judgment; redemption; inventory; notice of intent to sell; storage costs; public sale; accounting; title

- (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), 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 mobilehome. 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.
- (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 OF MOBILEHOME OR MOBILEHOME PARK

Sec. 798.70 Advertising

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 for sale a manufactured home or mobilehome; written authorization

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.

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 Transfer or selling fee; request for service

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.

Sec. 798.73 Removal of mobilehome upon sale to third party; conditions

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 Prior approval of purchaser; grounds for withholding; informing homeowner; credit rating fee 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. 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.

(Added by Statutes of 1987, Chapter 830, AB 1114--Bradley)

- (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 Sale or transfer of mobilehome to remain in park; required documents

- (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.

(Amended by Statutes of 1987, Chapter 323, AB 556--Lewis)

Sec. 798.76 Purchaser; compliance with adults only regulation

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 Waiver of rights; public policy

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 Offer to sell park or entry into listing agreement for sale of park; notice by owner to officers of resident organization

- (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 mobile-home park.
- (7) The purchase of a mobilehome park by a governmental entity under its powers of eminent domain.

Article 8

ACTIONS, PROCEEDINGS, AND PENALTIES

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 Willful violation by management; additional penalty

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; 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

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 mobilehome by ownership or management; written authorization

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 Sale to third party; prohibition against required removal

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 Prior approval of purchaser; grounds for withholding

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 Purchaser; compliance with adults only regulation

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 Waiver of rights; public policy

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.

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