

MANUFACTURED HOME COMMUNITY RIGHTS ACT - OMNIBUS AMENDMENTS

Act of Oct. 24, 2012, P.L. 1267, No. 156

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No. 2012-156

HB 1767

AN ACT

Amending the act of November 24, 1976 (P.L.1176, No.261), entitled, as amended, "An act providing for the rights and duties of manufactured home owners or operators and manufactured home lessees," further providing for definitions; providing for determination of abandonment, for abandoned manufactured homes, for immunity from liability, for sale or lease of manufactured home communities, for closure of manufactured home communities, for notice requirements in the event of closure of manufactured home community and for remedies; and repealing certain provisions of The Landlord and Tenant Act of 1951.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2 of the act of November 24, 1976 (P.L.1176, No.261), known as the Manufactured Home Community Rights Act, amended October 19, 2010 (P.L.546, No.80), is amended to read:

Section 2. Definitions.--[As used in this act]**The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:**

"Agency." The Office of Attorney General.

"Designated notification recipient lessee." A lessee who designates in the lease a specific lessee and address for the purposes of receiving all required notices with regard to the manufactured home leased space. Delivery by certified or registered mail to a lessee so designated shall be deemed sufficient for purposes of this act.

"Eviction." The removal of a lessee, occupants and manufactured home from a manufactured home community in accordance with an order of possession by a court of the Commonwealth **pursuant to:**

(1) the relevant provisions of the act of April 6, 1951 (P.L.69, No.20), known as "The Landlord and Tenant Act of 1951"; or

(2) a similar order of a court of common pleas.

"First-time lessee." The resident who places or causes to be placed a manufactured home in a manufactured home community.

"Lessee." A person [that] **who** rents a manufactured home community space [and is the responsible party for the performance of the terms of lease] **from a lessor pursuant to the terms of a lease.**

"Lessor." [An operator that rents a manufactured home space to a lessee and that is responsible for the performance of the terms of lease.] **The owner or operator of a manufactured home community who rents a manufactured home space to a lessee pursuant to the terms of a lease and who is responsible for the performance of the terms of the lease.**

"Manufactured home." The term includes:

(1) A manufactured home as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (Public Law 93-383, 42 U.S.C. § 5402(6)).

(2) A mobile home as defined in 75 Pa.C.S. § 102 (relating to definitions).

"Manufactured home community" or "community." A site, lot, field or tract of land, privately or publicly owned or operated, upon which three or more manufactured homes, occupied for dwelling or sleeping purposes, are or are intended to be located, regardless of whether or not a charge is made for such accommodation.

"Manufactured home community operator" or "community operator." A person or entity which conducts the operations of a manufactured home community on behalf and as the agent of the community owner.

"Manufactured home community owner" or "community owner." [An owner or operator of] **A person or entity which owns a manufactured home community.**

"Manufactured home occupant." An individual who resides in a manufactured home[, who is either a lessee or a manufactured home resident].

"Manufactured home [resident."] **resident" or "resident."** An owner of a manufactured home who leases or rents space in a manufactured home community. The term does not include a person who rents or leases a manufactured home.

"Manufactured home space." A plot of ground within a manufactured home community designed for the accommodation of one manufactured home.

"Manufactured home space lease" or "lease." A written contract between a manufactured home lessee and a manufactured home community owner containing reciprocal rights and duties, including the payment of rent for the use of ground for the placement of a manufactured home in a manufactured home community.

"Manufactured home tenant" or "tenant." A person who leases a manufactured home from the owner of that manufactured home.

"Receipted first-class mail." First-class mail for which a certificate of mailing has been obtained. The term does not include certified or registered mail.

"Rent." Ground rent for a manufactured home space.

"Resident association." An organization open to all residents of a manufactured housing community, whether the organization is structured as a cooperative, a corporation or otherwise.

"Rules and regulations." Policies and guidelines established by a manufactured home community owner that relate to community living.

"Service charges." Charges for electricity, gas service which is underground and piped directly to individual units within a manufactured home community, trash removal, sewage, water, Internet, cable and all other utilities.

Section 2. The act is amended by adding sections to read:

Section 10.1. Determination of Abandonment.--(a) A lessee or resident shall be deemed to have abandoned a home and all personal property in it only after either:

(1) **Judicial process, which shall include all of the following:**

(i) **the entry of a judgment for possession in favor of the community owner or operator pursuant to applicable law;**

(ii) **the execution of an order for possession, or equivalent process, on said judgment; and**

(iii) a determination by a magisterial district court or other court of competent jurisdiction that the home and property have been abandoned.

(2) Voluntary abandonment, as evidenced by a written statement from the lessee or resident stating that the lessee or resident has physically or permanently vacated the home, does not intend to return to it and has given up all further rights or ownership interest.

(b) The determination of abandonment shall be based on a preponderance of the evidence of the lessee's absence from the home for at least 30 days and nonpayment of rent for at least 30 days from the date it is due, together with one or more of the following:

(1) Termination of electric or water service to the home and other utility or payment of services to the community owner.

(2) Cancellation of insurance for the home.

(3) Removal of most or all personal property from the home.

(4) Any other indicia of abandonment.

(c) Pursuant to 42 Pa.C.S. § 1515(a)(7) (relating to jurisdiction and venue), a magisterial district court shall have jurisdiction to determine if a manufactured home has been abandoned and shall make a determination as to whether a manufactured home has been abandoned if the issue is presented.

(d) A determination by the court that a manufactured home has been abandoned shall give the community owner the same rights as an entity which has been granted a judgment for possession.

Section 10.2 . Abandoned Manufactured Homes.--(a) If a resident abandons a manufactured home , the manufactured home community owner or other authorized person may:

(1) (i) enter the manufactured home and secure any appliances, furnishings, materials, supplies or other personal property in the manufactured home ;

(ii) disconnect the manufactured home from any utilities; and

(iii) otherwise exercise ordinary care in relation to the manufactured home and personal property, including promptly disposing of perishable food and contacting an animal control agency or humane society to remove any abandoned pets.

(2) (i) Move the manufactured home , any personal property inside the manufactured home and personal property located within the manufactured home community that is believed to belong to the resident to a storage area within the manufactured home community or to another location deemed necessary and proper without the requirement of obtaining a removal permit for the manufactured home from the local taxing authority which would otherwise be required under 53 Pa.C.S. § 8821(d) (relating to assessment of mobile homes and house trailers). Prior to moving the manufactured home and personal property, the community owner shall notify the former manufactured home resident by mail and by posting on the manufactured home and at any other known address or by any other means by which notice may be achieved. The notice shall state that the manufactured home and personal property, if applicable, will be moved 60 days after the date of notice and shall inform the former resident of the new location of the manufactured home and personal property.

(ii) The manufactured home shall continue to be subject to the lien for taxes assessed against it, but the real estate on

which the manufactured home was and is located shall not be encumbered by or subject to the lien.

(3) Assess removal charges and storage charges against the former manufactured home residents .

(4) Dispose of the personal property or manufactured home, or both, in accordance with the procedures set forth in subsection (c). If the personal property or manufactured home is sold, the proceeds from the sale shall be distributed in the following order:

(i) to pay the costs of moving, storing and selling the personal property or manufactured home;

(ii) to pay all back rent due and all other amounts due to the community owner;

(iii) to pay all outstanding taxes on the manufactured home; and

(iv) to pay all outstanding liens on the manufactured home. Any amount still remaining from the sale after payment of the items in subparagraphs (i), (ii), (iii) and (iv) shall be paid to the resident . If the resident 's whereabouts are unknown, any amount due and payable to the resident shall be paid to the Commonwealth as required by Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

(a.1) Notwithstanding any other provision of law to the contrary, upon proper disposal of the personal property and the manufactured home, neither the purchaser nor the manufactured home community owner, nor any person acting for or on behalf of the purchaser or the manufactured home community owner, shall be liable for any outstanding taxes or liens on the home.

(b) The manufactured home community owner or other authorized person acting in good faith to comply with the requirements of this section are not responsible for any loss or damage to a home, personal property inside the manufactured home or within the community, or for any fees, assessments or other charges of any kind relating to the abandoned manufactured home unless the community owner failed to provide the notice required under this section or failed to exercise due care of the home or personal property .

(c) (1) The manufactured home community owner or other authorized person may dispose of the manufactured home and personal property after first giving written notice to the resident and any lienholder. The notice shall be sent by certified mail, return-receipt requested, or by receipted first-class mail, to the resident's last known address, which may be the address of the premises, and at any alternate address or addresses i f known to the owner or other authorized person, including the address of emergency contacts if provided. The notice shall also be posted in a conspicuous location in the manufactured home community.

(2) The notice of removal required by subsection (a)(2)(i) and the notice of disposal required by this subsection may be combined in one notice.

(d) The notice required under this section shall state the following:

(1) The manufactured home and contents are considered abandoned and, to avoid the sale or other disposal of the manufactured home, the manufactured home and contents must be claimed and removed from the premises in the manufactured home community or from the storage area or from the place of storage within 60 days after the date of mailing of the notice.

(2) If the manufactured home and contents are not claimed and removed within the time set forth in the notice:

(i) the owner or other authorized person may sell the manufactured home at public or private sale with or without additional notices ; or

(ii) if it is reasonably determined by the owner or other authorized person that the value of the property is so low that the cost of storage and conducting a sale would exceed the amount that would be realized from the sale of the manufactured home, the manufactured home may be destroyed or discarded.

(3) (i) Within the time provided in the notice, the resident may claim the manufactured home by notifying the manufactured home community owner or other authorized person in writing that the manufactured home will be claimed and removed within the time provided in the notice or such later time as is mutually agreed to by the owner or other authorized person and the resident.

(ii) If the resident fails to claim and remove the manufactured home within the time specified in the notice or such later time, the manufactured home shall be conclusively deemed abandoned, and the community owner or other authorized person shall be entitled to proceed to sell or otherwise dispose of the manufactured home.

(e) When a manufactured home community owner or other authorized person disposes of the manufactured home, notice of disposal shall be sent to the Department of Transportation, addressed to the Bureau of Motor Vehicles, Vehicle Registration Division or such other office or bureau as is designated by the department.

(f) (1) When a manufactured home is sold under this section, the Department of Transportation shall, upon proof of sale and purchase and regardless of anything to the contrary in 75 Pa.C.S. (relating to vehicles), issue a certificate of title to the purchaser evidencing no encumbrances.

(2) If the manufactured home is not sold but is destroyed or discarded because the value of the manufactured home was determined to be so low that the storage and sale would exceed the amount to be realized in the sale, the department shall, upon receiving notarized documentation that the manufactured home was destroyed or discarded, make an appropriate notation on its recordkeeping system that the manufactured home has been destroyed or discarded and that no certificate of title should again be issued for the manufactured home.

(3) The Department of Transportation may create and use a special form for this process but may not impose any other requirements for compliance with this provision to be fulfilled.

(g) (1) When a manufactured home is moved to a storage area or another location or is disposed of as provided for by this section and the space on which that manufactured home previously was located is vacant, the manufactured home community owner or other authorized person may lease that space to a new resident or otherwise locate another manufactured home on that space.

(2) The municipality or taxing district in which the manufactured home community is located shall not prevent the occupancy of that space by another manufactured home nor shall it attach any conditions to the occupancy that are not applicable to a new resident locating in a space made vacant by circumstances other than abandonment.

(h) (1) If a manufactured home is moved to a storage area or another location or is disposed of as provided for in this

section, the real estate on which the manufactured home was or is located, the manufactured home community or the purchaser of the manufactured home shall not be liable for any taxes, fees, assessments or other charges imposed by the municipality or taxing district on the manufactured home.

(2) Liability for any taxes assessed and imposed on the resident or liability to satisfy any lien for such taxes shall continue to be the responsibility of the resident and shall not be assessed and imposed on the real estate on which the manufactured home was or is located, the manufactured home community or the purchaser of the manufactured home, all of which is as provided for in the act of May 22, 1933 (P.L.853, No.155, known as "The General County Assessment Law," or in 53 Pa.C.S. Ch. 88 (relating to consolidated county assessment)).

(3) No government entity shall refuse to issue or delay issuing any permits, licenses or other required authorities to the manufactured home community, community owner, purchaser or any new tenant or resident attempting to locate or lease a manufactured home on the property where the abandoned home was located solely because of tax liability on the abandoned home.

Section 10.3. Immunity from Liability.--A manufactured home community owner who complies with the procedures set forth in this act shall be immune from liability with regard to or as a consequence of the sale, disposal or destruction of an abandoned manufactured home and any contents in such manufactured home or otherwise in the community or associated with the home except as otherwise specifically set forth in this act.

Section 11.1. Sale or Lease of Manufactured Home Communities.--(a) In the event of the sale or lease of a manufactured home community, a manufactured home community owner shall provide written notice to the residents and tenants of the community and to the Pennsylvania Housing Finance Agency. The notice shall be sent within 30 days after any agreement of sale is signed. The notice shall be posted in the same conspicuous and readily accessible place in the manufactured home community where the community rules and regulations are posted, pursuant to section 4.

(b) Within 30 days of transfer of title to the community, the new owner shall notify the residents and tenants of the name of the new owner and contact information for either the new owner or new operator of the community. The notice shall be mailed to each resident and tenant and shall be posted immediately in the same conspicuous and readily accessible place in the manufactured home community where the community rules and regulations are posted, pursuant to section 4.

Section 11.2. Closure of Manufactured Home Communities.--(a) In the event of the closure of a manufactured home community, in whole or part, the manufactured home community owner shall:

(1) Provide written notice to the residents and tenants of the community, to the resident association if one exists, to the Pennsylvania Housing Finance Agency and to the municipality where the manufactured home community is located within 60 days of deciding to close the community. The notice shall include the estimated date residents and tenants will be expected to vacate the community, which shall be no less than 180 days from the date of the notice, and the estimated date the community will be closed.

(2) Notify any prospective resident in writing, prior to leasing a manufactured home space, and any known prospective tenant, prior to leasing a manufactured home in a manufactured home community, of the scheduled closing date.

(b) A manufactured home community owner shall consider any offer to purchase the community made by a resident association representing at least 25% of the manufactured home spaces or by a nonprofit corporation, including a community development corporation, housing authority or redevelopment authority acting at the request of the residents of at least 25% of the spaces and shall negotiate in good faith with the entity submitting the offer.

(c) A manufactured home community owner shall pay relocation expenses to the owner of any manufactured home in a manufactured home community that is closing in an amount equivalent to the cost of relocation, not to exceed the amount of \$4,000 for a single section manufactured home and \$6,000 for a multisection manufactured home. The amounts stated in this subsection shall be adjusted annually by the Department of Community and Economic Development to reflect any increase in the Consumer Price Index.

(d) A manufactured home community owner shall pay a minimum of \$2,500 or the appraised value, whichever is greater, of any manufactured home to the resident of the manufactured home upon the closure of the community if the resident is unable or unwilling to find a reasonably suitable replacement site. The appraised value must be provided by a certified residential real estate appraiser with substantial experience in appraising manufactured homes who is mutually agreed to by the owner and the resident. If the parties cannot agree on an appraiser, each shall select an appraiser, and the two appraisers shall select the appraiser to perform the appraisal. The community owner and the resident shall each pay half of the cost for the appraisal. Notwithstanding the provisions of this subsection, the resident and the community owner may mutually agree upon a price for the sale of the manufactured home.

(e) In the event a manufactured home community is closed because of a condemnation, action in eminent domain or other governmental action, the manufactured home residents shall not be entitled to payments set forth in subsections (c) and (d), but shall be entitled to the rights and remedies available under laws relating to condemnation, eminent domain or other governmental action.

(f) A tenant who rents a manufactured home in a manufactured home community shall have the right to terminate the lease without penalty upon receiving notice of the planned closing of the community.

(g) A manufactured home resident shall not be required to remove the manufactured home from the land when a manufactured home community closes, nor shall the resident be liable for the costs of removing or disposing of the manufactured home. The manufactured home community owner may require a resident who is leaving a manufactured home in the community to assign the title to the community owner. In the event the resident refuses to make such assignment, the community owner may proceed under section 10.1.

Section 11.3. Notice Requirements in Event of Closure of Manufactured Home Community.--(a) The notice given to the Pennsylvania Housing Finance Agency under section 11.2 shall be sent by certified mail and shall be addressed to the legal department of the Pennsylvania Housing Finance Agency.

(b) (1) Within 60 days of the effective date of this section, the Pennsylvania Housing Finance Agency shall publish a notice in both the Pennsylvania Bulletin and on its publicly accessible Internet website that it is compiling a list of

parties interested in receiving copies of any notice received by it under sections 11.1 and 11.2 and inviting the parties to provide their contact information to receive notices of community sales or closures. Interested parties may indicate their region of the State or that they operate Statewide.

(2) The Pennsylvania Housing Finance Agency shall send copies of notices it receives under this section to parties on the list that are Statewide or within the region the parties identify. Notices shall be sent by regular mail or by electronic mail within ten calendar days of the legal department's receipt of a notice.

(3) Nothing in this subsection shall be construed to create any liability for the Pennsylvania Housing Finance Agency or otherwise to affect the transfer of any real property in the event there is a failure to provide notice in accordance with this act.

(c) A notice given pursuant to section 11.2(a)(1) shall be:

(1) Delivered to an adult resident of each manufactured home space within the manufactured home community or mailed by first class mail to the resident or tenant of each space.

(2) Posted in the same conspicuous and readily accessible place in the manufactured home community where the community rules and regulations are posted, pursuant to section 4.

(d) A notice given pursuant to section 11.2(a)(2) shall be given personally to the prospective resident or known prospective tenant.

Section 16.1. Remedies.--(a) A violation of this act may be enforced as provided by sections 13, 14, 15 and 16 and shall also constitute an "unfair or deceptive act or practice" within the meaning of section 2(4) of the act of December 17, 1968 (P.L.1224, No.387), known as the "Unfair Trade Practices and Consumer Protection Law," and shall be a violation of and shall be subject to the enforcement provisions and private rights of action contained in that act.

(b) Residents shall have the right to seek injunctive relief to enforce compliance with this section and sections 11.1 and 11.2.

Section 3. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate this act.

(2) The definition of "abandoned mobile home" in section 102 and section 505 of the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951, are repealed.

Section 4. This act shall take effect in 60 days.

APPROVED--The 24th day of October, A.D. 2012.

TOM CORBETT