

1 SB412
2 150400-1
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 04-APR-13

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8 SYNOPSIS: Under existing law, the Uniform Residential
9 Landlord-Tenant law is limited to the rental of
10 premises owned by a landlord. There are no specific
11 provisions specifying the rights and
12 responsibilities of tenants and landlords in
13 circumstances in which the landlord rents real
14 property to a tenant for the placement of a
15 manufactured home owned by the tenant.

16 This bill would create the Alabama
17 Manufactured Home Landlord-Tenant Act to specify
18 the rights and responsibilities of landlords and
19 tenants of manufactured home communities.

20 This bill would require landlords to
21 disclose all fees, charges, assessments, and rules
22 to a tenant prior to occupancy in a manufactured
23 home community, would provide certain restrictions
24 on the sale or removal of a manufactured home in a
25 manufactured home community, and would place
26 certain restrictions on the sale of a manufactured
27 home community.

1 disclose all fees, charges, assessments, and rules to a
2 tenant; to provide certain restrictions on the sale or removal
3 of a manufactured home in a manufactured home community; to
4 place certain restrictions on the sale of a manufactured home
5 community; to provide procedures for the eviction of a tenant;
6 to provide for the disposal of a manufactured home and
7 personal property abandoned by a tenant; to provide procedures
8 for the adoption of mobile home community rules; to specify
9 remedies for the breach of a lease agreement; to provide for
10 the defense of warranty of habitability in certain actions
11 against a tenant; to provide penalties for the late payment of
12 rent; to provide for the disposition of security deposits; to
13 specify remedies for a landlord's breach of the implied
14 warranty and covenant of habitability; and to specify the
15 rights of the landlord and tenant upon the occurrence of a
16 casualty loss.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. This act shall be known and may be cited
19 as the "Alabama Manufactured Home Landlord-Tenant Act."

20 Section 2. For the purpose of this act, the
21 following words or phrases shall have the following meanings:

22 (1) DAY. A calendar day, notwithstanding Rule 6 of
23 the Alabama Rules of Civil Procedure. However, in any case
24 where the application of a time period in this act consisting
25 of a specific number of days results in the last day of that
26 time period falling on a weekend or an official holiday, the

1 last day of that time period shall be considered the next
2 official business day when the court is open.

3 (2) EVICTION. A civil action filed as a remedy,
4 where a tenant has lawfully taken possession of a manufactured
5 home lot and after abandonment or after the termination of the
6 possessory interest of the tenant, fails or refuses to deliver
7 possession of the manufactured home lot to anyone lawfully
8 entitled or to his or her agent or attorney.

9 (3) GOOD FAITH. Honesty in fact in the conduct of
10 the transaction concerned.

11 (4) LANDLORD. The owner or manager of a manufactured
12 home community. The term includes agents of the landlord.

13 (5) LEASE AGREEMENT. A written agreement between a
14 landlord and a tenant that establishes the terms, conditions,
15 and other provisions for placing a manufactured home in a
16 manufactured home community.

17 (6) MANUFACTURED HOME. A single-family dwelling
18 built according to the National Manufactured Housing
19 Construction and Safety Standards Act of 1974, 42 U.S.C. §
20 5401 et seq., which is a national preemptive building code,
21 and satisfies all of the following conditions:

22 a. Includes plumbing, heating, air conditioning, and
23 electrical systems.

24 b. Is built on a permanent chassis.

25 c. Can be transported in one or more sections with
26 each section at least eight feet wide and 40 feet long when

1 transported, or when installed on the site is 320 square feet
2 or greater.

3 The term includes mobile homes, but does not include
4 recreational vehicles as defined in this section.

5 (7) MOBILE HOME. A factory-built dwelling built
6 prior to June 15, 1976, to standards other than the United
7 States Department of Housing and Urban Development Code, and
8 acceptable under applicable state codes in effect at the time
9 of construction or introduction of the home into the state.
10 The term does not include dwellings built after the
11 introduction of the National Manufactured Housing Construction
12 and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq.

13 (8) MANUFACTURED HOME COMMUNITY. Land on which four
14 or more lots or spaces are offered for rent or lease for
15 installing and occupying manufactured homes, except where real
16 property is rented or held out for rent for seasonal
17 recreational purpose only and is not intended for year-round
18 occupancy.

19 (9) MANUFACTURED HOME LOT. The property allocated in
20 the lease agreement for the placement of the tenant's
21 manufactured home and the area adjacent to that space
22 designated in the lease agreement for the tenant's exclusive
23 use.

24 (10) NORMAL WEAR AND TEAR. Deterioration that
25 results from intended use of the property, including breakage
26 or malfunction due to age or deteriorated condition. The term
27 does not include deterioration that results from negligence,

1 carelessness, accident, or abuse of the property, equipment,
2 or chattels by the tenant, a member of the tenant's household,
3 or a guest or invitee of the tenant.

4 (11) PROPERTY. The manufactured home lot or lots a
5 lease authorizes a tenant to use, and the appurtenances,
6 grounds, and facilities held out for the use of tenants
7 generally.

8 (12) RECREATIONAL VEHICLE. A travel trailer, motor
9 home, truck camper, or camping trailer that is primarily
10 designed as temporary living quarters for recreational camping
11 or travel use and either has its own motor power or is mounted
12 on or drawn by another vehicle and is not immobilized or
13 permanently affixed to a manufactured home lot.

14 (13) RENT. All payments to be made to or for the
15 benefit of the landlord under a lease agreement.

16 (14) SECURITY DEPOSIT. Any advance or deposit of
17 money, the primary function of which is to secure the
18 performance of a lease agreement for a manufactured home,
19 including property used solely for the storage or display of
20 manufactured homes.

21 (15) TENANT. A person who owns a manufactured home
22 and rents or leases a lot within a manufactured home community
23 for residential use.

24 Section 3. Unless displaced by the provisions of
25 this act, the principles of law and equity, including, but not
26 limited to, the law relating to capacity to contract,
27 mutuality of obligations, principal and agent, real property,

1 public health and safety, estoppel, fraud, misrepresentation,
2 duress, coercion, mistake, bankruptcy, or other validating or
3 invalidating cause supplement this act.

4 Section 4. (a) The remedies provided in this act
5 shall be administered so that an aggrieved party may recover
6 appropriate damages. The aggrieved party has a duty to
7 mitigate damages. Notwithstanding the foregoing, the duty of a
8 landlord to mitigate shall not take priority over the
9 landlord's right to first rent other vacant units.

10 (b) Any right or obligation declared by this act is
11 enforceable by action unless the provision declaring it
12 specifies a different and limited effect.

13 Section 5. A cause of action or civil complaint
14 initiated pursuant to this act is not subject to the notice
15 requirement of Section 34-27-31(j), Code of Alabama 1975.

16 Section 6. (a) This act only applies to the
17 relationship between a landlord who leases property in a
18 manufactured home community and a tenant leasing property in
19 the manufactured home community for the purpose of situating a
20 manufactured home on the property.

21 (b) Unless created to avoid the application of this
22 act, the following arrangements are not governed by this act:

23 (1) Occupancy where a landlord owns the manufactured
24 home and both the manufactured home and the manufactured home
25 lot are rented or leased by the tenant.

26 (2) Occupancy where a rental space is offered for
27 occupancy by a recreational vehicle.

1 (3) Occupancy at a manufactured home community in
2 which fewer than four lots are offered for rent or lease.

3 (4) Occupancy at an institution, public or private,
4 if incidental to detention or the provision of medical,
5 geriatric, educational, counseling, religious, or similar
6 service.

7 (5) Occupancy under a contract of sale of a
8 manufactured home or the property on which it is located, if
9 the occupant is the purchaser or a person who succeeds to the
10 interest of the purchaser.

11 (6) Occupancy by an employee of a landlord whose
12 right to occupancy is conditional upon employment in and about
13 the property.

14 (7) Occupancy by an owner of a condominium unit or a
15 holder of a proprietary lease in a cooperative.

16 Section 7. (a) This act applies to and is the
17 exclusive remedy to regulate and determine rights,
18 obligations, and remedies under an applicable lease agreement,
19 wherever made, for a property located within this state.
20 Except as provided in subsection (b), no resolution or
21 ordinance addressing topics provided for in this act shall be
22 enacted or enforced by any county or municipality, and any
23 resolution or ordinance enacted both prior to or after the
24 effective date of this act is null and void.

25 (b) A county or municipality may enact and enforce
26 building codes, health codes, and other general laws that

1 affect rental property provided that the codes equally affect
2 similarly situated owner-occupied residential property.

3 Section 8. (a) A landlord shall disclose fully in
4 writing all fees, charges, assessments, and rules before a
5 tenant assumes occupancy in the manufactured home community.

6 (b) The landlord must give at least 30 days' written
7 notice to all tenants before changing any rules or increasing
8 any fee, charge, or assessment.

9 (c) If the landlord fails to fully disclose any fee,
10 charge, or assessment, the fee, charge, or assessment may not
11 be collected. A landlord may not use a tenant's refusal to pay
12 any undisclosed charge as a cause for eviction in any court.

13 (d) A landlord may establish a rule to require that
14 all rental payments and other fees due to the landlord be paid
15 in full before the manufactured home is removed from the
16 property, sold, or occupied by a new tenant or owner. If the
17 owner or occupant is a lienholder who has informed the
18 landlord of its lien on the home pursuant to Section 15, the
19 terms of that section apply.

20 Section 9. (a) A landlord may not do any of the
21 following:

22 (1) Exact a commission or fee with respect to the
23 price realized by the seller of the manufactured home unless
24 the landlord has acted as agent for the manufactured home
25 owner in the sale under a written contract.

26 (2) Require as a condition of tenancy or continued
27 tenancy that a manufactured home owner designate the landlord

1 or any other individual or agent to act as agent for the
2 manufactured home owner in the sale of the manufactured home.

3 (3) Restrict in any manner the reasonable
4 advertising for sale of any manufactured home in the
5 manufactured home community, except that the manufactured home
6 owner shall notify the landlord before placing a "for sale"
7 sign or other form of advertising within the manufactured home
8 community.

9 (b) (1) A landlord may not require a manufactured
10 home to be removed from a manufactured home community except
11 pursuant to a rule contained in the written copy of rules
12 given to the tenant under Section 16. The rules shall clearly
13 describe the standards under which the landlord may require a
14 tenant to remove a manufactured home from the manufactured
15 home community.

16 (2) The standards under subdivision (1) shall
17 specify, but are not limited to, fair and reasonable rules
18 governing the conditions of all of the following:

- 19 a. Protective exterior coating or siding.
- 20 b. Roof.
- 21 c. Windows and doors.
- 22 d. Plumbing, heating, and electrical systems.
- 23 e. Anchoring system.
- 24 f. Skirting around the base.
- 25 g. Steps and handrail.
- 26 h. Porches, decks, or other additions to the home
27 and the exterior structure.

1 i. Width of home, if less than 11 feet, 6 inches.

2 j. Aesthetic appearance.

3 k. Smoke detectors wired into the electrical system.

4 l. Other aspects of the structural safety or
5 soundness of the home.

6 (3) The landlord has the burden of proof to show
7 that the manufactured home does not meet the standards of the
8 rules adopted under this subsection.

9 (4) No aesthetic standard may be applied against the
10 manufactured home if the standard relates to physical
11 characteristics such as size, except as provided in paragraph
12 i. of subdivision (2), original construction materials, or
13 color that cannot be changed without undue financial hardship
14 to the tenant.

15 (5) Neither age of the manufactured home nor the
16 standards established under the National Manufactured Housing
17 Construction and Safety Standards Act of 1974, 42 U.S.C. §
18 5401 et seq., shall by themselves be a sufficient standard for
19 a landlord to require removal of a manufactured home.

20 (6) A landlord is not liable for any claim or any
21 damages of any kind arising from the presence in the
22 manufactured home community of a manufactured home
23 manufactured before June 15, 1976.

24 (c) The buyer of a manufactured home located in a
25 manufactured home community may rescind the contract for the
26 purchase of the manufactured home within 30 days of execution
27 of the contract if both of the following are satisfied:

1 (1) At the time of entering into the contract, the
2 seller or the seller's agent represented to the buyer or the
3 buyer's agent that the manufactured home may remain in the
4 manufactured home community.

5 (2) The buyer is not permitted to keep the
6 manufactured home in the manufactured home community or the
7 buyer is not accepted as a tenant in that manufactured home
8 community.

9 Section 10. (a) Except as otherwise provided in
10 subsection (c), if the owner of a manufactured home community
11 receives an offer to purchase the manufactured home community
12 and the landlord intends to accept that offer, the owner shall
13 give 45 days' written notice to tenants of the manufactured
14 home community. The notice must indicate that the owner has
15 received an offer to purchase the manufactured home community
16 and that the owner intends to accept that offer. During the
17 45-day notice period, the owner may not execute a contract for
18 the purchase and sale of the manufactured home community. The
19 owner must mail by regular mail a separate notice to each
20 tenant in the manufactured home community.

21 (b) Nothing in this section prohibits the owner of a
22 manufactured home community from obtaining at any time from a
23 buyer an option to sell the manufactured home community if
24 both of the following are satisfied:

25 (1) The option does not bind the owner who obtains
26 the option to sell the manufactured home community to the
27 buyer.

1 (2) The option of the owner may not be exercised
2 prior to expiration of the 45-day notice provided for in
3 subsection (a).

4 (c) The owner of a manufactured home community may
5 sell the manufactured home community without notifying tenants
6 in the manner provided by subsection (a) if the purchase and
7 sale agreement for the manufactured home community provides
8 for a deed containing a covenant, enforceable by tenants of
9 the manufactured home community, that forbids the purchaser
10 from changing the use of the manufactured home community for 2
11 years after the transfer.

12 (d) A tenant aggrieved by a violation of this
13 section may bring an action against the violator for
14 injunctive relief, damages, and attorney's fees.

15 (e) Nothing in this section prohibits the owner of a
16 manufactured home community from providing notice or
17 establishing use restrictions in addition to those required
18 under this section.

19 Section 11. (a) Except as otherwise provided in this
20 section, a landlord may not require, as a condition of tenancy
21 or continued tenancy, that a tenant or occupant purchase fuel
22 oil or bottled gas from any particular fuel oil or bottled gas
23 dealer or distributor.

24 (b) This section does not apply to a landlord that
25 provides a centralized distribution system for fuel oil or
26 bottled gas, or both, for tenants or occupants in the
27 manufactured home community. A landlord that provides such a

1 centralized distribution system may not charge tenants or
2 occupants more than the average retail price charged by other
3 retail distributors for fuel oil or bottled gas in the county
4 in which the manufactured home community is located.

5 Section 12. (a) A tenancy may be terminated by a
6 landlord only for one or more of the following reasons:

7 (1) Nonpayment of rent or other charges due under
8 the lease agreement, except that no action for possession may
9 be maintained if, prior to the expiration of a notice to quit,
10 the tenant pays or tenders all arrearages due.

11 (2) Failure of the tenant or the tenant's
12 cohabitees, guests, or invitees to comply with local
13 ordinances or state or federal law, rules, or regulations
14 relating to manufactured homes, or manufactured home
15 communities, as long as the tenant first is given written
16 notice of failure to comply with those restrictions and a
17 reasonable opportunity to comply with the restrictions.

18 (3) Damage by the tenant or the tenant's cohabitees,
19 guests, or invitees to the property, except for reasonable
20 wear and tear.

21 (4) Repeated conduct of the tenant or the tenant's
22 cohabitees, guests, or invitees in the manufactured home
23 community that disturbs the peace and quiet or safety of other
24 tenants in the manufactured home community.

25 (5) Failure of the tenant or the tenant's
26 cohabitees, guests, or invitees to comply with reasonable
27 written rules of the manufactured home community as

1 established by the landlord in the lease agreement at the
2 beginning of the tenancy or as subsequently amended, as long
3 as the tenant first is given written notice of failure to
4 comply and a reasonable opportunity to comply with those
5 rules.

6 (6) Condemnation or change of use of the
7 manufactured home community, as long as, in the case of change
8 of use, six months' notice is given in writing to the tenant,
9 unless at the beginning of the tenancy the tenant is given
10 notice of the scheduled change of use.

11 (7) Under terms and expressed conditions in the
12 original lease agreement entered into by the tenant and
13 landlord.

14 (8) Violation by a tenant or the tenant's
15 cohobitees, guests, or invitees of subdivision (1), (2), or
16 (5) three or more times in a 12-month period, notwithstanding
17 the fact that the tenant in each case corrected the violation
18 after being notified of the violation by the landlord. For
19 purposes of termination under this subdivision, the tenant or
20 the tenant's cohobitees, guests, or invitees must have engaged
21 in at least three separate instances of misconduct.

22 (9) Renovation or reconstruction of any portions of
23 the property, if any of the following are satisfied:

24 a. In the case of a temporary eviction, the landlord
25 does both of the following:

26 1. Gives affected tenants 30 days' notice in
27 writing, unless the temporary eviction is necessary to correct

1 conditions posing an immediate threat to one or more tenants'
2 health or safety.

3 2. Pays the removal and relocation costs of tenants,
4 except for those tenants who agree otherwise in a signed
5 writing separate from the lease.

6 b. In the case of a permanent eviction, other than
7 an eviction due to reconstruction or renovation required by a
8 federal, state, or local governmental body, of one or more
9 manufactured homes currently located in the manufactured home
10 community, the landlord does either of the following:

11 1. Gives each tenant six months' notice in writing.

12 2. To each tenant for whose home the landlord has
13 found a reasonable alternative location acceptable to the
14 tenant, gives three months' written notice and pays removal
15 and relocation costs.

16 (b) The court may not order the termination of any
17 tenancy if the tenant proves that the eviction action is
18 primarily in retaliation for either of the following:

19 (1) The tenant's participation in establishing, or
20 membership in, an organization concerned with landlord-tenant
21 relationships.

22 (2) The tenant's assertion of any right under this
23 act.

24 Section 13. (a) Except as otherwise provided in this
25 act, if there is a material noncompliance by the tenant with
26 the lease agreement, an intentional misrepresentation of a
27 material fact in a lease agreement or application, or a

1 noncompliance with this act materially affecting health and
2 safety, the landlord may deliver a written notice to terminate
3 the lease to the tenant specifying the acts and omissions
4 constituting the breach and that the lease agreement will
5 terminate upon a date not less than 14 days after receipt of
6 the notice. An intentional misrepresentation of a material
7 fact in a lease agreement or application may not be remedied
8 or cured. If the breach is not remedied within the 14 days
9 after receipt of the notice to terminate the lease, the lease
10 agreement shall terminate on the date provided in the notice
11 to terminate the lease unless the tenant adequately remedies
12 the breach before the date specified in the notice, in which
13 case the lease agreement shall not terminate.

14 (b) If rent is unpaid when due, the landlord may
15 deliver a written notice to terminate the lease agreement to
16 the tenant specifying the amount of rent and any late fees
17 owed to remedy the breach and that the lease agreement will
18 terminate upon a date not less than seven days after receipt
19 of the notice. If the breach is not remedied within the seven
20 days, the lease agreement shall terminate. If a noncompliance
21 of lease agreement occurs under both subsection (a) and this
22 subsection, the seven-day notice period to terminate the lease
23 for nonpayment of rent in this subsection shall govern.

24 (c) Except as otherwise provided in this act, a
25 landlord may recover actual damages and reasonable attorney
26 fees and obtain injunctive relief for noncompliance by the
27 tenant with the lease agreement.

1 (d) The following acts or omissions by a tenant or
2 occupant shall constitute a noncurable default of the lease
3 agreement, and in such cases the landlord may terminate the
4 lease agreement upon a seven-day notice. The tenant shall have
5 no right to remedy such a default unless the landlord
6 consents. Such acts and omissions include, but are not limited
7 to, the following:

8 (1) Possession or use of illegal drugs in the
9 manufactured home or in the common areas.

10 (2) Discharge of a firearm on the premises of the
11 manufactured home lot, except in cases of self-defense,
12 defense of a third party, or as permissible in Section
13 13A-3-23, Code of Alabama 1975.

14 (3) Criminal assault of a tenant or guest on the
15 premises of the manufactured home lot, except in cases of
16 self-defense, defense of a third party, or as permissible in
17 Section 13A-3-23, Code of Alabama 1975.

18 (e) A landlord may prevent a tenant from entering
19 the manufactured home lot or remove or require the removal of
20 a manufactured home from the manufactured home lot only after
21 obtaining a writ of possession.

22 (f) If the landlord has been provided notice of the
23 name and address of a lienholder in the manufactured home, the
24 landlord shall give written notice of eviction proceedings to
25 the lienholder of the manufactured home not later than the
26 third day after the date the landlord files an application or
27 petition for a judgment for possession.

1 (g) If, after executing a writ of possession for the
2 manufactured home lot, the landlord removes the manufactured
3 home from the lot, the landlord, not later than the tenth day
4 after the date the manufactured home is removed, shall send a
5 written notice regarding the location of the manufactured home
6 to the tenant at the tenant's most recent mailing address as
7 reflected in the landlord's records and, if different, to the
8 owner, if the landlord is given written notice of the owner's
9 name and address.

10 Section 14. (a) A manufactured home and other
11 personal property that is abandoned or unclaimed by a tenant
12 following the tenant's eviction shall be disposed of by a
13 landlord according to the requirements of this section.

14 (b) After a landlord obtains a judgment for forcible
15 entry and detainer, the landlord shall send written notice by
16 first class mail, with proof of mailing, to the last known
17 address of the tenant with a copy to the lienholder, if known.
18 The notice must set forth the landlord's intent to dispose of
19 the manufactured home and other personal property. The notice
20 must advise the tenant and lienholder, if known, that if the
21 tenant or lienholder does not respond to the notice within 14
22 days the landlord may dispose of the property as set forth in
23 this subsection. If the tenant or lienholder does respond to
24 the notice, the tenant or lienholder shall take possession of
25 the property within 21 days. Section 15 applies with respect
26 to the rights and responsibilities of the lienholder.

1 (c) If, within 14 days after the notice under
2 subsection (b) is sent, a tenant or lienholder claims
3 ownership of the manufactured home, the tenant or lienholder
4 shall take possession of the property within 21 days of
5 claiming ownership. If the tenant or lienholder timely claims
6 the property but is not able to move the property within 21
7 days due to weather or posted road conditions, the landlord
8 shall allow the tenant or lienholder to remove the property
9 after the 21-day period but the landlord may charge for any
10 additional costs incurred as a result of the delay.

11 (d) (1) If a tenant or lienholder does not claim
12 ownership of the property within 14 days after the notice
13 under subsection (b) is sent or fails to take possession of
14 the property after claiming ownership pursuant to subsection
15 (c), the landlord may take one or more of the following
16 actions:

17 a. Condition the release of the property to the
18 tenant or lienholder upon payment of all rental arrearages,
19 other charges and damages, costs of legal fees, and costs of
20 storage.

21 b. Sell any property for a reasonable fair market
22 price and apply all proceeds to rental arrearages, other
23 charges and damages, costs of storage, marketing expenses,
24 legal fees, and outstanding taxes. Any balance must be sent to
25 the tenant's or lienholder's last known mailing address and,
26 if returned to the sender, the balance must be forwarded to
27 the Department of Revenue.

1 c. Dispose of any property that has no reasonable
2 fair market value.

3 (e) (1) After the expiration of the time given in the
4 notice under subsection (b), and if the landlord elects to
5 sell the property, an advertisement of the sale or other
6 disposition shall be published once a week for two consecutive
7 weeks in a newspaper of general circulation in the county
8 where the property is located. The advertisement shall include
9 both of the following:

10 a. A brief and general description of the personal
11 property reasonably adequate to permit its identification and
12 the name of the occupant and his or her last known address.

13 b. The time, place, and manner of the sale or other
14 disposition. The sale or other disposition shall take place
15 not sooner than 15 days after the first publication.

16 (2) If there is no newspaper of general circulation
17 in the county where the property is located, the advertisement
18 shall be posted at least 10 days before the date of the sale
19 or other disposition in not less than six conspicuous places
20 in the neighborhood where the property is located.

21 (f) Any sale or other disposition of the personal
22 property shall conform to the terms of the notification as
23 provided for in this section.

24 (g) Any sale or other disposition of the personal
25 property shall be held at the manufactured home community or
26 at the nearest suitable place where the personal property is

1 held or stored. The property may be sold singly, in lots, or
2 as a whole. Bids may be sealed or open.

3 (h) Before any sale or other disposition of personal
4 property pursuant to this section, the occupant may pay the
5 amount necessary to satisfy the lien and the reasonable
6 expenses incurred under this section and redeem the personal
7 property. Upon receipt of payment, the owner shall return the
8 personal property, and the owner shall have no liability to
9 any person with respect to the personal property.

10 (i) A purchaser in good faith of the personal
11 property sold to satisfy a lien as provided in this section
12 takes the property free of any rights of persons against whom
13 the lien was valid, despite noncompliance by the owner with
14 the requirements of this section.

15 (j) In the event of a sale under this section, the
16 owner may satisfy his or her lien from the proceeds of the
17 sale. The lien rights of secured lienholders are automatically
18 transferred to the remaining proceeds of the sale. If the sale
19 is made in good faith and is conducted in a commercially
20 reasonable manner, the owner shall not be subject to any
21 liability for a deficiency if the amount realized at sale does
22 not satisfy any secured lien, but shall hold the balance, if
23 any, for delivery to the occupant, lienholder, or other person
24 in interest. If the occupant, lienholder, or other person in
25 interest does not claim the balance of the proceeds within
26 three years of the date of sale, it shall become the property

1 of the owner without further recourse by the occupant,
2 lienholder, or other person in interest.

3 (k) This section does not affect the rights and
4 liabilities of the owner, occupant, or any other person
5 unless:

6 (1) The requirements of this section are not
7 satisfied;

8 (2) The sale of the personal property is not in
9 conformity with the notice of sale; or

10 (3) There is a willful violation of this section.

11 Section 15. (a) The responsibilities of the landlord
12 and the holder of a lien on the tenant's manufactured home
13 include all of the following:

14 (1) In the event the landlord moves to evict a
15 tenant and there is a lien on the tenant's manufactured home,
16 if the holder of the lien or the tenant has provided the
17 landlord with a notice of the lien and the notice includes the
18 lienholder's name and mailing address, then prior to evicting
19 the tenant who resides in the manufactured home, the landlord
20 shall give notice of the eviction in writing by certified mail
21 to the lienholder at the time the landlord serves the tenant
22 with a notice to quit. Following receipt of the notice from
23 the landlord, the lienholder shall do all of the following:

24 a. Declare, in writing and by certified mail, to the
25 landlord that the lienholder intends to take possession of the
26 manufactured home and assume tenancy in the manufactured home
27 community. The lienholder shall pay to the landlord all of the

1 following rent and charges, in an amount not to exceed three
2 months of those rents and charges:

3 1. Any arrearage for rent and other recurring
4 monthly charges owed the landlord by the tenant at the time of
5 issuance of the notice to quit.

6 2. Rent and other charges that become due subsequent
7 to issuance of the notice to quit.

8 3. Rent and other charges that become due subsequent
9 to the issuance of a forcible entry and detainer or, if no
10 forcible entry and detainer is issued, following abandonment
11 by the tenant or possession of the home by the lienholder.

12 b. Declare, in writing and by certified mail, to the
13 landlord that the lienholder intends to take possession of the
14 manufactured home but not assume tenancy in the manufactured
15 home community. The lienholder also shall do both of the
16 following:

17 1. Pay to the landlord any arrearage for rent and
18 other recurring monthly charges owed the landlord by the
19 tenant at the time of issuance of the notice to quit in an
20 amount not to exceed three months of those rents and charges.

21 2. Remove the manufactured home from the property.

22 (2) In the event that the holder of a lien on a
23 manufactured home intends to repossess that home, the holder
24 of the lien shall provide the landlord with a notice that it
25 holds a lien, which notice must include the lienholder's
26 mailing address and shall include either of the following:

1 a. Notice in writing and by certified mail to the
2 landlord of the lienholder's intent to repossess and that the
3 lienholder intends to leave the manufactured home on the
4 property and assume tenancy in the manufactured home
5 community. The lienholder also shall pay to the landlord any
6 arrearage for rent and other recurring monthly fees owed the
7 landlord by the tenant at the time it takes possession of the
8 manufactured home and all rent and other charges that become
9 due subsequent to the time it takes possession of the
10 manufactured home.

11 b. Notice in writing and by certified mail to the
12 landlord of the lienholder's intent to repossess and that it
13 does not intend to leave the manufactured home nor assume
14 tenancy in the manufactured home community. The lienholder
15 also shall pay to the landlord any arrearage for rent and
16 other recurring monthly fees owed the landlord by the tenant
17 at the time it takes possession of the manufactured home and
18 all rent and other charges that become due subsequent to the
19 time it takes possession of the manufactured home until the
20 lienholder physically removes the manufactured home from the
21 property. The arrearage for which the lienholder is
22 responsible may not exceed three months rent and other
23 recurring fees. Notwithstanding this subsection, the
24 lienholder and the landlord may agree to an alternative
25 arrangement if they so choose.

26 (b) A landlord may not charge any fees to tenants
27 other than charges for rent, utilities, reasonable incidental

1 service charges, and security deposits, unless otherwise
2 provided for in the original lease or agreement.

3 Section 16. (a) A landlord may adopt manufactured
4 home community rules that are not arbitrary or capricious.

5 (b) Manufactured home community rules are considered
6 part of the lease agreement.

7 (c) The landlord may add to or amend manufactured
8 home community rules. If the landlord adds or amends a rule:

9 (1) The rule is not effective until 30 days after
10 the date the tenant is provided with a written copy of the
11 added or amended rule.

12 (2) If a tenant is required to take any action that
13 requires the expenditure of funds in excess of twenty-five
14 dollars (\$25) to comply with the rule, the landlord shall give
15 the tenant at least 90 days after the date each tenant is
16 provided with a written copy of the added or amended rule to
17 comply with the rule.

18 Section 17. (a) In addition to any other remedy
19 under this act, any tenant may sue to enforce any provision of
20 this section and the court may award damages or grant
21 injunctive or other appropriate relief.

22 (b) No lease agreement, oral or written, may contain
23 any provision by which the tenant waives any rights under this
24 act. Any such waiver is contrary to public policy and
25 unenforceable.

26 Section 18. (a) In an action brought by a landlord
27 to terminate a lease agreement on the ground that the tenant

1 is in arrears in the payment of rent, the tenant may raise, as
2 a defense, any alleged violation of the implied warranty and
3 covenant of habitability provided that all of the following
4 are satisfied:

5 (1) The tenant gave the landlord actual notice of
6 the alleged violation while the tenant was current in rental
7 payments.

8 (2) The landlord unreasonably failed under the
9 circumstances to take prompt, effective steps to repair or
10 remedy the condition.

11 (3) The condition was not caused by the tenant or
12 another person acting under the tenant's control.

13 (b) Upon finding that the leased property is not fit
14 for human habitation, the court shall permit the tenant either
15 to terminate the lease agreement without prejudice or to
16 reaffirm the lease agreement and the court shall assess
17 against the tenant an amount equal to the reduced fair rental
18 value of the property for the period during which rent is
19 owed. The reduced amount of rent owed shall be paid on a pro
20 rata basis, unless the parties agree otherwise, and payments
21 are due at the same intervals as rent for the current rental
22 period. The landlord may not charge the tenant for the full
23 rental value of the property until the property is fit for
24 human habitation.

25 Section 19. (a) The landlord may assess a penalty
26 against a tenant for late payment of rent under this section.

1 (b) A payment of rent is late if it is not made
2 within 15 days from the time the payment is due.

3 (c) The landlord may not assess a penalty for the
4 late payment of rent that exceeds 10 percent of the amount due
5 for one month.

6 (d) The landlord may not assess a penalty for the
7 late payment of rent unless the landlord gives the tenant
8 written notice at the time the landlord and tenant enter into
9 the lease agreement that a penalty, up to 10 percent of one
10 month's rent, may be charged for the late payment of rent.

11 Section 20. (a) A landlord may not require a
12 security deposit greater than three months' rent.

13 (b) The following provisions apply to the retention
14 and return of a security deposit:

15 (1) A security deposit or any portion of a security
16 deposit may not be retained to pay for normal wear and tear.

17 (2) A landlord shall return to a tenant the full
18 security deposit deposited with the landlord by the tenant or,
19 if there is actual cause for retaining the security deposit or
20 any portion of it, the landlord shall provide the tenant with
21 a written statement, itemizing the reasons for the retention
22 of the security deposit or any portion of it, within 21 days
23 after the termination of the tenancy or the surrender and
24 acceptance of the property, whichever occurs first.

25 (3) The written statement itemizing the reasons for
26 the retention of any portion of the security deposit must be

1 accompanied by a full payment of the difference between the
2 security deposit and the amount retained.

3 (4) The landlord is deemed to have complied with
4 this section if the landlord mails the statement and any
5 payment required to a forwarding address provided by the
6 tenant.

7 (5) Nothing in this section precludes the landlord
8 from retaining the security deposit for nonpayment of rent or
9 other fees or charges the tenant was required to pay to the
10 landlord.

11 (6) If a landlord fails to provide a written
12 statement or to return the security deposit within the time
13 specified in subdivision (2), the landlord forfeits the right
14 to withhold any portion of the security deposit.

15 (c) The following provisions apply to the wrongful
16 retention of a security deposit by a landlord:

17 (1) If the landlord fails to return the security
18 deposit and provide the itemized statement within 21 days as
19 specified in this section, the tenant must notify the landlord
20 of the intention to bring a legal action at least seven days
21 before commencing the action. If the landlord fails to return
22 the entire security deposit within the seven-day period, it is
23 presumed that the landlord is willfully and wrongfully
24 retaining the security deposit.

25 (2) A landlord who willfully retains a security
26 deposit in violation of this section is liable for double the
27 amount of that portion of the security deposit wrongfully

1 withheld from the tenant, together with reasonable attorney's
2 fees and court costs.

3 (3) In any court action brought by a tenant under
4 this section, the landlord has the burden of proving that the
5 operator's withholding of the security deposit, or any portion
6 of it, was not wrongful.

7 Section 21. (a) In any lease agreement for rental of
8 property in a manufactured home community, the landlord is
9 deemed to covenant and warrant that the space and its
10 associated facilities are fit for human habitation.

11 (b) If a condition exists in a space which renders
12 the space unfit for human habitation, a tenant may file a
13 complaint against the landlord in the district court for the
14 county in which the property is located. The complaint must
15 state all of the following:

16 (1) A condition, which must be described, endangers
17 or materially impairs the health or safety of the tenants.

18 (2) The condition was not caused by the tenant or
19 another person acting under the tenant's control.

20 (3) Written notice of the condition was given
21 without unreasonable delay to the landlord or to the person
22 who customarily collects rent on behalf of the landlord. The
23 notice requirement may be satisfied by actual notice to the
24 person who customarily collects rents on behalf of the
25 landlord.

1 (4) The landlord unreasonably failed under the
2 circumstances to take prompt, effective steps to repair or
3 remedy the condition.

4 (5) The tenant was current in rental payments owing
5 to the landlord when written notice was given.

6 (c) If a complaint is filed under this section, the
7 court shall enter any temporary restraining orders that are
8 necessary to protect the health or well-being of tenants or of
9 the public. If the court finds that the allegations in the
10 complaint are true, the landlord is deemed to have breached
11 the warranty of fitness for human habitation established by
12 this section as of the date when actual notice of the
13 condition was given to the landlord. In addition to any other
14 relief or remedies which may otherwise exist, the court may
15 take one or more of the following actions:

16 (1) The court may issue appropriate injunctions
17 ordering the landlord to repair all conditions which endanger
18 or materially impair the health or safety of the tenant.

19 (2) The court may determine the fair value of the
20 tenant's use and occupancy of the space from the date when the
21 landlord received actual notice of the condition until the
22 time that the condition is repaired and further declare what,
23 if any, money the tenant owes the landlord or what, if any,
24 rebate the landlord owes the tenant for rent paid in excess of
25 the value of use and occupancy. In making this determination,
26 there is a rebuttable presumption that the rental amount

1 equals the fair value of the space free from any condition
2 rendering it unfit for human habitation.

3 (3) The court may authorize the tenant to
4 temporarily vacate the space if the space must be vacant
5 during necessary repairs. No use and occupation charge may be
6 incurred by a tenant until the tenant resumes occupation of
7 the space. If the landlord offers reasonable alternative
8 housing accommodations, the court may not surcharge the
9 landlord for alternate tenant housing during the period of
10 necessary repairs.

11 (4) The court may enter any other orders that it
12 considers necessary to accomplish the purposes of this
13 section. The court may not award consequential damages for
14 breach of the warranty of fitness for human habitation.

15 (d) A written agreement under which the tenant
16 accepts specified conditions which may violate the warranty of
17 fitness for human habitation in return for a stated reduction
18 in rent or other specified fair consideration is binding on
19 the tenant and the landlord. Any agreement, other than as
20 provided in this subsection, by a tenant to waive any of the
21 rights or benefits provided by this section is void.

22 (e) Municipalities may adopt or retain, by
23 ordinances or rules, standards more stringent than those
24 provided in this section. Any less restrictive municipal
25 ordinance or rule establishing standards is invalid.

26 Section 22. (a) If, at the time of signing a lease
27 agreement or lease renewal, a tenant gives written notice to

1 the tenant's landlord that the tenant does not occupy the
2 manufactured home lot as a primary residence and requests in
3 writing that the landlord send notices to the tenant at the
4 tenant's primary residence and provides to the landlord the
5 address of the tenant's primary residence, the landlord shall
6 mail to the tenant's primary residence all notices required by
7 the lease agreement, this section, and this act.

8 (b) The tenant shall notify the landlord in writing
9 of any change in the tenant's primary residence address. Oral
10 notices of change are insufficient.

11 (c) A notice to a tenant's primary residence under
12 subsection (a) may be sent by regular United States mail and
13 is considered as having been given on the date of postmark of
14 the notice.

15 (d) If there is more than one tenant on a lease
16 agreement, the landlord is not required under this section to
17 send notices to the primary residence of more than one tenant.

18 (e) This section does not apply if notice is
19 actually hand delivered to and received by a person 16 years
20 of age or older occupying the leased property.

21 Section 23. Each common area facility, if any, must
22 be open or available to tenants. The landlord shall post the
23 hours of operation or availability of the facility in a
24 conspicuous place at the facility.

25 Section 24. (a) If a condition results from an
26 insured casualty loss, such as fire, smoke, hail, explosion,

1 or a similar cause, the period for repair does not begin until
2 the landlord receives the insurance proceeds.

3 (b) If, after a casualty loss, the leased property,
4 as a practical matter, is totally unusable for the purposes
5 for which the property was leased and if the casualty loss is
6 not caused by the negligence or fault of the tenant, a member
7 of the tenant's family, or a guest or invitee of the tenant,
8 either the landlord or the tenant may terminate the lease by
9 giving written notice to the other any time before repairs are
10 completed. If the lease is terminated, the tenant is entitled
11 only to a pro rata refund of rent from the date the tenant
12 moves out and to a refund of any security deposit otherwise
13 required by law.

14 (c) If, after a casualty loss, the leased property
15 is partially unusable for the purposes for which the property
16 was leased and if the casualty loss is not caused by the
17 negligence or fault of the tenant, a member of the tenant's
18 family, or a guest or invitee of the tenant, the tenant is
19 entitled to reduction in the rent in an amount proportionate
20 to the extent the property is unusable because of the
21 casualty, but only on judgment of a district court. A landlord
22 and tenant may agree otherwise in a written lease.

23 Section 25. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.