

Date of Hearing: April 25, 2012

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Norma Torres, Chair

AB 1938 (Williams) – As Amended: April 18, 2012

SUBJECT: Mobilehomes: rental agreements.

SUMMARY: Makes changes to the laws governing rental agreements in mobilehome parks. Specifically, this bill:

- 1) Requires rental agreements in excess of 12 months' duration to include a summary page attached to the front of the rental agreement entitled "Summary Page of Rent, Utilities and Other Charges" that clearly and concisely summarizes each financial or monetary charge the homeowner shall be liable for during the term of the rental agreement, including, but not limited to, any amounts to be paid for annual rent increases, the pass-through of any expense amount as part of rent, utilities, known incidental reasonable charges for services actually rendered, rent increases intended to take effect upon the sale or transfer of the mobilehome, or any other rent increases that can be obtained during the term of the rental agreement.
- 2) Prohibits a rental agreement from containing any provision that authorizes the management to increase the amount of rent to be paid by the homeowner, or to separately charge the homeowner, for any of the following:
 - a) Losses incurred by a park owner that are not fully compensated by insurance.
 - b) Losses or expenses that a park owner is ordered by any court or arbitrator to pay as damages or to compensate any person or group of persons, because of any claim, lawsuit, arbitration, or administrative action brought against the park or park owner that for any reason is not paid by insurance.
- 3) Specifies that a homeowner has 72 hours from the time the homeowner receives an executed copy of a rental agreement to void the agreement.

EXISTING LAW

- 1) Specifies that a rental agreement in a mobilehome park in excess of 12 months' duration that is entered into between the management and a homeowner for the personal residence of the homeowner is exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a tenant for rent (Civil Code Section 798.17).
- 2) Provides that a homeowner shall have at least 30 days from the date the rental agreement is first offered to accept or reject the rental agreement (Civil Code Section 798.17).
- 3) Specifies that a homeowner who executes a long-term rental agreement may void the agreement by notifying management in writing within 72 hours of the homeowner's execution of the rental agreement (Civil Code Section 798.17).

- 4) Specifies that at the time a long-term rental agreement is first offered to the homeowner, the management shall provide written notice to the homeowner of the homeowner's right (1) to have at least 30 days to inspect the rental agreement, and (2) to void the rental agreement by notifying management in writing within 72 hours of the acceptance of a rental agreement (Civil Code Section 798.17).
- 5) Requires management to return an executed copy of the rental agreement to the homeowner within 15 business days after management has received the rental agreement signed by the homeowner (Civil Code Section 798.16).
- 6) Prohibits management from charging or imposing upon a homeowner any fee or increase in rent that reflects the cost to the management of any fine, forfeiture, penalty, money damages, or fee assessed or awarded by a court of law against the management for a violation of the Mobilehome Residency Law, including any attorney's fees and costs incurred by the management in connection therewith (Civil Code Section 798.39.5).
- 7) Defines "homeowner" as a person who has a tenancy in a mobilehome park under a rental agreement (Civil Code Section 798.9).

FISCAL EFFECT: None

COMMENTS:

There are approximately 4,822 mobilehome parks and manufactured housing communities in California, with an estimated 700,000 residents living in these parks. In the majority of parks, mobilehome residents own their homes but rent the spaces on which their homes are installed. "Mobilehome" is something of a misnomer in that once installed in a park, it is very rare for a mobilehome to be moved. This is due to both the difficulty and cost involved, and also because the supply of mobilehome spaces is very limited, vacancies are rare, and most park owners do not allow the installation of older mobilehomes in their parks.

Over 100 jurisdictions in California have some form of local rent control ordinance limiting the amount of rent or establishing a maximum amount of rent that the management of a mobilehome park may charge a tenant. However, under existing law, long-term rental agreements, those with a term longer than twelve months, are exempt from local rent control.

According to AB 1938's sponsor, the Golden State Manufactured-Home Owners League (GSMOL), the number of long-term leases in mobilehome parks has seen a steady increase in both rent-controlled and non-rent controlled jurisdictions. These leases, which commonly run anywhere from two to ten years, can have advantages for both the homeowner and the park management. However, they can also be long and more complicated than a one-year rental agreement.

AB 1938 contains a number of provisions related to long-term leases in mobilehome parks aimed at making such rental agreements more consumer-friendly. First, the bill requires all long-term leases to include a cover sheet that clearly and concisely summarizes all of the charges that the homeowner will be liable for during the course of the lease. A long-term lease typically includes authorizations for various charges scattered throughout the document. This provision would

allow a homeowner to see all charges for which they will be responsible, such as annual rent increases, pass-throughs for various expenses, utilities, and service charges, in one place.

Additionally, AB 1938 specifies that the 72-hour window that homeowners have to void a long-term lease does not begin until the homeowner receives the executed lease from the management. Under current law, a homeowner has 72 hours to void a lease once signed.

"Homeowner" is defined as a person who has a tenancy in a mobilehome park under a rental agreement; in other words, an existing park resident. Current law also gives park management 15 business days to return a copy of the executed lease to the homeowner. Thus, the window of opportunity for a homeowner to void the lease without penalty closes 12 days before the park management is required to provide the homeowner with a copy of the fully executed lease. This bill starts the 72-hour clock after the homeowner receives the executed lease.

Finally, AB 1938 prohibits a long-term lease from containing a provision authorizing park management to pass on to homeowners costs related to uninsured losses or damages the park owner is ordered to pay by a court or arbitrator. Existing law already prohibits park owners from passing on damages imposed by a court under the Mobilehome Residency Law, which governs the relationship between landlords and tenants in mobilehome parks, but does not cover damages awarded under other provisions of law.

Staff Comments

With respect to the cover sheet summarizing charges, the Committee may wish to ask the author to specify that in the event there is an error in the cover sheet that conflicts with the terms of the lease, the lease shall be the prevailing document.

While the provision prohibiting park owners from passing through uninsured losses is aimed at preventing owners from purposely underinsuring their parks, it could result in park owners overinsuring instead. Because insurance costs can be passed on to residents, overinsuring may actually prove more costly to park residents over the long term than uninsured losses. The Committee may wish to consider asking the author to remove this provision.

With respect to the provision prohibiting the pass-through of any damages imposed on the park owner by any court or arbitrator for any claim brought against the park, the Committee may wish to consider whether this provision is overly broad. The Committee may wish to consider asking the author to strike this provision and instead expand the existing prohibition on passing through judgments against park owner under the Mobilehome Residency Law to also include judgments under the Mobilehome Parks Act, which governs health and safety conditions in mobilehome parks.

Committee Amendments

1. Add language clarifying that in the event that the summary of charges is inconsistent with the terms of the lease, the lease shall prevail.
2. Delete the prohibition on including a provision in a rental agreement authorizing the pass-through of uninsured losses and narrow the prohibition on passing through court-imposed damages to damages under the Mobilehome Parks Act.

3. Rewrite the language relating to the 72-hour rescission right as follows to improve clarity:

On page 5, amend lines 13-17 as follows:

(4) The homeowner who executes a rental agreement offered pursuant to this section may void the rental agreement by notifying management in writing within 72 hours of the homeowner's ~~execution of a written acknowledgment indicating that the homeowner has received an~~ of receipt of an executed copy of the rental agreement *as required pursuant to Section 798.16.*

Double referred:

If AB 1938 passes this committee, the bill will be referred to the Committee on Judiciary.

REGISTERED SUPPORT / OPPOSITION:

Support

Golden State Manufactured Homeowner's League (sponsor)
California Rural Legal Assistance foundation
Western Center on Law and Poverty

Opposition

California Mobilehome Parkowners Alliance
Western Manufactured Housing Communities Association

Analysis Prepared by: Anya Lawler / H. & C.D. / (916) 319-2085