

Introduced by Senator Dutton

January 31, 2005

An act to amend Sections 798.36 and ~~798.56~~ 798.55 of the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

SB 125, as amended, Dutton. Mobilehome parks: fees and charges.

(1) Existing law regulates the terms and conditions of residencies in mobilehome parks. Existing law prohibits the management of a mobilehome park from charging a fee for the enforcement of a rule or regulation of the park, except that management may charge a reasonable fee for the maintenance of the land and premises where the mobilehome is situated if the homeowner fails to do so, as specified.

This bill would specify that the management of a mobilehome park may charge a reasonable fee for cleanup of the land and premises if the homeowner fails to do so.

This bill would also permit management, upon its good faith determination, to remove and store homeowner and resident property if it is necessary to bring the premises into compliance with the reasonable rules and regulations of the park. The bill would provide that the homeowner or resident is responsible for reimbursing to management the actual costs of removing and storing the property and other costs imposed by management in correcting the rules violation associated with the removal and storage of the property. The bill would provide that these costs are deemed reasonable incidental service charges, which management can collect pursuant to a specified process. The bill would permit the management to dispose of the property in any manner if the homeowner or resident does not claim the property and reimburse management within 30 days. The

bill would provide a process for applying the proceeds of any sale or auction of the property to the costs described above.

(2) Existing law prohibits termination of a tenancy in a mobilehome park except for specified reasons. Existing law requires management of a mobilehome park to fulfill specified notice provisions when terminating a tenancy. Existing law prohibits management of a mobilehome park from charging a fee for other than rent, utilities, and incidental reasonable charges for services actually rendered.

This bill would provide that the cost incurred by management of a mobilehome park in obtaining a title search on a homeowner's mobilehome for the purpose of complying with the notice requirements, as described above, is a reasonable incidental service charge for which management may charge the homeowner.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 798.36 of the Civil Code is amended to
2 read:

3 798.36. (a) A homeowner shall not be charged a fee for the
4 enforcement of any of the rules and regulations of the park,
5 except a reasonable fee may be charged by management for the
6 maintenance or cleanup of the land and premises upon which the
7 mobilehome is situated in the event the homeowner fails to do so
8 in accordance with the rules and regulations of the park after
9 written notification to the homeowner and the failure of the
10 homeowner to comply within 14 days. The written notice shall
11 state the specific condition to be corrected and an estimate of the
12 charges to be imposed by management if the services are
13 performed by management or its agent.

14 (b) (1) *If management determines, in good faith, that the*
15 *removal of a homeowner's or resident's personal property, other*
16 *than the mobilehome, is necessary to bring the premises into*
17 *compliance with the reasonable rules and regulations of the*
18 *park, management may remove the property to a reasonably*
19 *secure storage facility.*

20 (2) *The homeowner or resident shall be responsible for*
21 *reimbursing to management the actual costs, if any, of removing*
22 *and storing the property. These costs, and all other costs*

1 *imposed by management in correcting the rules violation*
2 *associated with the removal and storage of the property, are*
3 *deemed reasonable incidental service charges and may be*
4 *collected pursuant to subdivision (e) of Section 798.56.*

5 *(3) Within seven days from the date the property is removed to*
6 *a storage area, management shall provide the homeowner or*
7 *resident a written notice that includes an inventory of the*
8 *property removed, the location where the property may be*
9 *claimed, and notice that the cost of removal and storage shall be*
10 *paid by the resident or homeowner when the property is claimed.*
11 *If, within 30 days, the homeowner or resident does not claim the*
12 *property and reimburse to management the costs of the removal*
13 *and storage and all other costs imposed by management in*
14 *correcting the rules violation associated with the removal and*
15 *storage of the property, the property shall be deemed to be*
16 *abandoned, and management may dispose of the property in any*
17 *manner.*

18 *(4) If management elects to dispose of the property by way of*
19 *sale or auction, and the funds received from the sale or auction*
20 *exceed the amount owed to management, management shall*
21 *refund the difference to the homeowner or resident within 15*
22 *days from the date of management's receipt of the funds from the*
23 *sale or auction. The refund shall be delivered to the homeowner*
24 *or resident by first-class mail postage prepaid to his or her*
25 *address in the park, or by personal delivery, and shall include an*
26 *accounting specifying the costs of removal and storage of the*
27 *property, and all other costs imposed by management in*
28 *correcting the rules violation associated with the removal and*
29 *storage of the property, and the amount of proceeds realized*
30 *from any sale or auction. If a sale or auction of the property*
31 *yields less than the costs incurred by management, the*
32 *homeowner or resident shall be responsible for the difference,*
33 *and this amount shall be deemed a reasonable incidental service*
34 *charge and may be collected pursuant to subdivision (e) of*
35 *Section 798.56.*

36 ~~SEC. 2. Section 798.56 of the Civil Code is amended to read:~~
37 ~~798.56. A tenancy shall be terminated by the management~~
38 ~~only for one or more of the following reasons:~~

39 ~~(a) Failure of the homeowner or resident to comply with a~~
40 ~~local ordinance or state law or regulation relating to~~

1 mobilehomes within a reasonable time after the homeowner
2 receives a notice of noncompliance from the appropriate
3 governmental agency.

4 (b) Conduct by the homeowner or resident, upon the park
5 premises, that constitutes a substantial annoyance to other
6 homeowners or residents.

7 (e) (1) Conviction of the homeowner or resident for
8 prostitution, for a violation of subdivision (d) of Section 243,
9 paragraph (2) of subdivision (a), or subdivision (b), of Section
10 245, Section 288, or Section 451, of the Penal Code, or a felony
11 controlled substance offense, if the act resulting in the conviction
12 was committed anywhere on the premises of the mobilehome
13 park, including, but not limited to, within the homeowner's
14 mobilehome.

15 (2) However the tenancy may not be terminated for the reason
16 specified in this subdivision if the person convicted of the
17 offense has permanently vacated, and does not subsequently
18 reoccupy, the mobilehome.

19 (d) Failure of the homeowner or resident to comply with a
20 reasonable rule or regulation of the park that is part of the rental
21 agreement or any amendment thereto.

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

33 Nothing in this subdivision shall relieve the management from
34 its obligation to demonstrate that a rule or regulation has in fact
35 been violated.

36 (e) (1) Nonpayment of rent, utility charges, or reasonable
37 incidental service charges; provided that the amount due has been
38 unpaid for a period of at least five days from its due date, and
39 provided that the homeowner shall be given a three-day written
40 notice subsequent to that five-day period to pay the amount due

1 or to vacate the tenancy. For purposes of this subdivision, the
2 five-day period does not include the date the payment is due. The
3 three-day written notice shall be given to the homeowner in the
4 manner prescribed by Section 1162 of the Code of Civil
5 Procedure. A copy of this notice shall be sent to the persons or
6 entities specified in subdivision (b) of Section 798.55 within 10
7 days after notice is delivered to the homeowner. The cost
8 incurred by management in obtaining a title search on the
9 homeowner's mobilehome for the purpose of complying with
10 these notice requirements is a reasonable incidental service
11 charge for which management may charge the homeowner. If the
12 homeowner cures the default, the notice need not be sent. The
13 notice may be given at the same time as the 60 days' notice
14 required for termination of the tenancy. A three-day notice given
15 pursuant to this subdivision shall contain the following
16 provisions printed in at least 12-point boldface type at the top of
17 the notice, with the appropriate number written in the blank:

18 "Warning: This notice is the (insert number) three-day notice for
19 nonpayment of rent, utility charges, or other reasonable
20 incidental services that has been served upon you in the last 12
21 months. Pursuant to Civil Code Section 798.56 (c) (5), if you
22 have been given a three-day notice to either pay rent, utility
23 charges, or other reasonable incidental services or to vacate your
24 tenancy on three or more occasions within a 12-month period,
25 management is not required to give you a further three-day
26 period to pay rent or vacate the tenancy before your tenancy can
27 be terminated."

28 (2) Payment by the homeowner prior to the expiration of the
29 three-day notice period shall cure a default under this
30 subdivision. If the homeowner does not pay prior to the
31 expiration of the three-day notice period, the homeowner shall
32 remain liable for all payments due up until the time the tenancy is
33 vacated.

34 (3) Payment by the legal owner, as defined in Section 18005.8
35 of the Health and Safety Code, any junior lienholder, as defined
36 in Section 18005.3 of the Health and Safety Code, or the
37 registered owner, as defined in Section 18009.5 of the Health and
38 Safety Code, if other than the homeowner, on behalf of the
39 homeowner prior to the expiration of 30 calendar days following
40 the mailing of the notice to the legal owner, each junior

1 lienholder, and the registered owner provided in subdivision (b)
2 of Section 798.55, shall cure a default under this subdivision with
3 respect to that payment.

4 ~~(4) Cure of a default of rent, utility charges, or reasonable~~
5 ~~incidental service charges by the legal owner, any junior~~
6 ~~lienholder, or the registered owner, if other than the homeowner,~~
7 ~~as provided by this subdivision, may not be exercised more than~~
8 ~~twice during a 12-month period.~~

9 ~~(5) If a homeowner has been given a three-day notice to pay~~
10 ~~the amount due or to vacate the tenancy on three or more~~
11 ~~occasions within the preceding 12-month period and each notice~~
12 ~~includes the provisions specified in paragraph (1), no written~~
13 ~~three-day notice shall be required in the case of a subsequent~~
14 ~~nonpayment of rent, utility charges, or reasonable incidental~~
15 ~~service charges.~~

16 ~~In that event, the management shall give written notice to the~~
17 ~~homeowner in the manner prescribed by Section 1162 of the~~
18 ~~Code of Civil Procedure to remove the mobilehome from the~~
19 ~~park within a period of not less than 60 days, which period shall~~
20 ~~be specified in the notice. A copy of this notice shall be sent to~~
21 ~~the legal owner, each junior lienholder, and the registered owner~~
22 ~~of the mobilehome, if other than the homeowner, as specified in~~
23 ~~paragraph (b) of Section 798.55, by certified or registered mail,~~
24 ~~return receipt requested, within 10 days after notice is sent to the~~
25 ~~homeowner.~~

26 ~~(6) When a copy of the 60 days' notice described in paragraph~~
27 ~~(5) is sent to the legal owner, each junior lienholder, and the~~
28 ~~registered owner of the mobilehome, if other than the~~
29 ~~homeowner, the default may be cured by any of them on behalf~~
30 ~~of the homeowner prior to the expiration of 30 calendar days~~
31 ~~following the mailing of the notice, if all of the following~~
32 ~~conditions exist:~~

33 ~~(A) A copy of a three-day notice sent pursuant to subdivision~~
34 ~~(b) of Section 798.55 to a homeowner for the nonpayment of~~
35 ~~rent, utility charges, or reasonable incidental service charges was~~
36 ~~not sent to the legal owner, junior lienholder, or registered owner,~~
37 ~~of the mobilehome, if other than the homeowner, during the~~
38 ~~preceding 12-month period.~~

39 ~~(B) The legal owner, junior lienholder, or registered owner of~~
40 ~~the mobilehome, if other than the homeowner, has not previously~~

1 cured a default of the homeowner during the preceding 12-month
2 period.

3 (C) The legal owner, junior lienholder or registered owner, if
4 other than the homeowner, is not a financial institution or
5 mobilehome dealer.

6 If the default is cured by the legal owner, junior lienholder, or
7 registered owner within the 30-day period, the notice to remove
8 the mobilehome from the park described in paragraph (5) shall be
9 rescinded.

10 (f) ~~Condemnation of the park.~~

11 (g) ~~Change of use of the park or any portion thereof, provided:~~

12 (1) ~~The management gives the homeowners at least 15 days'~~
13 ~~written notice that the management will be appearing before a~~
14 ~~local governmental board, commission, or body to request~~
15 ~~permits for a change of use of the mobilehome park.~~

16 (2) ~~After all required permits requesting a change of use have~~
17 ~~been approved by the local governmental board, commission, or~~
18 ~~body, the management shall give the homeowners six months' or~~
19 ~~more written notice of termination of tenancy.~~

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

25 (3) ~~The management gives each proposed homeowner written~~
26 ~~notice thereof prior to the inception of his or her tenancy that the~~
27 ~~management is requesting a change of use before local~~
28 ~~governmental bodies or that a change of use request has been~~
29 ~~granted.~~

30 (4) ~~The notice requirements for termination of tenancy set~~
31 ~~forth in Sections 798.56 and 798.57 shall be followed if the~~
32 ~~proposed change actually occurs.~~

33 (5) ~~A notice of a proposed change of use given prior to~~
34 ~~January 1, 1980, that conforms to the requirements in effect at~~
35 ~~that time shall be valid. The requirements for a notice of a~~
36 ~~proposed change of use imposed by this subdivision shall be~~
37 ~~governed by the law in effect at the time the notice was given.~~

38 (h) ~~The report required pursuant to subdivisions (b) and (i) of~~
39 ~~Section 65863.7 of the Government Code shall be given to the~~

1 ~~homeowners or residents at the same time that notice is required~~
2 ~~pursuant to subdivision (g) of this section.~~

3 ~~(i) For purposes of this section, “financial institution” means a~~
4 ~~state or national bank, state or federal savings and loan~~
5 ~~association or credit union, or similar organization, and~~
6 ~~mobilehome dealer as defined in Section 18002.6 of the Health~~
7 ~~and Safety Code or any other organization that, as part of its~~
8 ~~usual course of business, originates, owns, or provides loan~~
9 ~~servicing for loans secured by a mobilehome.~~

10 *SEC. 2. Section 798.55 of the Civil Code is amended to read:*

11 798.55. (a) The Legislature finds and declares that, because
12 of the high cost of moving mobilehomes, the potential for
13 damage resulting therefrom, the requirements relating to the
14 installation of mobilehomes, and the cost of landscaping or lot
15 preparation, it is necessary that the owners of mobilehomes
16 occupied within mobilehome parks be provided with the unique
17 protection from actual or constructive eviction afforded by the
18 provisions of this chapter.

19 (b) (1) The management may not terminate or refuse to renew
20 a tenancy, except for a reason specified in this article and upon
21 the giving of written notice to the homeowner, in the manner
22 prescribed by Section 1162 of the Code of Civil Procedure, to
23 sell or remove, at the homeowner’s election, the mobilehome
24 from the park within a period of not less than 60 days, which
25 period shall be specified in the notice. A copy of this notice shall
26 be sent to the legal owner, as defined in Section 18005.8 of the
27 Health and Safety Code, each junior lienholder, as defined in
28 Section 18005.3 of the Health and Safety Code, and the
29 registered owner of the mobilehome, if other than the
30 homeowner, by United States mail within 10 days after notice to
31 the homeowner. The copy may be sent by regular mail or by
32 certified or registered mail with return receipt requested, at the
33 option of the management.

34 (2) The homeowner shall pay past due rent and utilities upon
35 the sale of a mobilehome pursuant to paragraph (1).

36 (c) If the homeowner has not paid the rent due within three
37 days after notice to the homeowner, and if the first notice was not
38 sent by certified or registered mail with return receipt requested,
39 a copy of the notice shall again be sent to the legal owner, each
40 junior lienholder, and the registered owner, if other than the

1 homeowner, by certified or registered mail with return receipt
2 requested within 10 days after notice to the homeowner. Copies
3 of the notice shall be addressed to the legal owner, each junior
4 lienholder, and the registered owner at their addresses, as set
5 forth in the registration card specified in Section 18091.5 of the
6 Health and Safety Code.

7 (d) *The cost incurred by management in obtaining a title*
8 *search for the purpose of complying with the notice requirements*
9 *of this section is a reasonable incidental service charge for*
10 *which management may charge the homeowner.*

11 (e) The resident of a mobilehome that remains in the
12 mobilehome park after service of the notice to sell or remove the
13 mobilehome shall continue to be subject to this chapter and the
14 rules and regulations of the park, including rules regarding
15 maintenance of the space.

16 ~~(e)~~

17 (f) No lawful act by the management to enforce this chapter or
18 the rules and regulations of the park may be deemed or construed
19 to waive or otherwise affect the notice to remove the
20 mobilehome.