

AMENDED IN ASSEMBLY JANUARY 23, 2012

AMENDED IN ASSEMBLY JANUARY 9, 2012

AMENDED IN ASSEMBLY JANUARY 4, 2012

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 317

Introduced by Assembly Member Charles Calderon

February 9, 2011

An act to amend Sections 798.21 and 798.74.5 of the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 317, as amended, Charles Calderon. Mobilehomes.

Existing law, the Mobilehome Residency Law, governs tenancies in mobilehome parks, and imposes various duties on the owners of mobilehome parks and the agents and representatives authorized to act on behalf of the owners. Existing law exempts a rental agreement from any local ordinance, rule, regulation, or initiative that establishes a maximum amount that a landlord may charge a tenant for rent if a mobilehome space within a mobilehome park is not the principal residence, as defined, of the mobilehome owner. Existing law further makes those exemptions inapplicable under certain circumstances.

This bill would revise the conditions under which a tenancy is exempt from a local rent control ordinance, rule, regulation, or initiative, to, among other things, make the exemptions applicable when the mobilehome space is not the sole residence of the mobilehome owner. The bill would specify the evidence upon which management of a

mobilehome park may rely to determine whether a residence is the mobilehome owner’s sole residence, including, among others factors, evidence that a mobilehome owner rents, leases, occupies, or has a present ownership interest in another place of residence. The bill would require management to provide the homeowner with 90 days’ written notice of any proposed rent modifications based on lack of sole residency at the mobilehome park, and specify related procedures, including ~~mandatory binding~~ *voluntary* arbitration if the ~~homeowner~~ *mobilehome owner* disputes management’s determination, as specified.

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 798.21 of the Civil Code is amended to
2 read:

3 798.21. (a) Notwithstanding Section 798.17, if a mobilehome
4 space within a mobilehome park is not the sole residence of the
5 mobilehome owner, it shall be exempt from any ordinance, rule,
6 regulation, or initiative measure adopted by any city, county, or
7 city and county, that establishes a maximum amount that the
8 landlord may charge a tenant for rent.

9 (b) Nothing in this section shall be construed to authorize
10 management to gain access to any records which would otherwise
11 be confidential or privileged.

12 (c) The management of a mobilehome park shall not modify
13 the rent or other terms of tenancy pursuant to this section without
14 providing the mobilehome owner with written notice 90 days in
15 advance of the effective date of the proposed modification. The
16 notice shall include copies of or evidence in determination of the
17 modification.

18 (d) Evidence that a mobilehome is not the sole residence of the
19 mobilehome owner shall be weighed in light of the totality of the
20 circumstances. Evidence may include, but is not limited to, the
21 following:

22 (1) The mobilehome owner rents, leases, occupies, or has a
23 present ownership interest in another place of residence. An
24 ownership interest in a place of residence solely and exclusively
25 occupied by the mobilehome owner’s child or parent and his or

1 her immediately family shall not serve as evidence that the
2 mobilehome is not the sole residence of the mobilehome owner.

3 (2) Another place of residence appears as a matter of public
4 record or in other evidence obtained by management.

5 (3) Monthly statements are mailed to, or payments are made
6 from, a different place of residence.

7 (4) The mobilehome owner is regularly absent from the
8 mobilehome for extended periods ~~of time~~, *of time*, other than for
9 military service, hospitalization, vacation, family or friend
10 emergency care, or other reasonable temporary or seasonal periods
11 of absence, such as travel necessitated by employment or education.

12 (5) The mobilehome is used primarily for vacationing, storage,
13 or business.

14 (6) The mobilehome has been subleased or possession of the
15 mobilehome has been transferred without management's approval,
16 as provided in Sections 798.74 and 798.75.

17 (7) A review of state or county records demonstrates that the
18 homeowner is receiving a homeowner's exemption for another
19 property or mobilehome.

20 (e) The mobilehome owner shall have 30 days from the date
21 the management's notice is mailed to review and dispute the
22 management's findings in writing.

23 (f) Any disputes pursuant to this section ~~shall~~ *may* be arbitrated
24 *at the tenant's sole determination if the tenant knowingly and*
25 *voluntarily chooses to use arbitration by notifying the management*
26 *in writing within 30 days after the dispute has arisen. If the tenant*
27 *chooses arbitration, the following shall apply:*

28 (1) The owner or management of the mobilehome park shall
29 pay the costs of the arbitration.

30 (2) The parties shall meet and confer to select a mutually
31 agreeable arbitrator. If the parties cannot agree to an arbitrator
32 within 10 days after the homeowner's written response is received,
33 the management shall obtain a list of five arbitrators from any bona
34 fide dispute resolution provider serving the judicial district in
35 which the mobilehome park is located. Each party shall be able to
36 disqualify up to two arbitrators from the list. Any remaining
37 arbitrator may be selected.

38 (3) Within 30 days after selection, the arbitrator shall, at a time
39 and place reasonably convenient to the parties, hear the evidence

1 relevant to the dispute. No attorney may represent either party at
2 an arbitration hearing.

3 (4) Within 15 days of hearing the evidence, the ~~arbitrator~~
4 *arbitrator* shall render a written decision as to whether the
5 mobilehome is the sole residence of the mobilehome owner. The
6 decision of the arbitrator is final. If the management of the
7 mobilehome park prevails in arbitration, it may modify the rent,
8 or any other tenancy terms, as provided in the notice pursuant to
9 subdivision (c). If the homeowner prevails, management may not
10 modify the rent or any other tenancy terms, as provided in the
11 notice.

12 (g) This section shall not apply under any of the following
13 circumstances:

14 (1) The mobilehome is the sole residence of the mobilehome
15 owner. For purposes of this subdivision, a mobilehome owner
16 includes a person who has a full-time tenancy in a mobilehome
17 park under a rental agreement, a senior who is a full-time resident
18 of a mobilehome owned by a child of the senior, or a child with a
19 disability or handicap who is a full-time resident of a mobilehome
20 owned by a parent or guardian of the child.

21 (2) The space is subleased by the owner for a medical hardship
22 pursuant to Section 798.23.5.

23 (3) Ownership of the mobilehome is transferred, upon the death
24 of the mobilehome owner, to an heir, joint tenant, or personal
25 representative pursuant to Section 798.78.

26 (4) Management elects to apply an exemption or right set forth
27 in the ordinance, rule, regulation, or initiative measure that
28 establishes a maximum amount that a landlord may charge a tenant
29 for rent.

30 (5) The mobilehome is being actively held available for sale by
31 the mobilehome owner, or pursuant to a listing agreement with a
32 real estate broker licensed pursuant to Chapter 3 (commencing
33 with Section 10130) of Part 1 of Division 4 of the Business and
34 Professions Code, or a mobilehome dealer, as defined in Section
35 18002.6 of the Health and Safety Code. A mobilehome owner,
36 real estate broker, or mobilehome dealer attempting to sell a
37 mobilehome shall actively market and advertise the mobilehome
38 for sale in good faith to bona fide purchasers for value in order to
39 remain exempt pursuant to this paragraph. This paragraph shall
40 apply as long as the mobilehome remains vacant and unoccupied,

1 but if the mobilehome is occupied, this paragraph shall only apply
2 after a reasonable time for sale of the mobilehome has been
3 provided, not to exceed 120 days after the date of service of the
4 notice described in subdivision (c).

5 (h) If management authorizes the subleasing of mobilehomes
6 in the park, management shall allow the mobilehome owner to
7 sublease the mobilehome and shall not restrict the amount of rent
8 that the mobilehome owner may charge. For the term of the
9 sublease, the space shall be exempt from any ordinance, rule,
10 regulation, or initiative measure adopted by a city, county, or city
11 and county, that establishes a maximum amount of rent that a
12 landlord may charge a tenant. Upon reoccupation of the space by
13 the mobilehome owner after the term of the sublease has expired,
14 the last rental rate charged to the mobilehome owner shall be the
15 base rental rate for purposes of the ordinance, rule, regulation, or
16 initiative measure, in addition to any increases that were allowed
17 during the term of the sublease.

18 SEC. 2. Section 798.74.5 of the Civil Code is amended to read:

19 798.74.5. (a) Within two business days of receiving a request
20 from a prospective homeowner for an application for residency
21 for a specific space within a mobilehome park, if the management
22 has been advised that the mobilehome occupying that space is for
23 sale, the management shall give the prospective homeowner a
24 separate document in at least 12-point type entitled
25 "INFORMATION FOR PROSPECTIVE HOMEOWNERS,"
26 which includes the following statements:
27

28 "As a prospective homeowner you are being provided with certain
29 information you should know prior to applying for tenancy in a
30 mobilehome park. This is not meant to be a complete list of
31 information.
32

33 Owning a home in a mobilehome park incorporates the dual role
34 of "homeowner" (the owner of the home) and park resident or
35 tenant (also called a "homeowner" in the Mobilehome Residency
36 Law). As a homeowner under the Mobilehome Residency Law,
37 you will be responsible for paying the amount necessary to rent
38 the space for your home, in addition to other fees and charges
39 described below. You must also follow certain rules and regulations
40 to reside in the park.

1
 2 If you are approved for tenancy, and your tenancy commences
 3 within the next 30 days, your beginning monthly rent will be \$____
 4 (must be completed by the management) for space number ____
 5 (must be completed by the management). Additional information
 6 regarding future rent or fee increases may also be provided.

7
 8 In addition to the monthly rent, you will be obligated to pay to the
 9 park the following additional fees and charges listed below. Other
 10 fees or charges may apply depending upon your specific requests.
 11 Metered utility charges are based on use.

12
 13 _____
 14 _____

15 (Management shall describe the fee or charge and a good faith
 16 estimate of each fee or charge.)

17
 18 Some spaces are governed by an ordinance, rule, regulation, or
 19 initiative measure that limits or restricts rents in mobilehome parks.
 20 These laws are commonly known as “rent control.” Prospective
 21 purchasers who do not occupy the mobilehome as their sole
 22 residence may be subject to rent levels which are not governed by
 23 these laws. Long-term leases specify rent increases during the term
 24 of the lease. By signing a rental agreement or lease for a term of
 25 more than one year, you may be removing your rental space from
 26 a local rent control ordinance during the term, or any extension,
 27 of the lease if a local rent control ordinance is in effect for the area
 28 in which the space is located.

29
 30 A fully executed lease or rental agreement, or a statement signed
 31 by the park’s management and by you stating that you and the
 32 management have agreed to the terms and conditions of a rental
 33 agreement, is required to complete the sale or escrow process of
 34 the home. You have no rights to tenancy without a properly
 35 executed lease or agreement or that statement. (Civil Code Section
 36 798.75)

37
 38 If the management collects a fee or charge from you in order to
 39 obtain a financial report or credit rating, the full amount of the fee
 40 or charge will be either credited toward your first month’s rent or,

1 if you are rejected for any reason, refunded to you. However, if
 2 you are approved by management, but, for whatever reason, you
 3 elect not to purchase the mobilehome, the management may retain
 4 the fee to defray its administrative costs. (Civil Code Section
 5 798.74)

6
 7 We encourage you to request from management a copy of the lease
 8 or rental agreement, the park’s rules and regulations, and a copy
 9 of the Mobilehome Residency Law. Upon request, park
 10 management will provide you a copy of each document. We urge
 11 you to read these documents before making the decision that you
 12 want to become a mobilehome park resident.

13
 14 Dated: _____
 15 Signature of Park Manager: _____
 16 Acknowledge Receipt by Prospective Homeowner: _____”

17
 18 (b) Management shall provide a prospective homeowner, upon
 19 his or her request, with a copy of the rules and regulations of the
 20 park and with a copy of this chapter.