

AMENDED IN ASSEMBLY APRIL 19, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2272

Introduced by Assembly Member Wagner

February 24, 2012

An act to amend, *repeal, and add* Section 798.88 of the Civil Code, and to amend, *repeal, and add* Section 85 of the Code of Civil Procedure, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2272, as amended, Wagner. Mobilehomes: injunctions.

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 permits the management of a mobilehome park to seek specified injunctive relief for the violation of a reasonable rule or regulation. Existing law treats certain actions as limited civil cases.

This bill, *until January 1, 2016*, would permit the management to file a petition for an order to enjoin these violations within the limited jurisdiction of the superior court of the county in which the mobilehome community is located. This bill would also treat the actions for injunctive relief described above as limited civil cases.

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 798.88 of the Civil Code is amended to
2 read:

3 798.88. (a) In addition to any right under Article 6
4 (commencing with Section 798.55) to terminate the tenancy of a
5 homeowner, any person in violation of a reasonable rule or
6 regulation of a mobilehome park may be enjoined from the
7 violation as provided in this section.

8 (b) A petition for an order enjoining a continuing or recurring
9 violation of any reasonable rule or regulation of a mobilehome
10 park may be filed by the management thereof within the limited
11 jurisdiction of the superior court of the county in which the
12 mobilehome park is located. At the time of filing the petition, the
13 petitioner may obtain a temporary restraining order in accordance
14 with subdivision (a) of Section 527 of the Code of Civil Procedure.
15 A temporary order restraining the violation may be granted, with
16 notice, upon the petitioner’s affidavit showing to the satisfaction
17 of the court reasonable proof of a continuing or recurring violation
18 of a rule or regulation of the mobilehome park by the named
19 homeowner or resident and that great or irreparable harm would
20 result to the management or other homeowners or residents of the
21 park from continuance or recurrence of the violation.

22 (c) A temporary restraining order granted pursuant to this
23 subdivision shall be personally served upon the respondent
24 homeowner or resident with the petition for injunction and notice
25 of hearing thereon. The restraining order shall remain in effect for
26 a period not to exceed 15 days, except as modified or sooner
27 terminated by the court.

28 (d) Within 15 days of filing the petition for an injunction, a
29 hearing shall be held thereon. If the court, by clear and convincing
30 evidence, finds the existence of a continuing or recurring violation
31 of a reasonable rule or regulation of the mobilehome park, the
32 court shall issue an injunction prohibiting the violation. The
33 duration of the injunction shall not exceed three years.

34 (e) However, not more than three months prior to the expiration
35 of an injunction issued pursuant to this section, the management
36 of the mobilehome park may petition under this section for a new
37 injunction where there has been recurring or continuous violation

1 of the injunction or there is a threat of future violation of the
2 mobilehome park's rules upon termination of the injunction.

3 (f) Nothing shall preclude a party to an action under this section
4 from appearing through legal counsel or in propria persona.

5 (g) The remedy provided by this section is nonexclusive and
6 nothing in this section shall be construed to preclude or limit any
7 rights the management of a mobilehome park may have to
8 terminate a tenancy.

9 (h) *This section shall remain in effect only until January 1, 2016,*
10 *and as of that date is repealed, unless a later enacted statute, that*
11 *is enacted before January 1, 2016, deletes or extends that date.*

12 SEC. 2. *Section 798.88 is added to the Civil Code, to read:*

13 798.88. (a) *In addition to any right under Article 6*
14 *(commencing with Section 798.55) to terminate the tenancy of a*
15 *homeowner, any person in violation of a reasonable rule or*
16 *regulation of a mobilehome park may be enjoined from the*
17 *violation as provided in this section.*

18 (b) *A petition for an order enjoining a continuing or recurring*
19 *violation of any reasonable rule or regulation of a mobilehome*
20 *park may be filed by the management thereof with the superior*
21 *court for the county in which the mobilehome park is located. At*
22 *the time of filing the petition, the petitioner may obtain a temporary*
23 *restraining order in accordance with subdivision (a) of Section*
24 *527 of the Code of Civil Procedure. A temporary order restraining*
25 *the violation may be granted, with notice, upon the petitioner's*
26 *affidavit showing to the satisfaction of the court reasonable proof*
27 *of a continuing or recurring violation of a rule or regulation of*
28 *the mobilehome park by the named homeowner or resident and*
29 *that great or irreparable harm would result to the management*
30 *or other homeowners or residents of the park from continuance*
31 *or recurrence of the violation.*

32 (c) *A temporary restraining order granted pursuant to this*
33 *subdivision shall be personally served upon the respondent*
34 *homeowner or resident with the petition for injunction and notice*
35 *of hearing thereon. The restraining order shall remain in effect*
36 *for a period not to exceed 15 days, except as modified or sooner*
37 *terminated by the court.*

38 (d) *Within 15 days of filing the petition for an injunction, a*
39 *hearing shall be held thereon. If the court, by clear and convincing*
40 *evidence, finds the existence of a continuing or recurring violation*

1 of a reasonable rule or regulation of the mobilehome park, the
 2 court shall issue an injunction prohibiting the violation. The
 3 duration of the injunction shall not exceed three years.

4 (e) However, not more than three months prior to the expiration
 5 of an injunction issued pursuant to this section, the management
 6 of the mobilehome park may petition under this section for a new
 7 injunction where there has been recurring or continuous violation
 8 of the injunction or there is a threat of future violation of the
 9 mobilehome park’s rules upon termination of the injunction.

10 (f) Nothing shall preclude a party to an action under this section
 11 from appearing through legal counsel or in propria persona.

12 (g) The remedy provided by this section is nonexclusive and
 13 nothing in this section shall be construed to preclude or limit any
 14 rights the management of a mobilehome park may have to
 15 terminate a tenancy.

16 (h) This section shall become operative on January 1, 2016.

17 ~~SEC. 2.~~

18 SEC. 3. Section 85 of the Code of Civil Procedure is amended
 19 to read:

20 85. An action or special proceeding shall be treated as a limited
 21 civil case if all of the following conditions are satisfied, and,
 22 notwithstanding any statute that classifies an action or special
 23 proceeding as a limited civil case, an action or special proceeding
 24 shall not be treated as a limited civil case unless all of the following
 25 conditions are satisfied:

26 (a) The amount in controversy does not exceed twenty-five
 27 thousand dollars (\$25,000). As used in this section, “amount in
 28 controversy” means the amount of the demand, or the recovery
 29 sought, or the value of the property, or the amount of the lien, that
 30 is in controversy in the action, exclusive of attorneys’ fees, interest,
 31 and costs.

32 (b) The relief sought is a type that may be granted in a limited
 33 civil case.

34 (c) The relief sought, whether in the complaint, a
 35 cross-complaint, or otherwise, is exclusively of a type described
 36 in one or more statutes that classify an action or special proceeding
 37 as a limited civil case or that provide that an action or special
 38 proceeding is within the original jurisdiction of the municipal
 39 court, including, but not limited to, the following provisions:

40 (1) Section 798.61 or 798.88 of the Civil Code.

- 1 (2) Section 1719 of the Civil Code.
- 2 (3) Section 3342.5 of the Civil Code.
- 3 (4) Section 86.
- 4 (5) Section 86.1.
- 5 (6) Section 1710.20.
- 6 (7) Section 7581 of the Food and Agricultural Code.
- 7 (8) Section 12647 of the Food and Agricultural Code.
- 8 (9) Section 27601 of the Food and Agricultural Code.
- 9 (10) Section 31503 of the Food and Agricultural Code.
- 10 (11) Section 31621 of the Food and Agricultural Code.
- 11 (12) Section 52514 of the Food and Agricultural Code.
- 12 (13) Section 53564 of the Food and Agricultural Code.
- 13 (14) Section 53069.4 of the Government Code.
- 14 (15) Section 53075.6 of the Government Code.
- 15 (16) Section 53075.61 of the Government Code.
- 16 (17) Section 5411.5 of the Public Utilities Code.
- 17 (18) Section 9872.1 of the Vehicle Code.
- 18 (19) Section 10751 of the Vehicle Code.
- 19 (20) Section 14607.6 of the Vehicle Code.
- 20 (21) Section 40230 of the Vehicle Code.
- 21 (22) Section 40256 of the Vehicle Code.

22 *(d) This section shall remain in effect only until January 1, 2016,*
23 *and as of that date is repealed, unless a later enacted statute, that*
24 *is enacted before January 1, 2016, deletes or extends that date.*

25 *SEC. 4. Section 85 is added to the Code of Civil Procedure, to*
26 *read:*

27 *85. An action or special proceeding shall be treated as a limited*
28 *civil case if all of the following conditions are satisfied, and,*
29 *notwithstanding any statute that classifies an action or special*
30 *proceeding as a limited civil case, an action or special proceeding*
31 *shall not be treated as a limited civil case unless all of the following*
32 *conditions are satisfied:*

33 *(a) The amount in controversy does not exceed twenty-five*
34 *thousand dollars (\$25,000). As used in this section, "amount in*
35 *controversy" means the amount of the demand, or the recovery*
36 *sought, or the value of the property, or the amount of the lien, that*
37 *is in controversy in the action, exclusive of attorneys' fees, interest,*
38 *and costs.*

39 *(b) The relief sought is a type that may be granted in a limited*
40 *civil case.*

- 1 (c) *The relief sought, whether in the complaint, a*
2 *cross-complaint, or otherwise, is exclusively of a type described*
3 *in one or more statutes that classify an action or special proceeding*
4 *as a limited civil case or that provide that an action or special*
5 *proceeding is within the original jurisdiction of the municipal*
6 *court, including, but not limited to, the following provisions:*
- 7 (1) *Section 798.61 of the Civil Code.*
 - 8 (2) *Section 1719 of the Civil Code.*
 - 9 (3) *Section 3342.5 of the Civil Code.*
 - 10 (4) *Section 86.*
 - 11 (5) *Section 86.1.*
 - 12 (6) *Section 1710.20.*
 - 13 (7) *Section 7581 of the Food and Agricultural Code.*
 - 14 (8) *Section 12647 of the Food and Agricultural Code.*
 - 15 (9) *Section 27601 of the Food and Agricultural Code.*
 - 16 (10) *Section 31503 of the Food and Agricultural Code.*
 - 17 (11) *Section 31621 of the Food and Agricultural Code.*
 - 18 (12) *Section 52514 of the Food and Agricultural Code.*
 - 19 (13) *Section 53564 of the Food and Agricultural Code.*
 - 20 (14) *Section 53069.4 of the Government Code.*
 - 21 (15) *Section 53075.6 of the Government Code.*
 - 22 (16) *Section 53075.61 of the Government Code.*
 - 23 (17) *Section 5411.5 of the Public Utilities Code.*
 - 24 (18) *Section 9872.1 of the Vehicle Code.*
 - 25 (19) *Section 10751 of the Vehicle Code.*
 - 26 (20) *Section 14607.6 of the Vehicle Code.*
 - 27 (21) *Section 40230 of the Vehicle Code.*
 - 28 (22) *Section 40256 of the Vehicle Code.*
 - 29 (d) *This section shall become operative on January 1, 2016.*

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