

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 999

Introduced by Assembly Member Daly

February 26, 2015

An act to ~~add Section 798.62 to~~ amend Section 798.61 of the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 999, as amended, Daly. ~~Mobilehomes: disposal. Abandoned mobilehomes: disposal.~~ *Abandoned mobilehomes: disposal.*

The Mobilehome Residency Law governs tenancies in mobilehome parks, including, among other things, imposing various duties on the ~~owners or managers management of a mobilehome parks. park when seeking to sell an abandoned mobilehome and its contents.~~ *Existing law requires the management, under certain circumstances, to obtain a tax clearance certificate from the county tax collector of the county in which the mobilehome is located when selling an abandoned mobilehome.*

~~This will would authorize the management of a mobilehome park to dispose of a mobilehome, as provided, left upon the premises by a tenant or lienholder under specified circumstances. This bill would require the landlord, prior to disposing of the mobilehome, to provide written notice to the tenant and owner, and would require the notice to contain specified information. This bill would also require the landlord to provide a copy of the notice to specified persons, including, among others, a lienholder. This bill would require the tenant or lienholder to respond to the notice in writing by a date specified, or to remove the mobilehome within 30 days after the mailing of the notice. This bill~~

~~would require the landlord, after notifying the tenant, to store the abandoned mobilehome and to exercise reasonable care for the mobilehome. This bill would authorize the landlord, if the tenant or lienholder responds to the notice on or before the date specified in the notice, to require payment of storage charges and costs incidental to storage prior to allowing the tenant or lienholder onto the premises to remove the mobilehome. This bill would conclusively presume, if the tenant or lienholder does not respond to the notice on or before the date specified in the notice, that the mobilehome is immediately subject to salvage, demolition, removal, or other abatement, and would provide that the tenant and any lienholder shall have no further right, title, or interest to the mobilehome. This bill would also require the Department of Housing and Community Development to immediately issue a salvage permit at $\frac{1}{2}$ of the amount that would otherwise be due. This bill would also provide that the landlord is not responsible for any loss to the tenant or lienholder resulting from storage, demolition, salvage, or removal of the mobilehome in compliance with these provisions, and compliance in good faith with these provisions constitutes a complete defense in any action brought by a tenant or lienholder against a landlord for loss or damage to a mobilehome that has been disposed of.~~

This bill would amend the Mobilehome Residency Law to authorize a procedure for the management of a mobilehome park to dispose of an abandoned mobilehome and to dispose of or sell its contents without requiring the management to obtain a tax clearance certificate. This bill would require the management to notify the county tax collector in the county in which the mobilehome park is located and the Department of Housing and Community Development of an action to dispose of an abandoned mobilehome and its contents pursuant to these provisions.

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

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

1 SECTION 1. Section 798.61 of the Civil Code is amended to
2 read:

3 798.61. (a) (1) As used in this section, “abandoned
4 mobilehome” means a mobilehome about which all of the
5 following are true:

6 (A) It is located in a mobilehome park on a site for which no
7 rent has been paid to the management for the preceding 60 days.

1 (B) It is unoccupied.

2 (C) A reasonable person would believe it to be abandoned.

3 (2) ~~For purposes of~~ *As used in this section:*

4 (A) “Mobilehome” shall include a trailer coach, as defined in
5 Section 635 of the Vehicle Code, or a recreational vehicle, as
6 defined in Section 18010 of the Health and Safety Code, if the
7 trailer coach or recreational vehicle also satisfies the requirements
8 of paragraph (1), including being located on any site within a
9 mobilehome park, even if the site is in a separate designated section
10 pursuant to Section 18215 of the Health and Safety Code.

11 (B) “Abandoned mobilehome” shall include a mobilehome that
12 is uninhabitable because of its total or partial destruction that
13 cannot be rehabilitated, if the mobilehome also satisfies the
14 requirements of paragraph (1).

15 (3) *As used in this section, “dispose” or “disposal” shall mean*
16 *to remove an abandoned mobilehome from a mobilehome park or*
17 *park and destroy it, thus making it unusable for any purpose.*

18 (b) After determining a mobilehome in a mobilehome park to
19 be an abandoned mobilehome, the management shall post a notice
20 of belief of abandonment on the mobilehome for not less than 30
21 days, and shall deposit copies of the notice in the United States
22 mail, postage prepaid, addressed to the homeowner at the last
23 known address and to any known registered owner, if different
24 from the homeowner, and to any known holder of a security interest
25 in the abandoned mobilehome. This notice shall be mailed by
26 registered or certified mail with a return receipt requested.

27 (c) (1) Thirty or more days following posting pursuant to
28 subdivision (b), the management may file a petition in the superior
29 court in the county in which the mobilehome park is located, for
30 a judicial declaration of abandonment of the mobilehome. A
31 proceeding under this subdivision is a limited civil case. Copies
32 of the petition shall be served upon the homeowner, any known
33 registered owner, and any known person having a lien or security
34 interest of record in the mobilehome by posting a copy on the
35 mobilehome and mailing copies to those persons at their last known
36 addresses by registered or certified mail with a return receipt
37 requested in the United States mail, postage prepaid.

38 (2) *To dispose of an abandoned mobilehome, the management*
39 *shall also do all of the following:*

1 (A) Declare in the petition that the management will dispose of
2 the abandoned mobilehome, and therefore will not seek a tax
3 clearance certificate as set forth in Section 5832 of the Revenue
4 and Taxation Code.

5 (B) Declare in the petition whether the management intends to
6 sell the contents of the abandoned mobilehome before its disposal.

7 (C) Serve the petition on the county tax collector in the county
8 in which the mobilehome park is located and the Department of
9 Housing and Community Development.

10 (d) (1) Hearing on the petition shall be given precedence over
11 other matters on the court's calendar.

12 (2) If, at the hearing, the petitioner shows by a preponderance
13 of the evidence that the criteria for an abandoned mobilehome has
14 been satisfied and no party establishes an interest therein at the
15 hearing, the court shall enter a judgment of abandonment,
16 determine the amount of charges to which the petitioner is entitled,
17 and award attorney's fees and costs to the petitioner. For purposes
18 of this subdivision, an interest in the mobilehome shall be
19 established by evidence of a right to possession of the mobilehome
20 or a security or ownership interest in the mobilehome.

21 (3) A default may be entered by the court clerk upon request of
22 the petitioner, and a default judgment shall be thereupon entered,
23 if no responsive pleading is filed within 15 days after service of
24 the petition by mail.

25 (e) (1) Within 10 days following a judgment of abandonment,
26 the management shall enter the abandoned mobilehome and
27 complete an inventory of the contents and submit the inventory to
28 the court.

29 (2) During this period the management shall post and mail a
30 notice of intent to sell *or dispose of* the abandoned mobilehome
31 and its contents under this section, and announcing the date of
32 ~~sale~~, *sale or disposal*, in the same manner as provided for the notice
33 of determination of abandonment under subdivision (b). *The*
34 *management shall also provide notice to the county tax collector*
35 *in the county in which the mobilehome park is located and the*
36 *Department of Housing and Community Development, if requested*
37 *by either to do so.*

38 (3) At any time prior to the sale *or disposal* of ~~a~~ *an abandoned*
39 *mobilehome or its contents* under this section, any person having
40 a right to possession of the *abandoned* mobilehome may recover

1 and remove it from the premises upon payment to the management
2 of all rent or other charges due, including reasonable costs of
3 storage and other costs awarded by the court. Upon receipt of this
4 payment and removal of the *abandoned* mobilehome from the
5 premises pursuant to this paragraph, the management shall
6 immediately file an acknowledgment of satisfaction of judgment
7 pursuant to Section 724.030 of the Code of Civil Procedure.

8 (f) (1) Following the judgment of abandonment, but not less
9 than 10 days following the notice of sale *or disposal* specified in
10 subdivision (e), the management may conduct a public sale of the
11 abandoned mobilehome ~~and, its contents:~~ *contents, or both*. The
12 management may bid at the sale and shall have the right to offset
13 its bids to the extent of the total amount due it under this section.
14 The proceeds of the sale shall be retained by the management, but
15 any unclaimed amount thus retained over and above the amount
16 to which the management is entitled under this section shall be
17 deemed abandoned property and shall be paid into the treasury of
18 the county in which the sale took place within 30 days of the date
19 of the sale. The former homeowner or any other owner may claim
20 any or all of that unclaimed amount within one year from the date
21 of payment to the county by making application to the county
22 treasurer or other official designated by the county. If the county
23 pays any or all of that unclaimed amount to a claimant, neither the
24 county nor any officer or employee of the county is liable to any
25 other claimant as to the amount paid.

26 (2) *Following the judgment of abandonment, but not less than*
27 *10 days following the notice of sale or disposal specified in*
28 *subdivision (e), the management may dispose of the abandoned*
29 *mobilehome.*

30 (g) (1) ~~Within 30 days of the date of the sale,~~ *sale of the*
31 *abandoned mobilehome and its contents,* the management shall
32 submit to the court an accounting of the moneys received from the
33 sale and the disposition of the money and the items contained in
34 the inventory submitted to the court pursuant to subdivision (e).

35 (2) *Within 30 days of the date of the disposal of an abandoned*
36 *mobilehome and its contents, the management shall submit to the*
37 *court, the county tax collector in the county in which the*
38 *mobilehome park is located, and the Department of Housing and*
39 *Community Development a statement that the abandoned*

1 mobilehome and its contents were disposed with supporting
2 documentation.

3 (3) Within 30 days of the date of the disposal of an abandoned
4 mobilehome or the date of the sale of its contents, whichever date
5 is later, the management shall submit to the court, the county tax
6 collector in the county in which the mobilehome park is located,
7 and the Department of Housing and Community Development an
8 accounting of the moneys received from the sale and the disposition
9 of the money and the items contained in the inventory submitted
10 to the court pursuant to subdivision (e) and a statement that the
11 abandoned mobilehome was disposed with supporting
12 documentation.

13 (h) The management shall provide the purchaser at the sale of
14 an abandoned mobilehome with a copy of the judgment of
15 abandonment and evidence of the sale, as shall be specified by the
16 State Department of Housing and Community Development or the
17 Department of Motor Vehicles, which shall register title in the
18 abandoned mobilehome to the purchaser upon presentation thereof.
19 The sale shall pass title to the purchaser free of any prior interest,
20 including any security interest or lien, except the lien provided for
21 in Section 18116.1 of the Health and Safety Code, in the abandoned
22 mobilehome.

23 (i) Notwithstanding any other law, the management shall not
24 be required to obtain a tax clearance certificate, as set forth in
25 Section 5832 of the Revenue and Taxation Code, to either dispose
26 of an abandoned mobilehome and sell its contents, or dispose of
27 an abandoned mobilehome and its contents.

28 SECTION 1. Section 798.62 is added to the Civil Code, to
29 read:

30 ~~798.62. (a) For purposes of this section, all of the following~~
31 ~~definitions shall apply:~~

32 (1) ~~“Current market value” means the amount in cash, as~~
33 ~~determined by the county assessor, that could reasonably be~~
34 ~~expected to be paid for personal property by an informed buyer to~~
35 ~~an informed seller, each acting without compulsion in an~~
36 ~~arm’s-length transaction occurring on the assessment date for the~~
37 ~~tax year or on the date of a subsequent reappraisal by the county~~
38 ~~assessor.~~

39 (2) ~~“Certified funds” means certified check or money order.~~

- 1 ~~(3) “Dispose of the mobilehome” means to throw away,~~
2 ~~dismantle, salvage, or demolish the mobilehome.~~
- 3 ~~(4) “Lienholder” means any of the following:~~
- 4 ~~(A) A legal owner as defined by Section 18005.8 of the Health~~
5 ~~and Safety Code.~~
- 6 ~~(B) A junior lienholder as defined by Section 18005.3 of the~~
7 ~~Health and Safety Code.~~
- 8 ~~(C) The holder of any lien or secured interest provided for in~~
9 ~~Section 18116.1 of the Health and Safety Code.~~
- 10 ~~(5) “Substandard” means substandard as defined in Section~~
11 ~~1606 of Chapter 2 of Division 1 of Title 25 of the Code of~~
12 ~~Regulations.~~
- 13 ~~(b) (1) Management may dispose of a mobilehome as provided~~
14 ~~by this section.~~
- 15 ~~(2) This section governs the rights and obligations of landlords,~~
16 ~~tenants, and any lienholders in any mobilehome left upon the~~
17 ~~premises by the tenant or any lienholder under any of the following~~
18 ~~circumstances:~~
- 19 ~~(A) The tenancy has ended by termination or expiration of a~~
20 ~~rental agreement or by relinquishment of the premises and the~~
21 ~~landlord reasonably believes that the owner of the mobilehome~~
22 ~~has left the mobilehome upon the premises with no intention of~~
23 ~~asserting any further claim to the premises.~~
- 24 ~~(B) The tenant has been absent from the premises continuously~~
25 ~~for seven days after termination of a tenancy by a court order that~~
26 ~~has not been executed.~~
- 27 ~~(C) The landlord receives possession of the premises by~~
28 ~~execution of a writ of possession on a judgment against the tenant,~~
29 ~~occupants, or owner of the mobilehome.~~
- 30 ~~(D) The mobilehome is either of the following:~~
- 31 ~~(i) A public or private nuisance, irreparable, substandard or, not~~
32 ~~habitable.~~
- 33 ~~(ii) Has a current market value of fifteen thousand dollars~~
34 ~~(\$15,000) or less and is subject to abatement by salvage or~~
35 ~~demolition.~~
- 36 ~~(e) (1) Prior to disposing of the mobilehome, the landlord shall~~
37 ~~provide written notice to the tenant and owner in the following~~
38 ~~manner:~~

- 1 ~~(A) Served by certified mail, return receipt requested, addressed~~
- 2 ~~and mailed to the tenant and owner of the mobilehome at all of~~
- 3 ~~the following:~~
- 4 ~~(i) The premises where the mobilehome is located.~~
- 5 ~~(ii) Any postoffice box held by the tenant and actually known~~
- 6 ~~to the landlord.~~
- 7 ~~(iii) The most recent forwarding address if provided by the~~
- 8 ~~tenant or actually known to the landlord, and all addresses for next~~
- 9 ~~of kin actually known to landlord.~~
- 10 ~~(B) Posted at the premises.~~
- 11 ~~(2) The notice required pursuant to paragraph (1) shall state all~~
- 12 ~~of the following:~~
- 13 ~~(A) The mobilehome left upon the premises is a nuisance and~~
- 14 ~~subject to abatement.~~
- 15 ~~(B) The mobilehome is stored on the rented space.~~
- 16 ~~(C) Any lienholder that has a right to claim the mobilehome,~~
- 17 ~~except as provided by this section.~~
- 18 ~~(D) That the landlord reasonably believes the county assessor~~
- 19 ~~will determine that the current market value of the mobilehome is~~
- 20 ~~fifteen thousand dollars (\$15,000) or less, and that the landlord~~
- 21 ~~intends to dispose of the property if the property is not claimed.~~
- 22 ~~(E) (i) If the tenant or any lienholder fails to respond to the~~
- 23 ~~landlord, in writing, by a date specified, or fails to remove the~~
- 24 ~~mobilehome within 30 days after the mailing of the notice, the~~
- 25 ~~landlord may dispose of the mobilehome.~~
- 26 ~~(ii) For purposes of this subparagraph, "by a date specified"~~
- 27 ~~means a date not less than 30 days after the mailing of the notice.~~
- 28 ~~(d) (1) The landlord shall also give a copy of the notice~~
- 29 ~~described in subdivision (c) to all of the following:~~
- 30 ~~(A) Any lienholder.~~
- 31 ~~(B) The tax collector of the county where the mobilehome is~~
- 32 ~~located.~~
- 33 ~~(C) The assessor of the county where the mobilehome is located.~~
- 34 ~~(2) The copy of the notice required pursuant to paragraph (1)~~
- 35 ~~shall be given by certified mail, return receipt requested.~~
- 36 ~~(3) A notice to lienholders under subparagraph (A) of paragraph~~
- 37 ~~(1) shall be sent to each lienholder at each of the following~~
- 38 ~~addresses:~~
- 39 ~~(A) Actually known to the landlord.~~
- 40 ~~(B) Of record.~~

- 1 ~~(e) After notifying the tenant as required pursuant to subdivision~~
2 ~~(e), both of the following shall apply:~~
- 3 ~~(1) The landlord shall store the abandoned mobilehome of the~~
4 ~~tenant on the rented space and shall exercise reasonable care for~~
5 ~~the mobilehome.~~
- 6 ~~(2) The landlord is entitled to reasonable or actual storage~~
7 ~~charges and costs incidental to storage or disposal. The storage~~
8 ~~charge may be no greater than the monthly space rent last payable~~
9 ~~by the tenant.~~
- 10 ~~(f) If a tenant or lienholder, upon receipt of the notice provided~~
11 ~~by the landlord, responds in writing to the landlord on or before~~
12 ~~the date specified in the landlord's notice that the tenant or~~
13 ~~lienholder intends to remove the mobilehome from the premises~~
14 ~~and pay the storage fees for which they shall then be indebted, the~~
15 ~~landlord may require payment of storage charges and costs~~
16 ~~incidental to storage prior to allowing the tenant or lienholder onto~~
17 ~~the premises to remove the mobilehome. Acceptance by a landlord~~
18 ~~of this payment does not operate to create or reinstate a tenancy.~~
19 ~~Failure to allow removal absent payment in certified funds shall~~
20 ~~not constitute an interference with property or conversion.~~
- 21 ~~(g) If a tenant or lienholder does not respond on or before the~~
22 ~~date specified in the landlord's notice, or the tenant or lienholder~~
23 ~~does not remove the mobilehome within 30 days after responding~~
24 ~~to the landlord or by a date agreed upon with the landlord,~~
25 ~~whichever is later, both of the following shall apply:~~
- 26 ~~(1) The mobilehome is conclusively presumed to be immediately~~
27 ~~subject to salvage, demolition, removal, or other abatement. The~~
28 ~~tenant and any lienholder that have been given notice pursuant to~~
29 ~~subdivision (c) or (d) shall have no further right, title, or interest~~
30 ~~to the mobilehome and may not claim or sell the property.~~
- 31 ~~(2) The Department of Housing and Community Development~~
32 ~~shall immediately issue a salvage permit at one-half of the amount~~
33 ~~that would otherwise be due.~~
- 34 ~~(h) A landlord shall not keep and retitle a mobilehome unless~~
35 ~~all applicable liens, including any lien or secured interest provided~~
36 ~~for in Section 18116.1 of the Health and Safety Code, have been~~
37 ~~paid.~~
- 38 ~~(i) The landlord is not responsible for any loss to the tenant or~~
39 ~~lienholder resulting from storage, demolition, salvage, or removal~~
40 ~~of the mobilehome in compliance with this section. Compliance~~

1 ~~in good faith with this section shall constitute a complete defense~~
2 ~~in any action brought by a tenant or lienholder against a landlord~~
3 ~~for loss or damage to a mobilehome disposed of pursuant to this~~
4 ~~section.~~

5 (j) ~~It is the intent of the Legislature to also enact legislation that~~
6 ~~would allow the removal of a mobilehome without first requiring~~
7 ~~a tax clearance certificate from the county tax collector.~~