

Senate Bill No. 2095

Passed the Senate August 19, 1998

Secretary of the Senate

Passed the Assembly August 11, 1998

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

└

CHAPTER ____

An act to amend Sections 798.55 and 798.56a of the Civil Code, and to amend Section 18035.2 of the Health and Safety Code, relating to mobilehome parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 2095, Polanco. Mobilehome parks.

(1) Existing law prohibits management from terminating or refusing to renew a tenancy, except for specified reasons and upon the giving of a prescribed written notice.

This bill would require the resident of a mobilehome that remains in the mobilehome park after service of this notice to continue to be subject to the Mobilehome Residency Law and the rules and regulations of the park. It would also provide that no lawful act by the management to enforce the law or rules and regulations may be deemed or construed to waive or otherwise affect the notice to remove the mobilehome.

(2) Under existing law, legal owners and holders of junior liens against mobilehomes in mobilehome parks may sell the mobilehome within the park to a third party and keep the mobilehome on the site within the park until it is sold only if specified requirements are met. Existing law provides that, if these requirements are not met and the management of the park either removes the mobilehome from the premises and places it in storage or stores it on its site, the management shall have a warehouseman's lien against the mobilehome for specified costs.

This bill would similarly provide that if a registered owner of a mobilehome that is not encumbered by a lien, either held by a legal owner or a junior lienholder, fails to comply with a notice of termination and is either legally evicted or vacates the premises, the management may either remove the mobilehome from the premises and place it in storage, or store it on its site, in which case the management has a warehouseman's lien. It also would



provide that a warehouseman's lien established pursuant to these provisions may be enforced after the date of judgment in an unlawful detainer action or after the date the mobilehome is vacated, whichever occurs earlier.

This bill would also require, upon completion of any sale to enforce this lien, the management to provide the purchaser at the sale with evidence of the sale, as specified by the Department of Housing and Community Development. This bill would require the department, upon request of the purchaser of the mobilehome, to register title to the mobilehome to the purchaser.

(3) Existing law provides that a manufactured home or mobilehome may be installed on a foundation system as either a fixture or improvement to the real property or installed on a foundation system as a chattel. Existing law requires a dealer of a new or used manufactured home to execute each sale in writing with the buyer's signature, provide a statement of fact, as specified, and establish an escrow account with an escrow agent. Existing law requires the escrow instructions for a sale by a dealer of a new manufactured home or mobilehome to provide specified information. Existing law requires the escrow instructions for a sale by a dealer of a new or used manufactured home or mobilehome that is subject to a specified inspection and for which the issuance of a document certifying or approving occupancy is conditioned upon a specified payment to provide that the payment be made to the appropriate school district upon the close of escrow.

This bill would limit the applicability of these sale requirements to a manufactured home or mobilehome installed on a foundation system as a fixture or improvement to the real property.

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

SECTION 1. Section 798.55 of the Civil Code is amended to read:

798.55. (a) The Legislature finds and declares that, because of the high cost of moving mobilehomes, the



potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, and the cost of landscaping or lot preparation, it is necessary that the owners of mobilehomes occupied within mobilehome parks be provided with the unique protection from actual or constructive eviction afforded by the provisions of this chapter.

(b) The management shall not terminate or refuse to renew a tenancy, except for a reason specified in this article and upon the giving of written notice to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure, to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner, as defined in Section 18005.8 of the Health and Safety Code, each junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, and the registered owner of the mobilehome, if other than the homeowner, by United States mail within 10 days after notice to the homeowner. The copy may be sent by regular mail or by certified or registered mail with return receipt requested, at the option of the management. If the homeowner has not paid the rent due within three days after notice to the homeowner, and if the first notice was not sent by certified or registered mail with return receipt requested, a copy of the notice shall again be sent to the legal owner, each junior lienholder, and the registered owner, if other than the homeowner, by certified or registered mail with return receipt requested within 10 days after notice to the homeowner. Copies of the notice shall be addressed to the legal owner, each junior lienholder, and the registered owner at their addresses, as set forth in the registration card specified in Section 18091.5 of the Health and Safety Code.

(c) The resident of a mobilehome that remains in the mobilehome park after service of the notice to remove the mobilehome shall continue to be subject to this chapter and the rules and regulations of the park, including rules regarding maintenance of the space.



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

SEC. 2. Section 798.56a of the Civil Code is amended to read:

798.56a. (a) Within 60 days after receipt of, or no later than 65 days after the mailing of, the notice of termination of tenancy pursuant to any reason provided in Section 798.56, the legal owner, if any, and each junior lienholder, if any, shall notify the management in writing of at least one of the following:

(1) Its offer to sell the obligation secured by the mobilehome to the management for the amount specified in its written offer. In that event, the management shall have 15 days following receipt of the offer to accept or reject the offer in writing. If the offer is rejected, the person or entity that made the offer shall have 10 days in which to exercise one of the other options contained in this section and shall notify management in writing of its choice.

(2) Its intention to foreclose on its security interest in the mobilehome.

(3) Its request that the management pursue the termination of tenancy against the homeowner and its offer to reimburse management for the reasonable attorney's fees and court costs incurred by the management in that action. If this request and offer are made, the legal owner, if any, or junior lienholder, if any, shall reimburse the management the amount of reasonable attorney's fees and court costs, as agreed upon by the management and the legal owner or junior lienholder, incurred by the management in an action to terminate the homeowner's tenancy, on or before the earlier of (A) the 60th calendar day following receipt of written notice from the management of the aggregate amount of those reasonable attorney's fees and costs or (B) the date the mobilehome is resold.

(b) A legal owner, if any, or junior lienholder, if any, may sell the mobilehome within the park to a third party



and keep the mobilehome on the site within the mobilehome park until it is resold only if all of the following requirements are met:

(1) The legal owner, if any, or junior lienholder, if any, notifies management in writing of the intention to exercise either option described in paragraph (2) or (3) of subdivision (a) within 60 days following receipt of, or no later than 65 days after the mailing of, the notice of termination of tenancy and satisfies all of the responsibilities and liabilities of the homeowner owing to the management for the 90 days preceding the mailing of the notice of termination of tenancy and then continues to satisfy these responsibilities and liabilities as they accrue from the date of the mailing of that notice until the date the mobilehome is resold.

(2) Within 60 days following receipt of, or no later than 65 days after the mailing of, the notice of termination of tenancy, the legal owner or junior lienholder commences all repairs and necessary corrective actions so that the mobilehome complies with park rules and regulations in existence at the time the notice of termination of tenancy was given as well as the health and safety standards specified in Sections 18550, 18552, and 18605 of the Health and Safety Code, and completes these repairs and corrective actions within 90 calendar days of that notice, or before the date that the mobilehome is sold, whichever is earlier.

(3) The legal owner, if any, or junior lienholder, if any, complies with the requirements of Article 7 (commencing with Section 798.70) as it relates to the transfer of the mobilehome to a third party.

(c) For purposes of subdivision (b), the “homeowner’s responsibilities and liabilities” means all rents, utilities, reasonable maintenance charges of the mobilehome and its premises, and reasonable maintenance of the mobilehome and its premises pursuant to existing park rules and regulations.

(d) If the homeowner files for bankruptcy, the periods set forth in this section are tolled until the mobilehome is released from bankruptcy.



(e) Notwithstanding any other provision of law, including, but not limited to, Section 18099.5 of the Health and Safety Code, if neither the legal owner nor a junior lienholder notifies the management of its decision pursuant to subdivision (a) within the period allowed, or performs as agreed within 30 days, or if a registered owner of a mobilehome, that is not encumbered by a lien held by a legal owner or a junior lienholder, fails to comply with a notice of termination and is either legally evicted or vacates the premises, the management may either remove the mobilehome from the premises and place it in storage or store it on its site. In this case, notwithstanding any other provision of law, the management shall have a warehouseman's lien in accordance with Section 7209 of the Commercial Code against the mobilehome for the costs of dismantling and moving, if appropriate, as well as storage, that shall be superior to all other liens, except the lien provided for in Section 18116.1 of the Health and Safety Code, and may enforce the lien pursuant to Section 7210 of the Commercial Code either after the date of judgment in an unlawful detainer action or after the date the mobilehome is physically vacated by the resident, whichever occurs earlier. Upon completion of any sale to enforce the warehouseman's lien in accordance with Section 7210 of the Commercial Code, the management shall provide the purchaser at the sale with evidence of the sale, as shall be specified by the Department of Housing and Community Development, that shall, upon proper request by the purchaser of the mobilehome, register title to the mobilehome to this purchaser, whether or not there existed a legal owner or junior lienholder on this title to the mobilehome.

(f) All written notices required by this section shall be sent to the other party by certified or registered mail with return receipt requested.

(g) Satisfaction, pursuant to this section, of the homeowner's accrued or accruing responsibilities and liabilities shall not cure the default of the homeowner.



SEC. 3. Section 18035.2 of the Health and Safety Code is amended to read:

18035.2. (a) For every sale by a dealer of a new or used manufactured home or mobilehome to be installed on a foundation system pursuant to subdivision (a) of Section 18551, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase, and provide a statement of fact complying with subdivision (b) of Section 18035.1, contemporaneous with or prior to the receipt of any cash or cash equivalent from the buyer and shall establish an escrow account with an escrow agent. The escrow shall not be subject to Section 18035.

(b) For every sale by a dealer of a new manufactured home or mobilehome installed or to be installed on a foundation system pursuant to subdivision (a) of Section 18551, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(B) That the inventory creditor shall consent in writing to other than full payment.

For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome as contemplated by Section 9107 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.



(c) For every sale by a dealer of a new or used manufactured home or mobilehome that is subject to inspection pursuant to subdivision (a) of Section 18551, and for which it is stated, on the face of the document certifying or approving occupancy, that the issuance of the document is conditioned upon the payment of a fee, charge, dedication, or other requirement levied pursuant to Section 17620 of the Education Code, the escrow instructions shall provide that the payment of that fee, charge, dedication, or other requirement be made to the appropriate school district upon the close of escrow.



Approved _____, 1998

Governor

