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HOUSE BILL 608

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY
MIMI STEWART

AN ACT

RELATING TO PROPERTY; AMENDING AND ENACTING SECTIONS OF THE
MOBILE HOME PARK ACT TO IMPROVE OWNER-RESIDENT RELATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 47-10-3 NMSA 1978 (being Laws 1983,
Chapter 122, Section 3) is amended to read:

"47-10-3. TENANCY--REQUIREMENTS--NOTICE TO QUIT.--

A. No tenancy or other lease or rental occupancy of
space in a mobile home park shall commence without a written
lease or rental agreement, and no tenancy in a mobile home park
shall be terminated until a notice to quit has been served upon
the mobile home resident. The notice to quit shall be in
writing directed to the resident and in the form specified in
this section. The form of notice shall be deemed legally
sufficient if it states:

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[bracketed material] = delete

1 (1) the name of the landlord or of the mobile
2 home park;

3 (2) the mailing address of the property;

4 (3) the location or space number upon which the
5 mobile home is situated;

6

7 (4) the county in which the mobile home is
8 situate; and

9 (5) the reason for the termination of the
10 tenancy and the date, place and circumstances of any acts
11 allegedly justifying the termination.

12 ~~[B. Service of the notice may be in person but shall~~
13 ~~be deemed legally sufficient if the notice is conspicuously~~
14 ~~affixed to the main entrance of the mobile home.]~~

15 B. The notice to quit shall be served by delivering
16 the notice to the mobile home tenant personally or by posting
17 the notice at the main entrance of the mobile home. If service
18 is made by posting the notice, a copy of the notice shall also
19 be sent by certified mail to the mobile home tenant, return
20 receipt requested. The date of a posting shall be included on
21 the posted notice and on the copy mailed to the mobile home
22 tenant and shall constitute the effective date of the notice.

23 C. The mobile home tenant shall be given a period of
24 not less than thirty days from the end of the rental period
25 during which the termination notice was served to remove any

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[bracketed material] = delete

1 mobile home from the premises, but which is automatically
2 extended to sixty days where the tenant must remove a
3 multisection mobile home. In those situations where a
4 multisection mobile home is being leased to or occupied by a
5 person other than its owner and in a manner contrary to the
6 rules and regulations of the landlord, then, in that event, the
7 tenancy may be terminated by the landlord upon giving a thirty-
8 day notice instead of a sixty-day notice.

9 D. No lease shall contain any provision by which the
10 mobile home tenant waives his rights under the Mobile Home Park
11 Act, and any such waiver shall be deemed to be contrary to
12 public policy and shall be unenforceable and void. Any lease,
13 however, may provide for the termination of the tenancy in
14 accordance with the provisions of Subsection C of this section.

15 E. No tenancy shall be terminated by a mobile home
16 park owner solely because of the size or age of the mobile
17 home. "

18 Section 2. Section 47-10-11 NMSA 1978 (being Laws 1983,
19 Chapter 122, Section 11) is amended to read:

20 "47-10-11. CLOSED PARKS PROHIBITED. --

21 A. The owner of a mobile home park or his agent
22 shall not require, as a condition of tenancy in a mobile home
23 park, that the prospective tenant [~~has purchased~~] purchase a
24 mobile home from any particular seller or from any one of a
25 particular group of sellers and shall not require that the

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1 management act as agent in the future sale of the mobile home.

2 B. The owner or agent shall not give any special
3 preference in renting to a prospective tenant who has purchased
4 a mobile home from a particular seller.

5 C. A seller of mobile homes shall not require as a
6 condition of sale that a purchaser locate in a particular mobile
7 home park or in any one of a particular group of mobile home
8 parks.

9 D. The owner of a mobile home park shall not
10 prohibit the listing or sale of a mobile home within the park by
11 the owner of the mobile home or the owner's agent. The park
12 owner or manager shall not require as a condition of sale that
13 the management serve as the selling agent.

14 [~~D-~~] E. The owner or operator of a mobile home park
15 shall treat all persons equally in evaluating credit or renting
16 or leasing available space, except that all or any portion of a
17 park may be designated for adult-only occupancy after a six
18 months' notice to the residents."

19 Section 3. Section 47-10-14 NMSA 1978 (being Laws 1983,
20 Chapter 122, Section 14, as amended) is amended to read:

21 "47-10-14. RENTAL AGREEMENT--DISCLOSURE OF TERMS IN
22 WRITING. --

23 A. The terms and conditions of a tenancy shall be
24 adequately disclosed in writing in a rental agreement by the
25 management to any prospective resident prior to the rental or

Underscored material = new
[bracketed material] = delete

1 occupancy of a mobile home space or lot. The disclosures shall
2 include:

3 (1) the term of the tenancy, [~~and~~] the amount
4 of the rent and the dollar amount of any rent increases for each
5 of the preceding two years;

6 (2) the day the rental payment is due;

7 (3) the day when unpaid rent shall be
8 considered in default;

9 (4) the rules and regulations of the park then
10 in effect;

11 (5) the zoning applicable to the property upon
12 which the park is located; and, if there is to be a change of
13 use or change of zoning in the mobile home park, a notice shall
14 be issued to residents at least six months prior to the
15 effective date of change;

16 [~~(5)~~] (6) the name and mailing address where a
17 manager's decision may be appealed;

18 [~~(6)~~] (7) the name and mailing address of the
19 owner of the park; [~~and~~]

20 [~~(7)~~] (8) all charges to the tenant other than
21 rent; and

22 (9) A statement explaining the resident's right
23 to request alternative dispute resolution of any disputes with
24 the mobile home park owner or management, except for disputes
25 over nonpayment of rent or utility charges or in the case of

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1 public safety emergencies.

2 B. The rental agreement shall be signed by both the
3 management and the resident, and each party shall receive a copy
4 of it.

5 C. The management and the resident may include in a
6 rental agreement terms and conditions not prohibited under the
7 provisions of the Mobile Home Park Act.

8 D. The management shall offer residents the
9 opportunity to enter into a renewable lease term of at least six
10 months.

11 [~~D.~~] E. If an owner deliberately uses a rental
12 agreement containing provisions known by him to be prohibited by
13 law or by the provisions of Section 47-10-11, 47-10-12 or
14 47-10-13 NMSA 1978, the resident may recover damages sustained
15 by him resulting from application of the illegal provision and
16 reasonable [~~attorney's~~] attorney fees. "

17 Section 4. Section 47-10-15 NMSA 1978 (being Laws 1983,
18 Chapter 122, Section 15) is amended to read:

19 "47-10-15. RULES AND REGULATIONS. --The management shall
20 adopt rules and regulations concerning all residents' use and
21 occupancy of the premises. [~~Such~~] The rules and regulations are
22 enforceable against a resident only if:

23 A. they are submitted to tenants for their comment
24 sixty days prior to the rules being implemented;

25 [~~A.~~] B. their purpose is to promote the convenience,

Underscored material = new
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1 safety or welfare of the residents, protect and preserve the
2 premises from abusive use or make a fair distribution of
3 services and facilities held out for the residents generally;

4 [B-] C. they are reasonably related to the purpose
5 for which they are adopted;

6 [C-] D. they are not retaliatory or discriminatory
7 in nature, except that all or any portion of the park may be
8 designated for adult-only occupancy after a six-months' notice
9 to the residents; and

10 [D-] E. they are sufficiently explicit in
11 prohibition, direction or limitation of the resident's conduct
12 to fairly inform him of what he [must] shall or [must] shall not
13 do to comply. "

14 Section 5. A new section of the Mobile Home Park Act is
15 enacted to read:

16 "[NEW MATERIAL] NEW OR AMENDED RULES--NOTIFICATION--OPEN
17 MEETING--PETS--PHYSICAL IMPROVEMENTS.--

18 A. The management shall notify mobile home park
19 residents of proposed new rules or amendments to existing rules
20 at least sixty days prior to the effective date of the new or
21 amended rules. The management shall allow residents a thirty-
22 day comment period on proposed rule changes. Comments from
23 residents to management on proposed rule changes shall be in
24 writing and signed by the author. Once all comments have been
25 received, the management shall post all comments and the

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1 responses to the comments in a conspicuous place. The new rules
2 or amended rules shall not take effect before sixty days after
3 the notification date.

4 B. Existing pets that are in compliance with the
5 mobile home park rules or regulations shall be exempt from any
6 provision of new rules or regulations that would prohibit those
7 pets provided those are not a nuisance violating the public
8 peace, health or safety.

9 C. The mobile home park management shall not require
10 existing residents to comply with changes in rules or
11 regulations that require physical improvements to the existing
12 resident's mobile home or lot unless the mobile home is in
13 violation of a local municipal or county ordinance or the
14 physical condition of the resident's mobile home or lot
15 constitutes a public nuisance or threat to the public peace,
16 health or safety. "

17 Section 6. Section 47-10-17 NMSA 1978 (being Laws 1983,
18 Chapter 122, Section 17) is amended to read:

19 "47-10-17. ~~[MEDIATION]~~ ALTERNATIVE DISPUTE RESOLUTION--
20 WHEN PERMITTED--COURT ACTIONS. --

21 A. In any ~~[controversy]~~ civil dispute between the
22 management and a resident of a mobile home park arising out of
23 the provisions of the Mobile Home Park Act, except for
24 nonpayment of rent or utility charges or in cases in which the
25 health or safety of other residents is in ~~[imminent]~~ imminent

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1 danger, the controversy may be submitted to [~~mediation~~]
2 alternative dispute resolution by request of either party prior
3 to the filing of a court action or a forcible entry and detainer
4 action [~~upon agreement of the parties~~]. The cost of the
5 alternative dispute resolution services shall be divided equally
6 among the disputing parties.

7 B. The agreement, if one is reached, shall be
8 presented to the court as a stipulation. Either party to the
9 [~~mediation~~] dispute resolution process may terminate the
10 [~~mediation~~] process at any time without prejudice.

11 C. If either party subsequently violates the
12 stipulation, the other party may apply immediately to the court
13 for relief.

14 D. Any alternative dispute resolution pursuant to
15 this section shall be performed by a professionally certified
16 third party intervenor approved by all disputing parties."

17 Section 7. Section 47-10-20 NMSA 1978 (being Laws 1993,
18 Chapter 147, Section 6) is amended to read:

19 "47-10-20. COST OF UTILITY SERVICES--ACCESS TO RECORDS.--

20 A. Mobile home park owners shall be responsible for
21 maintaining all park-owned exterior utility lines from the
22 mobile home hookups to the main lines in the park, except lines
23 that are damaged by a resident.

24 [A.] B. When a landlord purchases utility services
25 for residents, the charge for utility services billed to

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1 residents shall not exceed the cost per unit amount paid by the
2 landlord to the suppliers of the utility services.

3 [B-] C. A landlord shall provide a resident with
4 reasonable access to records of meter readings, if any, taken at
5 the resident's mobile home space."

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State of New Mexico House of Representatives

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

February 12, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 608

**has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Thomas P. Foy, Chairman

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Rios

Absent: None

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1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

HB 608/a

3
4 March 8, 1997

5 Mr. President:

6
7 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
8 whom has been referred

9 HOUSE BILL 608, as amended

10
11 has had it under consideration and reports same with
12 recommendation that it DO PASS, amended as follows:

13
14 1. On page 6, line 8 through 10, strike Subsection D in its
15 entirety.

16
17 2. Reletter the succeeding subsection accordingly.

18
19 3. On page 9, line 16, strike "third party intervenor" and
20 insert in lieu thereof "mediator".,

21 and thence referred to the JUDICIARY COMMITTEE.

22
23 Respectfully submitted,

24
25 _____
Roman M. Maes, III, Chairman

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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Page 14

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Kidd, McKibben

Absent: None

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1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997

HB 608/a

3
4 March 16, 1997

5
6 Mr. President:

7
8 Your JUDICIARY COMMITTEE, to whom has been referred

9
10 HOUSE BILL 608, as amended

11 has had it under consideration and reports same with
12 recommendation that it DO PASS, amended as follows:

13
14 1. On page 5, line 12, after the semicolon strike the
15 remainder of the line, and strike all of lines 13 through 15.

16
17 Respectfully submitted,

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21 _____
22 Fernando R. Macias, Chairman

23
24
25 Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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Page 16

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: None

Excused: Payne, Sanchez, Vernon

Absent: None

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