**A** **BILL**

TO AMEND SECTION 27‑47‑420 OF THE 1976 CODE, RELATING TO MOBILE HOME PARK RENTAL RATES, TO PROVIDE THAT A MOBILE HOME PARK OWNER SHALL NOT INCREASE RENTAL RATES BEYOND THE MARKET RATE, TO PROVIDE THE DEFINITION OF ‘MARKET RENTAL RATE,’ TO PROVIDE THAT A MOBILE HOME OWNER MAY SEEK ARBITRATION THROUGH THE DEPARTMENT OF CONSUMER AFFAIRS, TO PROVIDE FACTORS THE COURT MAY CONSIDER IN DETERMINING THE MARKET RENTAL RATE, AND TO PROVIDE PENALTIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 27‑47‑420 of the 1976 Code is amended to read:

“Section 27‑47‑420. (A)(1) No rental agreement shall be offered by a park owner for a term of less than one year. However, the initial term may be less than one year in order to permit the park owner to have all rental agreements within the park commence at the same time. Thereafter, all terms shall be for a minimum of one year.

(2) The provisions of this section apply to all rental agreements and are deemed to be incorporated into any written rental agreement. The provisions of this section shall control if they conflict with any terms in a rental agreement.

(B)(1)When a tenancy is to continue beyond the original term ~~a~~ the resident and the board of directors of the homeowners’ association to which the resident belongs, if any, must be given written notice by the park owner at least ~~thirty~~ ninety days in advance of the effective date of a new rental rate. The notice shall identify all other affected homeowners, which may be by lot number, name, group, or phase. If the affected homeowners are not identified by name, the park owner shall make the names and addresses available upon request. The homeowners’ association shall have no standing to challenge the increase in lot rental amount, unless a majority of the affected homeowners agree in writing.

(2) Notice as required by this section shall be required to include the dollar amounts of the relevant portions of the present lot rental amount that are being increased and the dollar amount of the proposed increases in lot rental amount if there is an increase in the lot rental amount.

(C) For purposes of this subsection, ‘market rental rate’ means a rate that would result from market forces absent an unequal bargaining position between mobile home park owners and mobile home owners. A mobile home park owner shall not increase a rental rate beyond the market rental rate.

(D)(1) Prior to the filing an action concerning disputes arising from lot rental increases or failure to provide a proper written rental agreement, a mobile home owner or mobile homeowner’s association may seek binding arbitration through the Department of Consumer Affairs for disputes arising from lot rental increases. The request for arbitration must be submitted to the department in writing and include the identity of the mobile home park owner, a description of the mobile home park owner’s violation of this section, and the amount of any disputed rental increase. Upon receipt, the request must be reviewed by the department to determine the existence of a valid claim arising from a violation of this section. If the department determines that a valid claim exists, it must serve the mobile park owner with a petition for arbitration. The method of service must be in compliance with the South Carolina Rules of Civil Procedure for service of a compliant.

(2) The provisions of Chapter 48, Title 15 shall apply to arbitration proceedings conducted pursuant to this section. Arbitrators shall be appointed in the following manner:

(a) one arbitrator chosen by the parties to the dispute; or

(b) if the parties cannot agree on an arbitrator, the parties shall appoint arbitrators in the method provided by Section 15‑48‑30.

(3) The arbitration decision shall be presented to the parties in writing. An arbitration decision is final in those disputes in which the parties have agreed to be bound.

(4) An arbitration decision may be appealed to the Administrative Law Court within thirty days.

(a) In determining whether the lot rental increase exceeds the market rental rate, the court may consider economic and noneconomic factors, including, but not limited to, increases or decreases in the consumer price index, published by the Bureau of Labor Statistics of the United States Department of Labor, increases or decreases in operating costs or taxes, and prior disclosures.

(b) Pursuant to an action brought under this section, the court may award the plaintiff treble damages and reasonable attorney’s fees for an unreasonable increase in rental fees, and may award the plaintiff three months periodic rent and reasonable attorney’s fees for failure to provide a written rental agreement. Attorney’s fees shall not be awarded to the Department of Consumer Affairs.

(E)(1) A mobile home park owner shall not retaliate by increasing rent to an amount in excess of fair‑market value or decreasing essential services or by bringing an action for possession after:

(a) the tenant has submitted a request for arbitration to the Department of Consumer Affairs; or

(b) the tenant has pursued a cause of action against the mobile home park owner for a violation of this section; or

(c) the tenant has complained to the mobile home park owner of a violation of this section.

(2) If the mobile home park owner acts in violation of subsection (a), the homeowner is entitled to the remedies provided in Section 27‑40‑660 as a defense in any retaliatory action against him for possession. If the defense by the homeowner is without merit, the mobile home park owner is entitled to reasonable attorney’s fees. If the defense is raised in bad faith, the mobile home park owner may recover up to three month’s periodic rent or treble the actual damages, whichever is greater.

(F) No provision of subsection (D) shall prohibit a homeowner from pursuing a cause of action against a mobile home park owner without seeking binding arbitration through the Department of Consumer Affairs.”

SECTION 2. This act takes effect upon approval by the Governor.

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