

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1406

S.P. 528

In Senate, April 1, 1991

Reference to the Committee on Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator ESTY of Cumberland

Cosponsored by Representative LAWRENCE of Kittery and Representative RYDELL of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act Relating to Mobile Home Parks.



Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 10 MRSA §1106**, as amended by PL 1983, c. 148, is further amended to read:

6 **§1106. Profiteering in rents**

8 Whoever demands or collects an unreasonable or unjust rent
10 or charge, taking into due consideration the actual market value
12 of the property at the time, with a fair return thereon, or
14 imposes an unreasonable or unjust term or condition, for the
16 occupancy of a mobile home park lot or of any building or any
18 part thereof, rented or hired for dwelling purposes, shall be
20 punished by a fine of not more than \$1,000 or by imprisonment for
22 not more than 11 months, or by both. For purposes of this
24 section, a "fair return" on the value of mobile home park
26 property means 4 percentage points above the maximum interest
28 rate available in the county for a passbook demand deposit
30 savings account.

32 **Sec. 2. 10 MRSA §9094, sub-§2, ¶A**, as repealed and replaced by
34 PL 1989, c. 104, Pt. B, §3 and Pt. C, §10, is amended to read:

36 A. These standards shall specify, but are not limited to,
38 fair and reasonable rules governing the conditions of:

- 40 (1) Protective exterior coating or siding;
42 (2) Roof;
44 (3) Windows and doors;
46 (4) Plumbing, heating and electrical systems;
48 (5) Anchoring system;
50 (6) Skirting around the base;
52 (7) Steps and handrails;
 (8) Porches, decks or other additions to the home and
 the exterior structure;
 ~~(9) --Width of home, if less than 11 feet, 6 inches;~~
 (9) Aesthetic appearance;
 ~~(11) (10)~~ (10) Smoke detectors wired into the electrical
 system; and
 ~~(12) (11)~~ (11) Other aspects of the structural safety or
 soundness of the home.

2 **Sec. 3. 10 MRSA §9094, sub-§2, ¶D**, as enacted by PL 1989, c.
104, Pt. B, §3 and Pt. C, §10, is repealed and the following
4 enacted in its place:

6 D. A mobile home park owner or operator may not require a
8 person to remove a mobile home located in the mobile home
10 park solely because of the age or width of the mobile home
12 or because the mobile home does not comply with the
 standards established under the National Manufactured
 Housing Construction and Safety Standards Act of 1974, 42
 United States Code, Chapter 70.

14 **Sec. 4. 10 MRSA §9094-A**, as enacted by PL 1989, c. 768, is
16 repealed and the following enacted in its place:

18 §9094-A. Restrictions on sale of mobile home park

20 1. Restrictions on sale of mobile home park. Before a
22 mobile home park owner offers a mobile home park for sale, the
24 park owner must notify each of the tenants of the mobile home
 park and the officers of any tenants' association of which the
 mobile home park owner has been notified pursuant to section
 9094-B of the price and terms of condition of the proposed offer
 to sell.

26 2. Right of first refusal. The tenants by and through an
28 association formed pursuant to section 9094-B have the right to
30 purchase the mobile home park, provided the tenants meet the
32 price, terms and conditions of the mobile home park owner, by
34 executing a contract with the mobile home park owner within 45
36 days after the date the mobile home park owner mails the notice
38 required in subsection 1. If a contract between the mobile home
 park owner and the association is not executed within that 45-day
 period, the mobile home park owner has no further obligations
 under this section, unless the mobile home park owner after that
 period elects to offer the mobile home park at a price lower than
 the price specified in the notice required in subsection 1.

40 3. Subsequent offer. If the mobile home park owner elects
42 to offer the mobile home park at a price lower than the price
44 specified in the notice to the tenants and to the officers of the
46 tenants' association, the tenants by and through the association
 have an additional 10 days to meet the price, terms and
 conditions of the mobile home park owner by executing a contract
 with the mobile home park owner.

48 **Sec. 5. 10 MRSA §§9094-B and 9094-C** are enacted to read:

50 §9094-B. Formation of tenants' association

52 1. Formation of association. In order to exercise the
54 right granted in section 9094-B, the tenants of a mobile home
56 park shall form an association in compliance with this section
 and section 9094-C. The association must be formed as a
 corporation for profit or not for profit and not less than 2/3 of

2 all the tenants within the mobile home park must have consented
3 in writing to become members or shareholders of the corporation.
4 Upon the consent of 2/3 of the tenants, all consenting tenants in
5 the mobile home park and their successors are members of the
6 association and are bound by the provisions of the articles of
7 incorporation, the bylaws of the association and any restrictions
8 properly adopted under the articles or bylaws. A person who is
9 not a bona fide owner of a mobile home located in the mobile home
10 park may not be a member or shareholder of the tenants'
11 association. Upon incorporation and service of the notice
12 required in subsection 2, the association is the representative
13 of the tenants in all matters relating to this section and
14 sections 9094-A and 9094-C.

15 2. Incorporation; notification to mobile home park owner.
16 Upon receipt of its certificate of incorporation, the tenants'
17 association shall notify the mobile home park owner in writing of
18 the incorporation and shall advise the mobile home park owner of
19 the names and addresses of the officers of the tenants'
20 association. The association shall provide the written notice to
21 the mobile home park owner by personal delivery or by certified
22 mail, return receipt requested.

23 3. Previously organized association. An association of
24 mobile home park tenants formed before the effective date of this
25 section is deemed an association formed pursuant to this section
26 if the association was formed as a corporation or partnership
27 under state law for the purpose of representing the interests of
28 mobile home park tenants or to purchase a mobile home park.

29 §9094-C. Powers and duties of tenants' association

30 1. Powers. In addition to powers granted to corporations in
31 Titles 13-A and 13-B, a tenants' association formed pursuant to
32 section 9094-B has the following powers:

33 A. The power to contract, sue or be sued with respect to
34 the exercise or nonexercise of the association's powers,
35 which include the power to maintain, manage and operate the
36 mobile home park property;

37 B. The power to institute, maintain, settle or appeal
38 actions or hearings in the association's name on behalf of
39 all tenants concerning matters of common interest,
40 including, but not limited to: the common property;
41 structural components of a building or other improvements;
42 mechanical, electrical and plumbing elements serving the
43 mobile home park property; and protests of property taxes on
44 commonly used facilities.

45 (1) If the association has the authority to maintain a
46 class action, the association may be joined in an
47 action as representative of that class with reference
48 to this section.

2 to litigation and disputes involving the matters for
3 which the association may bring a class action.

4 (2) Nothing in this subsection limits any statutory or
5 common-law right of any individual tenant or class of
6 tenants to bring any action which may otherwise be
7 available;

8
9
10 C. The powers set forth in the articles of incorporation
11 and bylaws and any recorded declarations or restrictions
12 encumbering the mobile home park property, if not
13 inconsistent with this chapter;

14 D. The power to make and collect assessments and to lease,
15 maintain, repair and replace the common areas upon purchase
16 of the mobile home park;

17 E. The power to purchase lots in the mobile home park and
18 to acquire, hold, lease, mortgage and convey those lots; and

19
20 F. The power, without the joinder of any tenant, to modify,
21 move or create any easement for ingress and egress or for
22 the purpose of utilities if the easement constitutes part of
23 or crosses the mobile home park property.

24
25
26 (1) This paragraph does not authorize the association
27 to modify or move any easement created in whole or in
28 part for the use or benefit of anyone other than the
29 members, or crossing the property of anyone other than
30 the members, without the consent or approval of that
31 person as required by law or the instrument creating
32 the easement.

33
34 (2) Nothing in this paragraph affects the rights of
35 ingress or egress of any member of the association.

36
37
38 2. Duties of the association. An association formed
39 pursuant to section 9094-B has the following duties.

40 A. An association shall maintain accounting records in the
41 county where the property is located, according to generally
42 accepted accounting practices.

43
44 (1) The records must be open to inspection by
45 association members or their authorized representatives
46 at reasonable times and written summaries of the
47 records must be supplied at least annually to members
48 or their authorized representatives. The failure of
49 the association to permit inspection of its accounting
50 records by members or their authorized representatives
51 entitles any person prevailing in an enforcement action
52 to recover reasonable attorney's fees from the person

2 in control of the books and records who, directly or
3 indirectly, knowingly denied access to the books and
4 records for inspection.

6 (2) The records must include, but are not limited to:

8 (a) A record of all receipts and expenditures; and

10 (b) An account for each member, designating the
11 name and current mailing address of the member,
12 the amount of each assessment, the dates the
13 assessments are due, the amount paid on the
14 account and the balance due.

16 B. An association shall use its best efforts to obtain and
17 maintain adequate insurance to protect the association and
18 the mobile home park property upon purchase of the mobile
19 home park. A copy of each policy of insurance in effect
20 must be made available for inspection by owners at
21 reasonable times.

22 Sec. 6. 10 MRSA §9097, sub-§3, as amended by PL 1989, c. 104,
23 Pt. C, §§8 and 10, is further amended to read:

24 3. Fees. The owner of a mobile home park or the owner's
25 agents may not charge any fees to tenants other than charges for
26 rent, utilities, incidental service charges, entrance fees or
27 security deposits, unless otherwise provided for in the original
28 lease or agreement. The owner of a mobile home park or the
29 owner's agents may not charge any entrance fee to a tenant who is
30 moving into a mobile home currently in the park which is greater
31 than 4 times the amount of the monthly rent. All fees, charges
32 or assessments must be reasonably related to services actually
33 rendered.

34 Sec. 7. 10 MRSA §9097, sub-§3-A is enacted to read:

36 3-A. Late rent. A mobile home park owner may not consider
37 a payment of rent to be late if it is made within 15 days after
38 the date the payment is due.

40 Sec. 8. 10 MRSA §§9097-A and 9097-B are enacted to read:

42 §9097-A. Dispute settlement

44 1. Board duties. The Manufactured Housing Board shall
45 provide mediators and arbitrators to conduct mediation or
46 arbitration in accordance with this section and section 9097-B.
47 The board shall compile a list of available mediators and
48 arbitrators from which the parties may select a mutually
49 acceptable mediator or arbitrator. If the parties can not agree,
50 the Manufactured Housing Board shall make the selection.
51

2 2. Mediation or arbitration not binding; disclosure of
3 financial records. Any mediation or arbitration is not binding
4 unless the parties agree otherwise in writing. Unless the
5 parties agree otherwise, mediation required under section 9097-B
6 may not exceed 3 hours. Nothing in this section or section
7 9097-B requires a mobile home park owner to disclose financial
8 records of the mobile home park to mobile home park tenants.

9 3. Final agency action. A resolution arising from
10 mediation or arbitration as provided in this section is not to be
11 considered final agency action.

12 4. Cost paid by parties. Parties to mediation shall share
13 the cost of mediation or arbitration equally except, upon proof
14 by a party of inability to pay, the Manufactured Housing Board
15 shall waive the cost of mediation or arbitration for that party
16 and shall pay that party's share.

17 §9097-B. Lot rental increases; reduction in services or
18 utilities; change in rules; evictions; mediation or
19 arbitration

20 1. Notice of changes. A mobile home park owner shall give
21 written notice at least 30 days prior to any change in lot rental
22 amount or reduction in services or utilities provided by the
23 mobile home park owner or any change in mobile home park rules,
24 including fees, assessments and charges to each affected tenant
25 and the officers of any tenants' association of which the mobile
26 home park owner has notice pursuant to section 9094-B.

27 A. The notice must identify all affected tenants by lot
28 number, name or group. If the affected tenants are not
29 identified by name, the mobile home park owner shall make
30 the names and addresses available at the request of any
31 tenant or tenants' association.

32 B. The notice required by this section must include any
33 changes in lot rental amount, services or utilities provided
34 by the mobile home park owner or mobile home park rules,
35 including changes in fees, assessments and charges and the
36 effective date of the change.

37 C. Rules adopted as a result of restrictions imposed by
38 governmental entities and required to protect the public
39 health, safety and welfare may be enforced before the
40 expiration of the 30-day period but are not otherwise exempt
41 from the requirements of this section.

42 2. Meeting with tenants and mobile home park owner upon
43 request. A committee, not to exceed 5 in number, designated by a
44 majority of the affected tenants or the officers of the tenants'
45 association, if applicable, may request a meeting with the mobile
46 home park owner.

2 home park owner or the mobile home park owner's representative to
3 discuss reasons for any change. The mobile home park owner or
4 the mobile home park owner's representative shall meet with the
5 committee or the officers to discuss any change at the request of
6 the committee or the officers.

7 3. Request for mediation of change. Within 15 days after
8 the date of the meeting requested pursuant to subsection 2, the
9 committee representing the tenants or the officers of the
10 tenants' association may notify the mobile home park owner in
11 writing that the change is unreasonable and request that the
12 dispute be submitted to mediation pursuant to section 9097-A.

13 4. Arbitration upon agreement by parties. If both parties
14 agree to arbitration in writing before, during or after
15 mediation, the parties may submit the dispute to arbitration.

16 5. Relation to court action. Except for an action to evict
17 a tenant, an action relating to a change governed by this section
18 may not be filed in any court until mediation or arbitration
19 required by this section has been held.

20 6. Failure to participate; change suspended. If a mobile
21 home park owner fails to participate in a meeting requested under
22 subsection 2 or to mediate in good faith in a mediation requested
23 under subsection 3, the mobile home park owner may not implement
24 any change proposed in the notice of changes.

25 7. Evictions. Any tenant who receives a notice of eviction
26 under section 9097, subsection 1, may request an individual
27 meeting with the mobile home park owner pursuant to the
28 procedures of subsection 2 and mediation pursuant to the
29 procedures of subsection 3. The mobile home park owner shall
30 participate in the meeting and mediation if requested. If the
31 parties agree to arbitration, the parties may submit the dispute
32 to arbitration. If a number of tenants are being evicted due to
33 renovations or reconstruction of the mobile home park, the
34 meeting with the mobile home park owner and subsequent mediation
35 authorized by this section is satisfied by the mobile home park
36 owner meeting with the affected tenants or their representatives
37 in a group meeting or mediation. The mediation required by this
38 subsection does not stay the tenant's eviction date.

39 8. Content and enforcement of rules. If an individual
40 tenant or a group of tenants has a dispute regarding the content
41 of mobile home park rules or the enforcement of those rules, the
42 individual, the officers of any tenants' association or a
43 committee as provided in subsection 2 may request a meeting with
44 the mobile home park owner pursuant to subsection 2 and mediation
45 pursuant to the procedures of subsection 3. If a mobile home
46 park owner fails to participate in a meeting or to mediate in
47 mediation, the parties may submit the dispute to arbitration.
48 mediation, the parties may submit the dispute to arbitration.
49 mediation, the parties may submit the dispute to arbitration.
50 mediation, the parties may submit the dispute to arbitration.

2 good faith, the mobile home park owner may not enforce any
3 disputed rule.

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6 **STATEMENT OF FACT**

7
8 The bill makes several changes to the laws governing the
9 relationship between an owner of a mobile home park and the
10 tenants of that mobile home park, who own their own mobile homes
11 and rent a parcel of land in the mobile home park.

12 The bill defines "fair return" on property values for
13 purposes of determining whether rent on a mobile home park lot is
14 unreasonable or unjust. The bill also provides that a mobile
15 home park owner may not consider rent late if it is paid within
16 15 days after the due date of the rent.

17 The bill also grants a right of first refusal for tenants to
18 purchase the mobile home park. Tenants would be required to form
19 a tenants' association to exercise that right. The bill sets
20 forth the powers and duties of a tenants' association.

21 Finally, the bill establishes a mediation program for
22 disputes between the mobile home park owner and tenants,
23 including disputes regarding changes in mobile home park rules,
24 reductions in services provided by the mobile home park owner,
25 evictions and enforcement of rules. The mediation is nonbinding
26 and the only obligations of the mobile home park owner are to
27 attend a requested meeting and a mediation session and to mediate
28 in good faith. If the mobile home park owner concludes that the
29 tenants' complaints are without merit, mediation is completed and
30 the mobile home park owner's decision stands. In this bill,
31 mediations are limited to 3 hours, unless all parties otherwise
32 agree. The mobile home park owner is under no obligation to
33 disclose financial records of the mobile home park to the mobile
34 home park tenants.
35
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