

SECOND REGULAR SESSION

SENATE BILL NO. 843

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOLL.

Pre-filed December 19, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3266L.011

AN ACT

To repeal sections 700.100, 700.385, 700.455, 700.527, 700.529, 700.530, 700.531, 700.533, 700.535, and 700.539, RSMo, and to enact in lieu thereof eight new sections relating to manufactured housing.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 700.100, 700.385, 700.455, 700.527, 700.529, 700.530, 700.531, 700.533, 700.535, and 700.539, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 441.900, 700.100, 700.385, 700.455, 700.527, 700.528, 700.529, and 700.539, to read as follows:

441.900. 1. As used in this section, the following terms mean:

(1) "Manufactured home", the same meaning as provided in section 700.010, RSMo;

(2) "Manufactured or mobile home land lease community", any area, lot, parcel, or tract held in common ownership and on which individual portions of such area, lot, parcel, or tract are leased for the placement of manufactured or mobile homes as a primary residence; and

(3) "Mobile home", a residential building constructed or assembled in a factory which is not certified pursuant to the federal Housing and Urban Development Code and which conforms to the American National Standards Institute standards for mobile homes.

2. A landlord of a manufactured or mobile home land lease community shall provide at least one hundred eighty days prior written notice to all of the community's tenants who own their manufactured or mobile homes when the landlord requires

such tenants to vacate the property due to a change in use of the property. In cases where more than one hundred eighty days remain on a current lease, the longer time period shall apply for purposes of providing notice pursuant to this section. The landlord shall not increase the rent, except for a rent increase based solely on an increase in property taxes, for any tenant of the manufactured or mobile home land lease community during the sixty-day period prior to providing such notice or at any time after providing such notice.

3. Nothing in this section shall be construed as prohibiting a landlord from evicting a tenant with less than one hundred eighty days' notice for a violation of the lease or as otherwise provided by law.

700.100. 1. The commission may refuse to register or refuse to renew the registration of any person who fails to comply with the provisions of section 700.090 or this section. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be delivered to the applicant within thirty days from date it is received by the commission. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be accompanied by a notice informing the recipient that the decision of the commission may be appealed as provided in chapter 386, RSMo.

2. The commission may consider a complaint filed with it charging a registered manufacturer or dealer with a violation of the provisions of this section, which charges, if proven, shall constitute grounds for revocation or suspension of his **or her** registration, or the placing of the registered manufacturer or dealer on probation.

3. The following specifications shall constitute grounds for the suspension, revocation or placing on probation of a manufacturer's or dealer's registration:

(1) If required, failure to comply with the provisions of section 301.280, RSMo;
(2) Failing to be in compliance with the provisions of section 700.090;
(3) If a corporation, failing to file all franchise or sales tax forms required by Missouri law;

(4) Engaging in any conduct which constitutes a violation of the provisions of section 407.020, RSMo;

(5) Failing to comply with the provisions of Sections 2301-2312 of Title 15 of the United States Code (Magnuson-Moss Warranty Act);

(6) As a dealer, failing to arrange for the proper initial setup of any new manufactured home or modular unit sold from or in the state of Missouri, unless the dealer receives a written waiver of that service from the purchaser or his or her authorized agent;

(7) As a dealer, failing to obtain for each used manufactured home or modular unit sold a written notice, signed and dated by the purchaser or the purchaser's agent

that states: "The Missouri Public Service Commission does not regulate setup of used manufactured homes and modular units sold by the dealer.";

(8) Requiring any person to purchase any type of insurance from that manufacturer or dealer as a condition to his **or her** being sold any manufactured home or modular unit;

[(8)] (9) Requiring any person to arrange financing or utilize the services of any particular financing service as a condition to his **or her** being sold any manufactured home or modular unit; provided, however, the registered manufacturer or dealer may reserve the right to establish reasonable conditions for the approval of any financing source;

[(9)] (10) Engaging in conduct in violation of section 700.045;

[(10)] (11) Failing to comply with the provisions of section 301.210, RSMo;

[(11)] (12) Failing to pay all necessary fees and assessments authorized pursuant to sections 700.010 to 700.115.

700.385. 1. When the holder of any indebtedness secured by a security agreement or other contract for security covering a manufactured home repossesses the manufactured home either by legal process or in accordance with the terms of a contract authorizing the repossession of the manufactured home without legal process, the holder may obtain a certificate of title from the director of revenue upon presentation of:

(1) An application, which shall be upon a blank form furnished by the director of revenue and shall contain the full description of the manufactured home and the manufacturer's or other identifying number;

(2) An affidavit of the holder that the debtor defaulted in payment of the debt, and that the holder repossessed the manufactured home either by legal process or in accordance with the terms of the contract, **and the name and address of the owner of the real estate, other than the debtor, from whom the home was repossessed, and that the holder has paid to the real property owner all rent that has accrued in the real property owner's favor that the holder is obligated to pay pursuant to the provisions of section 700.529**, and the specific address where the manufactured home is held; [and]

(3) **A statement from the owner of the real estate from whom the manufactured home was repossessed that the holder has paid all rent that has accrued in the real property owner's favor that the holder is obligated to pay pursuant to the provisions of section 700.529; and**

(4) The original, or a conformed or photostatic copy of the original, of the security agreement or other contract for security and the instrument or instruments evidencing the indebtedness secured by the security agreement or other contract for security.

The director may, by regulation, prescribe for the inclusion in either or both the application or affidavit required by this subsection any other information that he **or she**, from time to time, deems necessary or advisable, and may prescribe that the affidavit required by this subsection

be part of the application.

2. Upon the holder's presentation of the papers required by subsection 1 of this section and the payment of a fee of ten dollars, the director of revenue, if he **or she** is satisfied with the genuineness of the papers, shall issue and deliver to the holder a certificate of title which shall be in its usual form except it shall be clearly captioned "Reposessed Title"; except that, unless the application is accompanied by the written consent, acknowledged before an officer authorized to take acknowledgments, of the owners and other lienholders, if any, of the manufactured home as shown by the last prior certificate of title or ownership, if any, issued on the manufactured home for the issuance of a reposessed title to the applicant, no such reposessed title may be issued by the director of revenue unless the director shall first give ten days' written notice by first class United States mail postage prepaid to each of the owners and other lienholders, if any, of the manufactured home at each of their last mailing addresses as shown by the last prior certificate of title or ownership, if any, issued on the manufactured home that an application for a reposessed title has been made and the date the reposessed title will be issued, which notice shall be accompanied by a copy, photostatic or otherwise, of the application and affidavit. The application for reposessed title may be withdrawn by the applicant at any time before the granting thereof. Each reposessed title so issued shall, for all purposes, be treated as an original certificate of title and shall supersede the outstanding certificate of title or ownership, if any, and duplicates thereof, if any, on the manufactured home all of which shall become null and void.

3. In any case where there is no certificate of title or ownership, or duplicate thereof, outstanding in the name of the debtor on the reposessed manufactured home, the director of revenue shall issue a reposessed title to the holder upon the payment of all unpaid fees, taxes, charges and penalties owed by the debtor, in addition to the fee specified in subsection 2 of this section.

700.455. 1. Every dealer shall, on or before January fifteenth of each year, instead of registering each manufactured home dealt in, make a verified application, upon a blank for such purpose to be furnished by the commission, for a distinctive number for all the manufactured homes dealt in or controlled by such dealer. The application shall contain, but need not be limited to:

(1) When the applicant is a partnership, the name and address of each partner, or, when the applicant is a corporation, the names of the principal officers of the corporation and the state in which it is incorporated. The application shall be verified by the oath or affirmation of the applicant, if an individual, or in the event an applicant is a partnership or corporation, then by a partner or officer;

(2) A bona fide established place of business shall be required for every dealer. A bona fide established place of business for any dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the

applicant for the selling, bartering, trading or exchanging of manufactured homes, where the public may contact the owner or operator at any reasonable time and where the books, records, files and other matters required and necessary to conduct the business shall be kept and maintained.

2. The application shall contain the business address, not a post-office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours.

3. Each application shall contain such additional information as may be required by the commission to enable it to determine whether the applicant is a bona fide dealer in fact and is of good moral character.

4. On the payment of [a] **the required** registration fee [of fifty dollars] there shall be assigned to each dealer a certificate of registration in such form as the commission shall prescribe.

700.527. 1. If a person abandons a manufactured home on any real property owned by another who is renting such real property to the owner of the manufactured home, and such abandonment is without the consent of the owner of the real property, **and the abandoned manufactured home is not subject to any lien perfected according to sections 700.350 to 700.380**, the owner of the real property **shall have a lien for unpaid rent against the manufactured home and** may seek possession of and title to the manufactured home in accordance with the provisions of sections 700.525 to 700.541 [subject to the interest of any party with a security interest in the manufactured home].

2. [The landlord seeking possession of the manufactured home shall submit a report to the director of revenue. Such report shall include the following:

(1) An application, which shall be upon a blank form furnished by the director of revenue and shall contain the full description of the manufactured home and the manufacturer's or other identifying number;

(2) An affidavit of the landlord seeking possession of the manufactured home, stating that the manufactured home is abandoned as defined by section 700.525 and applicable rule of the department, the duration of such abandonment, that the manufactured home is located upon real property owned by the landlord, and that the manufactured home is the subject of a valid rental agreement signed by the renter, along with the original, or a photostatic or conformed copy of the original contract for rental of real property; and

(3) Any other information that the director of revenue may require by rule.] **The lien for unpaid rental shall be enforced as provided in subsection 3 of this section and subsections 1, 2, 3, 4, 5, and 6 of section 700.528.**

3. The real property owner claiming a lien on an abandoned manufactured home shall give written notice to the owner of the manufactured home, by certified

mail, return receipt requested. The notice shall contain the following:

- (1) The name, address, and telephone number of the real property owner;**
- (2) The name of the owner of the manufactured home and the make, year, and serial number of the manufactured home;**
- (3) That the manufactured home is abandoned as defined by section 700.525 and applicable rule of the director of revenue;**
- (4) The duration of such abandonment;**
- (5) That the manufactured home is located on real estate owned by the real property owner;**
- (6) That the home is located on said real estate by reason of a valid rental agreement signed by the homeowner;**
- (7) That the homeowner is in default of the rental agreement;**
- (8) The amount of rent accrued to the date of the notice and the monthly rate at which future rent will accrue until the abandoned home is redeemed;**
- (9) That the homeowner has not paid or made arrangements for the payment of the accrued rent;**
- (10) That the real property owner claims a lien for all such rent;**
- (11) That the owner of the manufactured home may redeem the abandoned manufactured home at any time during business hours by paying all rent accrued pursuant to the terms of the rental agreement;**
- (12) That the manufactured home-owner has a right to contest the real property owner's lien by filing, within ten days of receipt of the notice required by this section, a petition in the associate circuit division of circuit court of the county in which the manufactured home is located;**
- (13) That if the manufactured home remains unredeemed thirty days from the date of mailing of the notice and within ten days of receipt of the notice a petition is not filed to contest the lien, title to the manufactured home will be transferred to the real property owner.**

700.528. 1. The owner of the abandoned manufactured home, within ten days of receipt of the real property owner's notification provided for in subsection 3 of section 700.527, may file a petition in the associate circuit division of circuit court in the county in which the abandoned manufactured home is located to contest the real property owner's lien. The petition shall name the real property owner as a defendant. The director of revenue shall not be a party to such petition, but a copy of the petition shall be served on the director who shall not issue title to such abandoned manufactured home until the court by judgment upholds the lien or until the homeowner's petition is dismissed.

2. Upon the filing of the petition in the associate circuit division of circuit court, the owner may have the manufactured home released from the lien upon posting with the court, for the benefit of the real property owner, a cash or surety bond or other adequate security equal to the amount of the rental charges due and those which will accrue during the term of the proceedings to ensure payment of such rent in the event the manufactured homeowner does not prevail. Upon posting of the bond, the court shall issue an order notifying the real property owner of the posting of the bond and directing the real property owner to release the manufactured home to its owner. The court will then proceed to determine the parties' rights to the proceeds of the bond.

3. If the court determines the homeowner owes unpaid rent pursuant to the rent agreement, the court shall either declare a lien in real property owner's favor against the manufactured home or if bond has been posted, give judgment to the real property owner in the sum of the unpaid rent and order that so much of the bond proceeds as are necessary to satisfy the judgment be immediately paid to the real property owner. If the manufactured homeowner's petition is dismissed prior to judgment on the merits, the real property owner shall have a lien against the manufactured home. The real property owner shall enforce the lien for the unpaid rent by submitting an application for title in the form and containing the information required by subsection 5 of this section and no further notice to the manufactured homeowner shall be required. The real property owner shall attach to the application for title a copy of the judgment rendered by the associate circuit court.

4. If at the expiration of the thirty-day period, the rent remains unpaid or satisfactory arrangement for payment has not been made with the real property owner, and no petition to contest the lien has been filed or if filed has been dismissed or judgment entered establishing the real property owner's lien, the real property owner may apply to the director of revenue for a certificate of title as provided in subsection 5 of this section.

5. An application for a certificate of title shall be in the form furnished by the director of revenue and shall contain and be accompanied by:

- (1) The make, year, and serial number of the manufactured home;**
- (2) An affidavit of the owner of real property seeking possession of the manufactured home that states:**
 - (a) The manufactured home is abandoned as defined by section 700.525 and by applicable rule of the director of revenue;**
 - (b) The duration of such abandonment;**
 - (c) The manufactured home is located upon real property owned by the real**

property owner;

(d) The manufactured home is located on the real estate by reason of a valid rental agreement signed by the homeowner;

(e) The homeowner is in default of the rental agreement;

(f) The amount of past-due rent and the monthly rate at which future rent will accrue pursuant to the rental agreement;

(g) The homeowner has not paid or made arrangements for the payment of the rent;

(h) The owner of real property claims a lien for all such rent;

(i) The real property owner mailed the notice required by subsection 3 of section 700.527 to the owner of the manufactured home by certified mail, return receipt requested;

(j) The manufactured homeowner has not filed a petition in the associate circuit division of circuit court contesting the real property owner's lien, or if a petition was filed, that either the homeowner's petition was dismissed or that a judgment in the real property owner's favor establishing the lien was entered;

(3) A copy of the thirty-day notice given by certified mail to the owner of the manufactured home;

(4) A copy of the certified mail receipt indicating that the owner was sent the notice as required in subsection 3 of section 700.527;

(5) A copy of the envelope or mailing container showing the address and postal marking that indicate the notice was "not forwardable" or "address unknown";

(6) An original, photostatic, or conformed copy of the original contract for the rental of the real property;

(7) A copy of any judgment of dismissal of the homeowner's petition to contest the lien or a judgment awarding the real property owner a lien against the manufactured home; and

(8) Any other information that the director of revenue may require by rule.

6. If the director is satisfied with the genuineness of the application and supporting documents submitted pursuant to this section, the director shall issue an original certificate of title to the manufactured home to the real property owner. The title so issued shall supercede the outstanding certificate of ownership and any duplicate on the manufactured home, all of which shall become void.

700.529. [Upon proof of all the foregoing in section 700.527 by proper affidavit and upon compliance with the provisions of sections 700.525 to 700.541, the director of revenue shall, if requested, issue a new certificate of title to the landlord.] **1. If a person abandons a manufactured home on any real property owned by another who is renting such real**

property to the owner of the manufactured home, and such abandonment is without the consent of the owner of the real property, and there exists a lien perfected according to sections 700.350 to 700.380 on the manufactured home which is in default, the owner of the real property shall have the rights set out in section 700.527 and 700.528, by giving notice to the manufactured homeowner and any party with a perfected lien in the abandoned home by certified mail, postage prepaid and return receipt requested. The notice shall contain the following:

- (1) The name, address, and telephone number of the real property owner;
- (2) The name and last known address of the owner of the manufactured home;
- (3) The make, year, and serial number of the manufactured home;
- (4) That the manufactured home is abandoned as defined by section 700.525 and by applicable rule of the director;

- (5) That the manufactured home is located on real estate owned by the real property owner;

- (6) That the home is located on the real estate by reason of a valid rental agreement signed by the homeowner;

- (7) That the homeowner is in default of the rental agreement;

- (8) The amount of past-due rent and the monthly rate at which future rent will accrue pursuant to the rental agreement;

- (9) That the homeowner has not paid or made arrangements for the payment of the rent;

- (10) A request that the homeowner or perfected lienholder remove the manufactured home from the real property owner's property within thirty days of the date the notice was mailed;

- (11) A statement that if the home is not removed within the thirty-day period the homeowner shall continue to be liable for the rent set out in the rental agreement and that the perfected lienholder shall be liable for the rent specified in the rental agreement which accrues after the expiration of such thirty-day period.

2. The homeowner shall be liable to the real property owner for the rent set out in the rental agreement and the perfected lienholder shall be liable to the real property owner for the rent specified in the rental agreement which accrues after expiration of the thirty-day period specified above. If an injunction or stay order issued by any court of competent jurisdiction prohibits the lienholder from removing the home, the lienholder's obligation to pay the rent shall not commence until the date the injunction or stay order is lifted.

3. The owner of the manufactured home shall not have the right to remove the home from the real property owner's property until such time as all rent provided for

in the rental agreement is paid and the perfected lienholder shall not have the right to remove the home until such time as the lienholder has paid all rent it is obligated to pay to the real property owner pursuant to the provisions of this section.

4. Until a perfected lienholder has paid all rent it is obligated to pay to the real property owner accrued in the real property owner's favor pursuant to the provisions of this section, the director shall not issue a certificate of title or repossession title to the manufactured home to the perfected lienholder.

700.539. 1. Within thirty days after the notification form required by section 700.537 has been mailed, and the owner or lienholder has **not** made satisfactory arrangements with the owner of real property, the lienholder who sent notification pursuant to sections 700.525 to 700.541 may apply to the director of revenue for a certificate of title. The application shall be accompanied by:

(1) An affidavit of the lienholder that he is in compliance with all requirements of sections 700.525 to 700.541;

(2) A copy of the receipt indicating that the owner or lienholder of record has received the notice required by sections 700.525 to 700.541;

(3) A fee as required by the director of revenue by rule.

2. Upon proof of the foregoing by proper affidavit and upon compliance with all requirements of sections 700.525 to 700.541, the director of revenue shall, if requested, issue a new certificate of title to the lienholder in possession within fifteen working days after request, **except that if the real property owner has given notice of lien as set out in section 700.529, the director shall not issue a certificate of title to the lienholder until the lienholder has submitted proof that it has paid all rent it is obligated to pay the real property owner pursuant to section 700.529.**

[700.530. The provisions of sections 700.525 to 700.539 shall not affect the right of a secured party to take possession of, and title to, a manufactured home pursuant to section 400.9-503, RSMo, section 700.386 or otherwise as allowed by contract or law.]

[700.531. The director of revenue shall notify the owner of record of the manufactured home and any holder of a security interest in the manufactured home of its status of abandonment, the name and business address of the landlord seeking possession of the manufactured home, and the right of the landlord to seek title to the manufactured home pursuant to sections 700.525 to 700.541 if such manufactured home remains abandoned or if the owner of record of the manufactured home and any holder of a security interest in the manufactured home does not respond to the notice. The notice shall be given within fifteen working days of the receipt of the application of the landlord pursuant to subsection 2 of section 700.527.]

[700.533. The owner of such manufactured home or the holder of a valid security interest therein which is in default may claim title to it from the landlord seeking

possession of the manufactured home upon proof of ownership or valid security interest which is in default and payment of all reasonable rents due and owing to the landlord.]

[700.535. If the manufactured home is titled in Missouri, the valid owner of the manufactured home or the holder of a valid security interest therein may voluntarily relinquish any claim to the manufactured home by affirmatively declaring such relinquishment or by failing to respond to the notice required by section 700.531 within thirty days of the mailing or delivery of such notice by the director of revenue.]

T

Unofficial

Bill

Copy