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SB-419 Mobilehomes: homeowners: sale. (2015-2016)

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Senate Bill No. 419

CHAPTER 288

An act to amend, repeal, and add Sections 798.70, 798.71, and 798.74 of the Civil Code, relating to mobilehomes.

[Approved by Governor September 09, 2015. Filed with Secretary of State September 09, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 419, McGuire. Mobilehomes: homeowners: sale.

The Mobilehome Residency Law governs tenancies in mobilehome parks. That law, among other things, sets forth certain rights and requirements for the management and selling homeowners in connection with the listing, sale, or exchange of a mobilehome, and, if not prohibited by management, the rental of a mobilehome, including, but not limited to, authorizing the display of signs advertising the sale, exchange, or rental, and authorizing the display of an "open house" sign unless prohibited by park rules; requiring the signs to contain specified information and be of an H-frame or A-frame design; and requiring the management, upon request of a prospective homeowner, to provide the information the management will use to determine if the person will be acceptable as a homeowner in the park. Under that law, the management or owner may be held liable for damages proximately resulting from the withholding of approval of a prospective homeowner for any reason not stated in that law.

On and after July 1, 2016, this bill would no longer condition the display of an open house sign on the lack of prohibition in park rules, but would allow a park to establish reasonable rules or regulations governing the conduct of open houses, as specified; would additionally authorize a seller to display one sign of an L-frame or a generally accepted yard-arm type design; would authorize management to require the use of a step-in L-frame sign; and would define a "listing." The bill would require the management, upon written request, to provide in writing the information and standards the management will use to review a prospective homeowner to the prospective homeowner or seller and make technical changes. The bill would additionally condition the liability for damages resulting from withholding approval of a prospective homeowner for reasons based upon fraud, deceit, or concealment of material facts by the prospective purchaser.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 798.70 of the Civil Code is amended to read:

798.70. (a) A homeowner, an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who was a homeowner at the time of his or her death, or the agent of any such person, may advertise the sale or exchange of his or her mobilehome, or, if not prohibited by the terms of an agreement with the management, may advertise the rental of his or her mobilehome, by displaying a sign in the window of the mobilehome, or by a sign posted on the side of the mobilehome facing the street, or by a sign in front of the mobilehome facing

the street, stating that the mobilehome is for sale or exchange or, if not prohibited, for rent by the owner of the mobilehome or his or her agent. Any such person also may display a sign conforming to these requirements indicating that the mobilehome is on display for an "open house," unless the park rules prohibit the display of an open house sign. The sign shall state the name, address, and telephone number of the owner of the mobilehome or his or her agent and the sign face shall not exceed 24 inches in width and 36 inches in height. Signs posted in front of a mobilehome pursuant to this section may be of an H-frame or A-frame design with the sign face perpendicular to, but not extending into, the street. Homeowners may attach to the sign or their mobilehome tubes or holders for leaflets which provide information on the mobilehome for sale, exchange, or rent.

(b) This section shall remain in effect only until July 1, 2016, and as of that date is repealed.

SEC. 2. Section 798.70 is added to the Civil Code, to read:

798.70. (a) A homeowner, an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who was a homeowner at the time of his or her death, or the agent of any such person, may advertise the sale or exchange of his or her mobilehome, or, if not prohibited by the terms of an agreement with the management, may advertise the rental of his or her mobilehome, by displaying one sign in the window of the mobilehome, or by one sign posted on the side of the mobilehome facing the street, or by one sign in front of the mobilehome facing the street, stating that the mobilehome is for sale or exchange or, if not prohibited, for rent by the owner of the mobilehome or his or her agent. Any such person also may display one sign conforming to these requirements indicating that the mobilehome is on display for an "open house," if allowed by the park. The park may allow open houses and may establish reasonable rules or regulations governing how an open house may be conducted, including rules regarding the number of houses allowed to be open at one time, hours, and parking. The sign shall state the name, address, and telephone number of the owner of the mobilehome or his or her agent and the sign face shall not exceed 24 inches in width and 36 inches in height. Signs posted in front of a mobilehome pursuant to this section may be of an H-frame, A-frame, L-frame, or generally accepted yard-arm type design with the sign face perpendicular to, but not extending into, the street. Management may require the use of a step-in L-frame sign. Homeowners may attach to the sign or their mobilehome tubes or holders for leaflets that provide information on the mobilehome for sale, exchange, or rent.

(b) This section shall become operative on July 1, 2016.

SEC. 3. Section 798.71 of the Civil Code is amended to read:

798.71. (a) (1) The management may not show or list for sale a manufactured home or mobilehome without first obtaining the owner's written authorization. The authorization shall specify the terms and conditions regarding the showing or listing.

(2) Management may require that a homeowner advise management in writing that his or her manufactured home or mobilehome is for sale. If management requires that a homeowner advise management in writing that his or her manufactured home or mobilehome is for sale, failure to comply with this requirement does not invalidate a transfer.

(b) The management shall prohibit neither the listing nor the sale of a manufactured home or mobilehome within the park by the homeowner, an heir, joint tenant, or personal representative of the estate who gains ownership of a manufactured home or mobilehome in the mobilehome park through the death of the owner of the manufactured home or mobilehome who was a homeowner at the time of his or her death, or the agent of any such person other than the management.

(c) The management shall not require the selling homeowner, or an heir, joint tenant, or personal representative of the estate who gains ownership of a manufactured home or mobilehome in the mobilehome park through the death of the owner of the manufactured home or mobilehome who was a homeowner at the time of his or her death, to authorize the management or any other specified broker, dealer, or person to act as the agent in the sale of a manufactured home or mobilehome as a condition of resale of the home in the park or of management's approval of the buyer or prospective homeowner for residency in the park.

(d) The management shall not require a homeowner, who is replacing a mobilehome or manufactured home on a space in the park, in which he or she resides, to use a specific broker, dealer, or other person as an agent in the purchase of or installation of the replacement home.

(e) Nothing in this section shall be construed as affecting the provisions of the Health and Safety Code governing the licensing of manufactured home or mobilehome salespersons or dealers.

(f) This section shall remain in effect only until July 1, 2016, and as of that date is repealed.

SEC. 4. Section 798.71 is added to the Civil Code, to read:

798.71. (a) (1) The management may not show or list for sale a manufactured home or mobilehome without first obtaining the owner's written authorization. The authorization shall specify the terms and conditions regarding the showing or listing.

(2) Management may require that a homeowner advise management in writing that his or her manufactured home or mobilehome is for sale. If management requires that a homeowner advise management in writing that his or her manufactured home or mobilehome is for sale, failure to comply with this requirement does not invalidate a transfer.

(b) The management shall prohibit neither the listing nor the sale of a manufactured home or mobilehome within the park by the homeowner, an heir, joint tenant, or personal representative of the estate who gains ownership of a manufactured home or mobilehome in the mobilehome park through the death of the owner of the manufactured home or mobilehome who was a homeowner at the time of his or her death, or the agent of any such person other than the management. For purposes of this section, "listing" includes advertising the address of the home to the general public.

(c) The management shall not require the selling homeowner, or an heir, joint tenant, or personal representative of the estate who gains ownership of a manufactured home or mobilehome in the mobilehome park through the death of the owner of the manufactured home or mobilehome who was a homeowner at the time of his or her death, to authorize the management or any other specified broker, dealer, or person to act as the agent in the sale of a manufactured home or mobilehome as a condition of resale of the home in the park or of management's approval of the buyer or prospective homeowner for residency in the park.

(d) The management shall not require a homeowner, who is replacing a mobilehome or manufactured home on a space in the park, in which he or she resides, to use a specific broker, dealer, or other person as an agent in the purchase of or installation of the replacement home.

(e) Nothing in this section shall be construed as affecting the provisions of the Health and Safety Code governing the licensing of manufactured home or mobilehome salespersons or dealers.

(f) This section shall become operative on July 1, 2016.

SEC. 5. Section 798.74 of the Civil Code is amended to read:

798.74. (a) The management may require the right of prior approval of a purchaser of a mobilehome that will remain in the park and that the selling homeowner or his or her agent give notice of the sale to the management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the rent and charges of the park unless the management reasonably determines that, based on the purchaser's prior tenancies, he or she will not comply with the rules and regulations of the park. In determining whether the purchaser has the financial ability to pay the rent and charges of the park, the management shall not require the purchaser to submit copies of any personal income tax returns in order to obtain approval for residency in the park. However, management may require the purchaser to document the amount and source of his or her gross monthly income or means of financial support.

Upon request of any prospective homeowner who proposes to purchase a mobilehome that will remain in the park, management shall inform that person of the information management will require in order to determine if the person will be acceptable as a homeowner in the park.

Within 15 business days of receiving all of the information requested from the prospective homeowner, the management shall notify the seller and the prospective homeowner, in writing, of either acceptance or rejection of the application, and the reason if rejected. During this 15-day period the prospective homeowner shall comply with the management's request, if any, for a personal interview. If the approval of a prospective homeowner is withheld for any reason other than those stated in this article, the management or owner may be held liable for all damages proximately resulting therefrom.

(b) If the management collects a fee or charge from a prospective purchaser of a mobilehome in order to obtain a financial report or credit rating, the full amount of the fee or charge shall be credited toward payment of the first month's rent for that mobilehome purchaser. If, for whatever reason, the prospective purchaser is rejected by the management, the management shall refund to the prospective purchaser the full amount of that fee or charge within 30 days from the date of rejection. If the prospective purchaser is approved by the management, but, for whatever reason, the prospective purchaser elects not to purchase the mobilehome, the management may retain the fee, or a portion thereof, to defray its administrative costs under this section.

(c) This section shall remain in effect only until July 1, 2016, and as of that date is repealed.

SEC. 6. Section 798.74 is added to the Civil Code, to read:

798.74. (a) The management may require the right of prior approval of a purchaser of a mobilehome that will remain in the park and that the selling homeowner or his or her agent give notice of the sale to the management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the rent and charges of the park unless the management reasonably determines that, based on the purchaser's prior tenancies, he or she will not comply with the rules and regulations of the park. In determining whether the purchaser has the financial ability to pay the rent and charges of the park, the management shall not require the purchaser to submit copies of any personal income tax returns in order to obtain approval for

residency in the park. However, management may require the purchaser to document the amount and source of his or her gross monthly income or means of financial support.

Upon written request of any selling homeowner or prospective homeowner who proposes to purchase a mobilehome that will remain in the park, management shall inform that person, in writing, of the information management will require and the standards that will be utilized in determining if the person will be acceptable as a homeowner in the park.

Within 15 business days of receiving all of the information requested from the prospective homeowner, the management shall notify the seller and the prospective homeowner, in writing, of either acceptance or rejection of the application, and the reason if rejected. During this 15-day period the prospective homeowner shall comply with the management's request, if any, for a personal interview. If the approval of a prospective homeowner is withheld for any reason other than either of the following, the management or owner may be held liable for all damages proximately resulting therefrom:

(1) Reasons stated in this article.

(2) Reasons based upon fraud, deceit, or concealment of material facts by the prospective purchaser.

(b) If the management collects a fee or charge from a prospective purchaser of a mobilehome in order to obtain a financial report or credit rating, the full amount of the fee or charge shall be credited toward payment of the first month's rent for that mobilehome purchaser. If, for whatever reason, the prospective purchaser is rejected by the management, the management shall refund to the prospective purchaser the full amount of that fee or charge within 30 days from the date of rejection. If the prospective purchaser is approved by the management, but, for whatever reason, the prospective purchaser elects not to purchase the mobilehome, the management may retain the fee, or a portion thereof, to defray its administrative costs under this section.

(c) This section shall become operative on July 1, 2016.