

FIRST REGULAR SESSION

HOUSE BILL NO. 475

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SUTHERLAND.

Read 1st time February 8, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1495L.02I

AN ACT

To amend chapter 441, RSMo, by adding thereto twenty-three new sections relating to landlords and tenants.

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

Section A. Chapter 441, RSMo, is amended by adding thereto twenty-three new sections, 2 to be known as sections 441.1000, 441.1003, 441.1006, 441.1009, 441.1012, 441.1015, 3 441.1018, 441.1021, 441.1024, 441.1027, 441.1030, 441.1033, 441.1036, 441.1039, 441.1042, 4 441.1045, 441.1048, 441.1051, 441.1054, 441.1057, 441.1060, 441.1063, and 441.1066, to read 5 as follows:

441.1000. 1. Sections 441.1000 to 441.1066 shall be known and may be cited as the 2 "Mobile Home Health Safety Act".

2. Sections 441.1000 to 441.1066 shall regulate and determine legal rights, remedies, 3 and obligations of the parties to any lease of a mobile home or mobile home lot in a mobile 4 home park containing five or more mobile homes within the state. Any lease, written or 5 oral, shall be unenforceable insofar as any provision thereof conflicts with any provision 6 of sections 441.1000 to 441.1066. 7

441.1003. Any person whether or not a citizen or resident of this state, who owns, 2 holds an ownership or beneficial interest in, uses, manages, or possesses real estate situated 3 in this state, submits himself or herself or his or her personal representative to the 4 jurisdiction of the courts of this state as to any action proceeding for the enforcement of 5 an obligation arising under sections 441.1000 to 441.1066.

441.1006. For the purposes of sections 441.1000 to 441.1066, the following terms

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

2 shall mean:

- 3 (1) "Mobile home", a residential building constructed or assembled in a factory
4 that is not certified under the federal Housing and Urban Development (HUD) Code and
5 that conforms to the American National Standards Institute (ANSI) standards for mobile
6 homes. The term mobile home shall also include manufactured homes as defined in section
7 700.010, RSMo. The term mobile home shall not include a recreational vehicle such as a
8 motor home, camping trailer, van, fifth wheel trailer, or other type of recreational vehicle;
- 9 (2) "Mobile home park" or "park", any area, lot, parcel, or tract of land or lands
10 upon which five or more independent mobile homes are harbored for rent;
- 11 (3) "Park owner", the owner of a mobile home park and any person authorized to
12 exercise any aspect of the management of the premises, including any person who directly
13 or indirectly receives rents and has no obligation to deliver the whole of such receipts to
14 another person;
- 15 (4) "Person", any legal entity, including but not limited to, an individual, firm,
16 partnership, association, trust, joint stock company, corporation, or successor of any of the
17 foregoing;
- 18 (5) "Rent", any money or other consideration given for the right of use, possession,
19 and occupancy of property, be it a lot or mobile home.
- 20 (6) "Tenant", any person who occupies a mobile home rental unit for dwelling
21 purposes or a lot on which a person parks a mobile home for an agreed upon
22 consideration;

441.1009. No person shall rent or offer for rent or sale any mobile home that does
2 not conform to the sanitation, housing, and health codes of the state or of the county or
3 municipality in which the mobile home is located. No person shall rent or offer for rent
4 any lot in a mobile home park that does not conform to subdivision ordinances of the
5 county or municipality in which the mobile home park is located.

441.1012. No mobile home park operated by the state or the federal government,
2 or park land owned by either, and no trailer park operated for the use of recreational
3 campers or travel trailers shall be subject to the provisions of sections 441.1000 to
4 441.1066.

441.1015. 1. No person shall offer a mobile home or lot for rent or sale in a mobile
2 home park without having first exhibited to the prospective tenant or purchaser a copy of
3 the lease applicable to the respective mobile home park.

4 2. The park owner shall notify his tenants in writing not later than thirty days after
5 the effective date of sections 441.1000 to 441.1066, that a written lease shall be available to
6 the tenant and that such lease is being offered in compliance with the requirements of

7 sections 441.1000 to 441.1066.

2 **441.1018.** If a tenant shall fail to sign and return to the park owner the written lease
3 that has been signed and tendered to him by the park owner within thirty days after the
4 park owner has sent the same to the tenant at the address of the mobile home certified mail
5 – return receipt requested, then the tenancy may be terminated by the park owner only by
6 giving written notice to the tenant that the tenancy shall terminate not sooner than sixty
7 days from the date the rent payment next becomes due, notwithstanding any written lease
8 provision regarding earlier lease termination to the contrary.

2 **441.1021.** The terms for payment of rent shall be clearly set forth and all charges
3 for services, ground, or lot rent, unit rent, or any other charges shall be specifically
4 itemized in the lease and in all billings of the tenant by the park owner. The owner shall
5 not change the rental terms nor increase the cost of fees, except as provided herein. The
6 park owner shall not charge a transfer or selling fee as a condition of sale of a mobile home
7 that is going to remain within the park unless a service is rendered. Rent charged to a
8 tenant by a park owner may be increased upon the renewal of a lease. Notification of an
9 increase shall be delivered sixty days prior to expiration of the lease.

2 **441.1024.** Any provision of a lease whereby any provisions of sections 441.1000 to
3 441.1066 are waived is void.

2 **441.1027.** Any lease hereafter executed or currently existing between an owner and
3 tenant in a mobile home park in this state shall also contain, or shall be made to contain,
4 the following covenants binding the owner at all times during the term of the lease to:

- 4 (1) Identify to each tenant prior to his occupancy the lot area for which he or she
5 will be responsible;
- 6 (2) Keep all exterior property areas not in the possession of a tenant, but part of the
7 mobile home park property, free from the species of weeds and plant growth which are
8 generally noxious or detrimental to the health of the tenants;
- 9 (3) Maintain all electrical, plumbing, gas, or other utilities provided by him or her
10 in good working condition with the exception of emergencies after which repairs shall be
11 completed within a reasonable period of time;
- 12 (4) Maintain all subsurface water and sewage lines and connections in good
13 working order;
- 14 (5) Respect the privacy of the tenants and if only the lot is rented, agree not to enter
15 the mobile home without the permission of the mobile home owner, and if the mobile home
16 is the property of the park owner, to enter only after due notice to the tenant; provided,
17 the park owner or his or her representative may enter without notice in emergencies;
- 18 (6) Maintain all roads within the mobile home park in good condition;

19 (7) Include a statement of all services and facilities which are to be provided by the
20 park owner for the tenant, including but not limited to, lawn maintenance, snow removal,
21 garbage or solid waste disposal, recreation building, community hall, swimming pool, golf
22 course, and laundromat;

23 (8) Disclose the full names and addresses of all individuals in whom all or part of
24 the legal or equitable title to the mobile home park is vested, or the name and address of
25 the owners' designated agent;

26 (9) Provide a custodian's office and furnish each tenant with the name, address,
27 and telephone number of the custodian and designated office.

441.1030. No lease hereafter executed or currently existing between a park owner
2 and tenant in a mobile home park in this state shall contain any provision:

3 (1) Permitting the park owner to charge an amount in excess of one month's rent
4 as a security deposit;

5 (2) Requiring the tenant to pay any fees not specified in the lease;

6 (3) Permitting the park owner to transfer, or move, a mobile home to a different
7 lot, including a different lot in the same mobile home park, during the term of the lease.

441.1033. No lease hereafter executed between a mobile home park owner and a
2 tenant in such a park in this state shall contain any provision requiring the tenant to
3 purchase a mobile home from the park owner, or requiring that if the tenant purchases
4 any mobile home during the lease term that such mobile home shall be purchased from the
5 park owner, and no such requirement shall be made as a condition precedent to entering
6 into a lease agreement with any such tenant.

441.1036. The tenant shall agree at all times during the tenancy to:

2 (1) Keep the mobile home unit, if he rents such, or the exterior premises if he or she
3 rents a lot, in a clean and sanitary condition, free of garbage and rubbish;

4 (2) Refrain from the storage of any inoperable motor vehicle;

5 (3) Refrain from washing all vehicles except at an area designated by park
6 management;

7 (4) Refrain from performing any major repairs of motor vehicles at any time;

8 (5) Refrain from the storage of any icebox, stove, building material, furniture, or
9 similar items on the exterior premises;

10 (6) Keep the supplied basic facilities, including plumbing fixtures, cooking and
11 refrigeration equipment, and electrical fixtures in a leased mobile home unit in a clean and
12 sanitary condition and be responsible for the exercise of reasonable care in their proper
13 use and operation;

14 (7) Not deliberately or negligently destroy, deface, damage, impair, or remove any

15 part of the premises or knowingly permit any person to do so;

16 (8) Conduct him or herself and require other persons on the premises with his or
17 her consent to conduct themselves in a manner that will not effect or disturb his or her
18 neighbors peaceful enjoyment of the premises;

19 (9) Abide by all the rules or regulations concerning the use, occupation, and
20 maintenance of the premises; and

21 (10) Abide by any reasonable rules for guest parking which are clearly stated.

441.1039. Rules promulgated and adopted by the park owner are enforceable
2 against a tenant only if:

3 (1) A copy of all rules was delivered by the park owner to the tenant prior to his
4 signing the lease;

5 (2) The purpose of such rules is to promote the convenience, safety, and welfare of
6 the tenants, preserve park property from damage or to fairly distribute park services and
7 facilities to the tenants;

8 (3) They are reasonably related to the purpose for which adopted;

9 (4) They apply to all tenants in a fair manner;

10 (5) They are sufficiently explicit in prohibition, direction, or limitation of the
11 tenant's conduct to fairly inform him or her of what he or she shall or shall not do to
12 comply; and

13 (6) They are not for the purpose of evading the obligation of the park owner. A
14 rule or regulation adopted during the term of a lease is enforceable against the tenant only
15 if a thirty-day written notice of its adoption is given the tenant and such rule or regulation
16 is not in violation of the terms and conditions of the lease.

441.1042. The Missouri housing development commission shall produce and
2 distribute a pamphlet setting forth clearly, and in detail, the tenant's and park operator's
3 rights and obligations under sections 441.1000 to 441.1066. The pamphlet shall be
4 produced within ninety days of the effective date of sections 441.1000 to 441.1066. Each
5 park owner shall make these pamphlets available to all current tenants within sixty days
6 after receiving the pamphlets. This requirement may be satisfied by distributing or
7 mailing the pamphlets to each tenant. All new tenants shall be offered a pamphlet before
8 they are obligated under a lease and shall sign an acknowledgment of receipt to be kept on
9 file by the park operator. A violation by the Missouri housing development commission
10 of the provisions of this section shall not render any lease void or voidable nor shall it
11 constitute:

12 (1) A defense to any action or proceeding to enforce the lease; or

13 (2) A defense to any action or proceeding for breach of the lease.

441.1045. A park owner may terminate the lease and evict a tenant only for any one
2 or more of the following acts:

- 3 (1) Nonpayment of rent due;
- 4 (2) Failure to comply with the park rules;
- 5 (3) Failure to comply with local ordinances and state laws regulating mobile homes.

441.1048. The following conduct by a tenant shall not constitute grounds for
2 eviction or termination of the lease, nor shall a judgment for possession of the premises be
3 entered against a tenant:

- 4 (1) As a reprisal for the tenant's effort to secure or enforce any rights under the
5 lease or the laws of the state, or its governmental subdivisions of the United States;
- 6 (2) As a reprisal for the tenant's good faith complaint to a governmental authority
7 of the park owner's alleged violation of any health or safety law, regulation, code or
8 ordinance, or state law or regulation which has as its objective the regulation of premises
9 used for dwelling purposes;
- 10 (3) As a reprisal for the tenant's being an organizer or member of, or involved in
11 any activities relative to a home owners association.

441.1051. 1. No park owner shall restrict a tenant in his or her choice of a seller of
2 fuel, furnishings, accessories, or goods or services connected with a mobile home unless
3 such restriction is necessary to protect the health or safety of the park residents. The park
4 owner may determine by rule or regulation the style or quality of exterior equipment to be
5 purchased by the tenant from a vendor of the tenant's choosing, provided that no park
6 owner shall be required to permit service vehicles in the park in such numbers and with
7 such frequency that a danger is created for pedestrian traffic in the park.

8 2. No park owner shall require as a condition of tenancy or continued tenancy for
9 a tenant to purchase fuel oil or bottled gas from any particular fuel oil or bottled gas dealer
10 or distributor. This section shall not apply to a park owner who provides a centralized
11 distribution system for fuel oil or bottled gas, or both, for residents therein. No park
12 owner providing a centralized distribution system shall charge residents more than a
13 reasonable retail price.

441.1054. If the park owner fails to substantially conform to the lease agreement
2 or fails to substantially comply with any code, statute, ordinance, or regulation governing
3 the operation of a mobile home park or the maintenance of the premises, the tenant may,
4 on written notice to the park owner, terminate the lease and vacate the premises at any
5 time during the first thirty days of occupancy. A park owner who is found in violation of
6 any code, statute, ordinance, or regulation governing the operation of a mobile home park
7 or the maintenance of the premises shall, upon finding by a circuit court, be liable for

8 damages together with court costs and reasonable attorneys' fee. After the expiration of
9 said thirty days the tenant may terminate the lease only if he or she has remained in
10 possession in reliance upon the park owner's written promise to correct all or any part of
11 the condition which would justify termination by the tenant under this section. Any
12 condition which deprives the tenant of substantial benefit and enjoyment which the park
13 owner shall fail to remedy within thirty days after having received notice in writing of such
14 condition shall constitute grounds for the tenant to terminate the lease and vacate the
15 premises. No such notice shall be required where the condition renders the mobile home
16 uninhabitable or poses an imminent threat to the health, welfare, and safety of any
17 occupant. If such condition was proximately caused by the willful or negligent act or
18 omission of the park owner, the tenant may recover any damages sustained as a result of
19 the condition including, but not limited to, reasonable expenditures necessary to obtain
20 adequate substitute housing while the mobile home is uninhabitable. The tenant may sue
21 to enforce sections 441.1000 to 441.1066 and the court may award damages or grant any
22 injunctive or other relief.

441.1057. A park owner may, any time rent is overdue, notify the tenant in writing
2 that unless payment is made within the time specified in the notice, not less than five days
3 after receipt thereof, the lease will be terminated. If the tenant remains in default, the park
4 owner may institute legal action for recovery of possession, rent due, and any damages.
5 If the tenant breaches any provision of the lease or rules and regulations of the mobile
6 home park, the park owner shall notify the tenant in writing of his breach. Such notice
7 shall specify the violation and advise the tenant that if the violation shall continue for more
8 than twenty-four hours after receipt of such notice the park owner may terminate the lease.

441.1060. If a tenant shall remain in possession of the premises after the expiration
2 of his lease without having notified the park owner of his acceptance or rejection of a
3 renewal of the lease and without the park owner's consent, the tenant shall pay to the park
4 owner a sum, not to exceed twice the monthly rental under the previous lease, computed
5 and prorated daily for each day he or she shall remain in possession.

441.1063. The park owner shall be enjoined and restrained from prohibiting,
2 limiting, restricting, obstructing, or in any manner interfering with the freedom of any
3 mobile home owner to:

4 (1) Sell his or her mobile home to a purchaser of his or her choice, provided that
5 the park owner shall be allowed to promulgate any general qualifications or lawful
6 restrictions on park residents which limit or define the admission of entrants to the park.
7 The purchaser, prior to closing, shall obtain a written and signed lease;

8 (2) Employ or secure the services of an independent salesperson in connection with

9 the sale of said mobile home, providing that said salesperson collects and remits all
10 governmental taxes. The park owner is prohibited from imposing any fee, charge, or
11 commission for the sale of a mobile home, except when a mobile home owner requests the
12 park owner or his or her agent to assist in securing a purchaser for his or her mobile home.
13 A commission may be accepted for such service subject only to the following conditions:

14 (a) That the exact amount of commission or fee shall be a percentage of the actual
15 sales price of the mobile home; and

16 (b) That the maximum percentage figure for the services in the resale of the mobile
17 home by the park owner or his or her agent shall be set forth in writing prior to the sale.

18

19 The park owner is prohibited from requiring, upon the sale by a tenant of a mobile home
20 to a qualified purchaser, the removal from the park of such mobile home unless the mobile
21 home is less than twelve feet wide or is significantly deteriorated and in substantial
22 disrepair, in which case the park owner shall bear the burden of demonstrating such fact
23 and must, prior to sale, have given the tenant written notice thereof, and that unless first
24 corrected, removal will be required upon sale.

441.1066. Meetings by tenants relating to mobile home living shall not be subject
2 to prohibition by the park owner if such meetings are held at reasonable hours and when
3 facilities are available and not otherwise in use. Tenants may ask for assistance from non-
4 profit organizations in organizing a tenants' organization.