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***Bill Analysis***  
*Legislative Service Commission*

## **H.B. 309**

127th General Assembly  
(As Introduced)

**Reps. Foley, Patton, Skindell, R. Hagan, Heard, Fende, Otterman**

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### **BILL SUMMARY**

- Requires a person who purchases a manufactured home park or a park operator who elects to use a manufactured home park for a use other than as a manufactured home park to pay relocation expenses to owners and residents in the manufactured home park.
- Requires a person who purchases property that was in use as a manufactured home park within the year preceding the purchase and who elects to use the property for a purpose other than as a manufactured home park to make the person's best efforts to pay relocation expenses for those owners and residents.
- Requires a park operator, before entering into a final unconditional agreement to sell a manufactured home park, to give each owner and resident and the Department of Development, Office of Housing and Community Development a written notification of intent to sell the manufactured home park.
- Allows owners and residents to form a nonprofit organization or a cooperative to purchase a manufactured home park.
- Specifies conditions that the owners in a manufactured home park must satisfy to purchase a manufactured home park.
- Specifies that if the owners satisfy the conditions specified in the bill, the owners have the sole right to purchase the manufactured home park.
- Prohibits a park operator from increasing the lot rent paid by any resident and prohibits an owner or park operator from increasing the home rent paid by any tenant if the resident or tenant is 55 years of age or older by a

percentage greater than the rate of inflation in the most recently completed calendar year prior to the proposed increase, unless the increase reflects the cost of usual and necessary expenses for documented repairs and improvements.

- Prohibits an owner or park operator from refusing to enter into or renew a rental agreement with an owner or tenant solely based upon the age of the owner or tenant in order to evade the bill's requirements.
- Removes the ability of a park operator to bring an eviction action against a resident who holds over the resident's term.
- Permits an action for eviction to be brought against a resident for breaching the term of the rental agreement if the resident materially breaches the terms of the rental agreement.
- Requires the assessable value of a manufactured or mobile home, and the taxes paid for that home to include only the value of the manufactured or mobile home and any improvements made by the owner that were not mandated by any park operator or rules governing the rental agreement.
- Adds a resident of a manufactured home park to the list of persons and entities who may initiate a public nuisance proceeding.
- Permits specified persons and entities to initiate a public nuisance action for residential premises.
- Limits the application of changes made to manufactured home park rules.
- Specifies additional duties for park operators, including a requirement that they pay for the water supplied to manufactured homes in the park unless specified conditions are satisfied.
- Specifies that the term that is mutually agreed upon for renewal of an agreement between an owner and a park operator must be for one year or more than one year.
- Specifies in statute that residents may join with other residents for the purpose of negotiating or dealing collectively with the park operator.
- Specifies that each day a person (1) operates a manufactured home park without a license, (2) violates other specified prohibitions, or (3) fails to

comply with certain duties specified in statute or with rules adopted by the Public Health Council regarding manufactured home parks constitutes a separate offense.

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## CONTENT AND OPERATION

### *Sale of a manufactured home park*

The Manufactured Home Park Law (R.C. 3733.01 to 3733.20) specifies requirements that a manufactured home park operator (hereafter "park operator") must follow if the park operator sells a manufactured home park (sec. 3733.11). Under the bill, if a person purchases a manufactured home park for a use other than as a manufactured home park or if a park operator elects to use a manufactured home park for a use other than as a manufactured home park, then 60 days prior to termination of tenancy, that person or park operator must pay to the renters a sum equivalent to three months of rent and to the owners relocation expenses equal to the actual reasonable expenses in moving or \$10,000, whichever is greater. (Sec. 3733.11(A)(4).)

Additionally, under the bill, if a person purchases property that was in use as a manufactured home park within the year preceding the purchase and elects to use the property for a purpose other than as a manufactured home park, that person must make the person's best effort to pay relocation expenses as described above to all renters and owners who owned manufactured homes in the manufactured home park or were tenants in the manufactured home park at the time of its closing. The person does not have to pay these expenses if the relocation expenses

described in the paragraph immediately above have already been paid. (Sec. 3733.11(A)(5).)

**Sale of a manufactured home park to owners residing in that park**

The bill establishes additional procedures regarding the sale of a manufactured home park. The bill requires a park operator to follow these additional procedures prior to completing the procedures specified under continuing law (sec. 3733.11(A)(3)). Except as otherwise provided in the bill, before entering into a final unconditional agreement to sell a manufactured home park, the park operator must give each owner and resident<sup>1</sup> and the Department of Development, Office of Housing and Community Development a written notification of intent to sell the manufactured home park by certified mail, return receipt requested, or by handing it to the owner or resident in person. If the park operator delivers the notification in person, the recipient must complete a return receipt of the notification. The notification must include the price and terms and conditions of the sale. (Sec. 3733.112(A).)

Under the bill, within 30 days after receiving notification of the park operator's intent to sell the manufactured home park, the owners may deliver to the park operator a letter of intent to purchase the manufactured home park containing the signatures of at minimum 51% of the owners and a statement of intent to meet the price, terms, and conditions provided in the park operator's written notification of intent to sell. If the owners deliver such a letter of intent to purchase the manufactured home park, then the owners must have an additional 120 days from the end of the 30-day period to do both of the following:

(1) Organize a nonprofit corporation pursuant to the Nonprofit Corporation Law (R.C. Chapter 1702.) or a cooperative pursuant to Ohio's Cooperative Law (R.C. Chapter 1729.) for the purpose of purchasing the manufactured home park;

(2) Meet the park operator's price, terms, and conditions of sale by making a written tender of an offer of a contract that meets the park operator's price, terms, and conditions of sale as expressed in the park operator's written intent to sell (sec. 3733.112(C)).

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<sup>1</sup> An "owner" under the Manufactured Home Park Law, is a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who owns the home occupying the lot. A "resident" is a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others and includes both tenants and owners. (Sec. 3733.01(E) and (F), not in the bill.)

At least half of the directors of any nonprofit corporation organized pursuant to (1) above must be residents of the manufactured home park (sec. 3733.113). The bill also permits residents of a manufactured home park to organize a nonprofit organization pursuant to the Nonprofit Corporation Law or a cooperative pursuant to Ohio's Cooperative Law for the purpose of purchasing the manufactured home park from the operator under the bill. Owners do not have to satisfy the requirement under (1) above if the residents have already organized a nonprofit for this purpose. (Secs. 3733.101(D) and 3733.112(C).)

Under the bill, owners have the sole right to purchase the manufactured home park, provided that within the time provided by the bill, the owners make a written tender of a contract that meets the price, terms, and conditions provided by the operator pursuant to the bill. The bill prohibits a park operator from failing to negotiate with the owners in good faith or failing to provide to the owners any documents provided to any other person for the purpose of negotiating a sale of the manufactured home park. If, after the expiration of the 30-day time period allotted to the owners to deliver a letter of intent to purchase the manufactured home park and to execute a contract, the park operator offers the manufactured home park for sale at a price lower than the price specified in the park operator's initial written notification of intent to sell the manufactured home park, the owners have an additional ten days to make a written tender of a contract that meets the park operator's most recent price, terms, and conditions. (Sec. 3733.112(D), (E), and (F).)

If the owners do not purchase the manufactured home park pursuant to the bill and the park operator sells the park to any other person, as a condition of transfer of title, the park operator must sign the following notice verifying the operator's compliance with this section:

On ..... (date) I gave each owner and resident of the manufactured home park written notification of intent to sell including the price, terms, and conditions of the sale.

I did not receive any offer from the residents of the manufactured home park that met the most recent terms and conditions of sale. (Sec. 3733.112(G).)

If a park operator violates the bill's requirements to offer owners an opportunity to buy a manufactured home park, the owners may petition the court for injunctive relief or damages in the amount of 10% of the sales price if the conveyance has already taken place (sec. 3733.112(I)).

The bill's requirements to offer owners an opportunity to buy a manufactured home park do not apply to a sale of a manufactured home park to another family member or to a transfer of ownership of a manufactured home park within a partnership (sec. 3733.112(H)).

### **Rent control for older residents**

Under current law, unless an exception applies a park operator cannot retaliate against a resident by increasing the resident's rent, decreasing services that are due to the resident, refusing to renew or threatening to refuse to renew the rental agreement with the resident, or bringing or threatening to bring an action for possession of the resident's premises because the resident engaged in specified activities. However, this prohibition does not prohibit a park operator from increasing the rent to reflect the cost of improvements installed by the park operator in or about the premises or to reflect an increase in other costs of operation of the premises. (Sec. 3733.09(A) and (D).)

The bill permits a park operator to increase rent to reflect increased costs as described above if the increase complies with the requirements specified below (sec. 3733.09(D)). Except as otherwise described below, the bill prohibits a park operator from increasing the lot rent paid by any resident who is 55 years of age or older and prohibits an owner or park operator from increasing the home rent paid by any tenant who is 55 years of age or older in a manufactured home park by a percentage greater than the rate of inflation in the most recently completed calendar year prior to the proposed increase. "Rate of inflation," under the bill, means the percentage increase or decrease in the Consumer Price Index over a calendar year, based on the most recent Consumer Price Index for All Urban Consumers, Midwest Region, All Items, as determined by the Bureau of Labor Statistics of the United States Department of Labor or, if that index is no longer published, a generally available comparable index. The bill requires the Director of Ohio's Department of Commerce to publish the rate of inflation for the most recently completed calendar year on the Director's official web site. (Sec. 3733.111(A), (D), and (E).)

The bill also prohibits an owner or park operator from refusing to enter into or renew a rental agreement with an owner or tenant solely based upon the age of the owner or tenant in order to evade the obligations described immediately above (sec. 3733.111(C)).

An owner or park operator may increase the rent by an amount in addition to that allowed under the bill to reflect the cost of usual and necessary expenses for documented repairs and improvements. The owner or operator must maintain accurate records of any expenses that the owner or operator claims pursuant to this exception. (Sec. 3733.111(B).)

If any park operator or owner violates any prohibition described above, the owner or tenant may recover double the difference between the actual rent paid by the tenant or owner and the allowable increase determined pursuant to the bill, and, if the tenant or owner obtains a favorable judgment, reasonable attorney's fees (sec. 3733.111(F)).

**Eviction of a manufactured home park resident**

Ohio's Forcible Entry and Detainer Law (R.C. Chapter 1923., hereafter simply referred to as "Eviction Law") specifies circumstances under which proceedings may be held against specified individuals. Under the current Eviction Law, proceedings may be held against tenants or manufactured home park residents holding over their terms. Currently the Manufactured Home Park Law permits a park operator to bring an action under the Eviction Law for possession of the premises if a park resident is holding over the resident's term. The bill removes the ability of a park operator to bring such an action against a resident and removes manufactured home residents holding over their terms from the list of individuals against whom actions under the Eviction Law may be held. (Secs. 1923.02(A)(1) and 3733.091(A)(3).)

Under current law, an individual or park operator may bring an action under the Eviction Law against a manufactured home park resident who has defaulted in the payment of rent or breached the terms of a rental agreement with a park operator (secs. 1923.02(A)(10) and 3733.091(A)(1)). The bill permits an action to be brought under the Eviction Law against a manufactured home park resident for breaching the term of the rental agreement if the resident *materially* breaches the terms of the rental agreement. (Sec. 1923.02(A)(10).)

Under the bill, a park operator desiring to commence an action under the Eviction Law based upon an owner's failure to pay rent must send to the owner the following notice including the amount owed, by certified mail, return receipt requested, or by handing a written copy to the owner in person at least 30 days prior to providing notice pursuant to the Eviction Law:

You are in default of payment of rent. If you do not pay your rent in full within the next thirty days you will be asked to leave the premises. If you do not leave, an eviction action may be initiated against you. If you are in doubt about your legal rights and obligations as a tenant, it is recommended that you seek legal assistance.

The bill prohibits any park operator from refusing to accept from the owner during the 30 days described immediately above payment of rent plus any

reasonable late fee provided for in the rental agreement as full payment of the amount of rent owed. All payments accepted by the park operator must be applied first to payment of rent and then to payment of any separately charged items not included in the rental agreement. (Sec. 3733.092.)

### **Public nuisances and manufactured homes**

Continuing law provides measures for dealing with a building that is a public nuisance that include procedures for filing a complaint regarding the building, a court proceeding that includes a judge's determination of whether the building is a public nuisance, and options for abatement of the nuisance. Continuing law defines a "building" as any building or structure that is used or intended to be used for residential purposes. "Building" includes, but is not limited to, a building or structure in which any floor is used for retail stores, shops, salesrooms, markets, or similar commercial uses, or for offices, banks, civic administration activities, professional services, or similar business or civic uses, and in which the other floors are used, or designed and intended to be used, for residential purposes. "Building" does not include any building or structure that is occupied by its owner and that contains three or fewer residential units. (Sec. 3767.41.)

Under current law, a municipal corporation, neighbor, tenant, or nonprofit corporation may initiate a public nuisance proceeding by filing a civil complaint with a court. Continuing law contains definitions of a public nuisance and standards for a judge to apply in determining whether the building is a nuisance. If a building is a public nuisance, the judge may issue an injunction ordering the owner to abate the nuisance, appoint a receiver, or order the sale of the property. (Sec. 3767.41.)

The bill adds a resident, as defined in the Manufactured Home Park Law, to the list of persons and entities who may initiate a public nuisance proceeding (sec. 3767.41). The bill also permits those persons and entities to initiate a public nuisance action for a residential premises. The bill specifies that "residential premises" has the same meaning under the Manufactured Home Park Law and the Landlord Tenant Law (R.C. Chapter 5321.). Under the Manufactured Home Park Law, "residential premises" means "a lot located within a manufactured home park and the grounds, areas, and facilities contained within the manufactured home park for the use of residents generally or the use of which is promised to a resident" (R.C. 3733.01(I), not in the bill). "Residential premises," under the Landlord Tenant Law, means a dwelling unit for residential use and occupancy and the structure of which it is a part, the facilities and appurtenances in it, and the grounds, areas, and facilities for the use of tenants generally or the use of which is promised the tenant, and includes a dwelling unit that is owned or operated by a college or university. The definition also lists specific exemptions, making those



areas not "residential premises" for purposes of the Landlord Tenant Law (R.C. 5321.01(C), not in the bill). Thus, it appears that the bill permits a person or entity specified above to bring a nuisance action for both types of residential premises. (Sec. 3767.41.)

### **Tax assessments on manufactured homes**

Under continuing law the owner of each manufactured or mobile home that has acquired situs in Ohio must pay either a real property tax pursuant to the Tax Law (R.C. Title 57) or a manufactured home tax pursuant to the Licensing of Motor Vehicles Law (R.C. Chapter 4503.). Continuing law specifies the circumstances under which an owner must pay real property taxes or the manufactured homes tax. (Sec. 4503.06.)

Under continuing law, on or before January 15 each year, the county auditor must (1) record the assessable value and the amount of tax on the manufactured or mobile home on the tax list specified under continuing law and (2) deliver a duplicate of the list to the county treasurer. The bill requires the assessable value of the manufactured or mobile home, as recorded by the county auditor, to include only the value of the manufactured or mobile home and any improvements made by the owner that were not mandated by any park operator or rules governing the rental agreement. The assessable value must not include the value of any auxiliary landscape or access mandated by the park operator that the owner of the manufactured or mobile home does not own. (Sec. 4503.06(C)(3)(b).) Similarly, the bill requires that any tax paid (real property taxes or the manufactured homes tax) must include only the value of the manufactured or mobile home and any improvements made by the owner that were not mandated by any park operator or rules governing the rental agreement. The bill prohibits any tax paid from including the value of any auxiliary landscape or access mandated or completed by the park operator that the owner of the manufactured or mobile home does not own. (Sec. 4503.06(N).)

### **Changes to park rules**

Under current law, a park operator may determine by rule the style or quality of skirting, equipment for tying down homes, manufactured or mobile home accessories, or other equipment to be purchased by an owner from a vendor of the owner's choosing, provided that the equipment is readily available to the owner. Any such equipment must be installed in accordance with the manufactured home park rules. (Sec. 3733.11(D).) Under the bill, any change in existing park rules determining the style or quality of skirting, equipment for tying down homes, manufactured or mobile housing accessories, or other equipment to be purchased by an owner must apply only to new manufactured or mobile homes and not to existing manufactured or mobile homes if the change in rule is a

cosmetic change and does not affect the home's compliance with health and safety standards. (Sec. 3733.11(D).)

### **Changes to park operator duties**

Continuing law specifies duties for a park operator who is a party to a rental agreement, including that the park operator maintain in good and safe working order and condition all electrical and plumbing fixtures and appliances, and septic systems, sanitary and storm sewers, refuse receptacles, and well and water systems that are supplied or required to be supplied by the park operator (sec. 3733.10(A)(5)). The bill adds to the list of a park operator's duties a requirement that the park operator maintain accurate records of all repairs and improvements. (Sec. 3733.10(A)(5).)

The bill also requires a park operator who is a party to a rental agreement to pay for water services supplied to the manufactured homes that are covered by the rental agreement unless all of the following conditions are met:

(1) During the term of the rental agreement:

- A public utility supplies the applicable water service to the manufactured home;
- An individual meter of the public utility measures only the applicable water service supplied to the manufactured home;
- The resident is the customer with the public utility for the applicable water service supplied to the manufactured home; and
- For the applicable water service supplied to the manufactured home, the resident is billed only the cost that the public utility assesses for supplying the manufactured home with the applicable water service.

(2) The resident has reasonable access to the individual meter for the manufactured home for the purpose of reading the meter;

(3) The rental agreement clearly states that the resident is liable for the cost of the applicable water services supplied to the manufactured home during the term of the rental agreement, or, in the case of an oral rental agreement, prior to entering into the agreement, the park operator provides the resident with a written notice that clearly states that the tenant is liable for the cost of the applicable water services supplied to the manufactured home during the term of the rental agreement. (Sec. 3733.10(B).)

Under continuing law, if a park operator violates the park operator's duties, a resident may recover actual damages resulting from the violation and injunctive relief to prevent the recurrence of the conduct, and if the resident obtains a judgment, reasonable attorneys' fees, or terminate the rental agreement. (Sec. 3733.10(C).)

### **Terms for renewal of rental agreement**

Continuing law requires a park operator to offer a home owner a written rental agreement for a manufactured home park lot and to offer to renew that agreement. Continuing law also specifies procedures that the park operator must follow when making these offers. Under continuing law, such an offer must be for a term of one year or more that contains terms essentially the same as any alternative month-to-month rental agreement offered to current and prospective tenants and owners. Under current law, if an owner accepts an offer to renew, the park operator, at the expiration of each successive rental agreement, must offer the owner another rental agreement for a term that is mutually agreed upon and that contains terms essentially the same as the alternative month-to-month agreement. The bill adds that the term that is mutually agreed upon for renewal must be for one year or more than one year. (Sec. 3733.11(A).)

### **Collective negotiations with a park operator**

Current law prohibits a park operator from retaliating against a resident by increasing the resident's rent, decreasing services that are due to the resident, refusing to renew or threatening to refuse to renew the rental agreement with the resident, or bringing or threatening to bring an action for possession of the resident's premises because the resident joined with other residents for the purpose of negotiating or dealing collectively with the park operator on any of the terms and conditions of a rental agreement (sec. 3733.09(A)(3)). The bill broadens this provision by prohibiting the park operator from taking such action if the resident joined with other residents for the purpose of negotiating or dealing collectively with the park operator regardless of the reason for the collective negotiating or dealing. The bill specifically permits residents to join with other residents for the purpose of negotiating or dealing collectively with the park operator. (Sec. 3733.09(A)(3) and (C).)

### **Terms in rental agreement regarding fees for sale of home**

Current law prohibits any park operator from entering into a rental agreement with the owner of a manufactured or mobile home for the use of residential premises, if the rental agreement requires the owner of the home, as a condition to the owner's renting, occupying, or remaining on the residential premises, to pay the park operator or any other person specified in the rental

agreement a fee or any sum of money based on the sale of the home, unless the owner of the home uses the park operator or other person as the owner's agent in the sale of the home. The bill specifies that "any other person" means the "park operator's agent." (Sec. 3733.11(K).)

**Penalty for failing to obtain a license to operate a manufactured home park and violating other prohibitions**

Under current law, if a person (1) operates a park without a license, (2) violates other specified prohibitions, or (3) fails to comply with certain other duties specified in the Manufactured Home Park Law or rules adopted by the Public Health Council, that person is guilty of a fourth-degree misdemeanor. The bill specifies that each day a violation continues constitutes a separate offense. (Sec. 3733.99(A).)

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**HISTORY**

ACTION	DATE
Introduced	09-11-07

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