

Manufactured Housing Community Tenants:

Shifting the Balance of Power



Manufactured Housing Community Tenants Shifting the Balance of Power

A Model State Statute

Revised Edition

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Introduction

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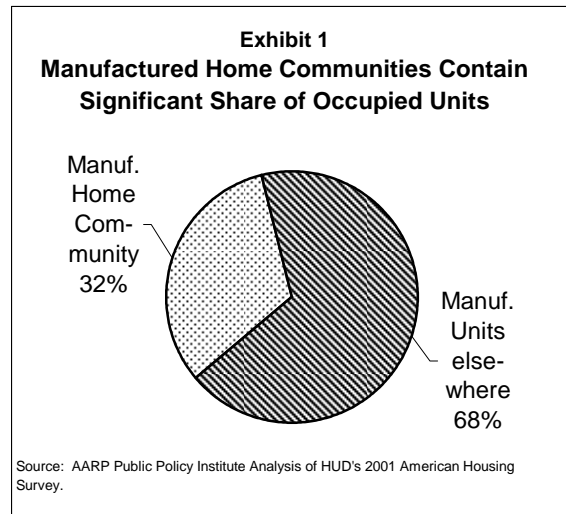
Manufactured homes, frequently known as mobile homes, are a major source of housing for older Americans. In 2001, an estimated 7.2 million manufactured housing units were occupied year-round as primary residences. This figure represents about 7 percent of the nation’s occupied housing stock. In addition, another 1 million manufactured homes were held for seasonal or recreational use,¹ and about 700,000 were vacant for some other reason (waiting to be sold or rented, for instance). About 43 percent of the units occupied year-round are owned or rented by someone age 50 or older, as are two-thirds of the homes held for seasonal or recreational use.

Unlike conventional “stick built” housing, which is permanently affixed to the land it is built on, manufactured housing does not require a permanent foundation. Therefore, manufactured home ownership does not necessarily imply ownership of the lot on which it sits. In fact, AARP’s Public Policy Institute estimates that 32 percent of occupied manufactured homes are in manufactured home communities [Exhibit 1],² and this type of housing arrangement

¹ The Department of Housing and Urban Development’s American Housing Survey uses the terms “seasonal” or “usual residence elsewhere” when referring to homes that are occupied for only part of the year and are not used as a primary residence.

² AARP Public Policy Institute analysis of the Department of Housing and Urban Development’s 2001 American Housing Survey. This estimate is a proxy based on the share of manufactured home residents who reported that (1) they leased the lot on which their home was situated and (2) their home was among a cluster of other manufactured homes. Manufactured homes that are on leased land but not

continues to account for a significant segment of newly occupied manufactured homes despite a decline in recent years. Housing in a manufactured home community is unique, because residents have a blended set of advantages and disadvantages from being both owners (of a home) and renters (of the land). On the one hand, this form of housing is appealing to low- and moderate-income households that may find it difficult to acquire land, especially in high-cost markets. On the other hand, the cost and risk of moving a manufactured home from one rental community to another create significant barriers to owners who need or want to move. These barriers make it possible for a segment of community operators to adopt exploitive rules and practices that are unique to this type of housing arrangement.



A Brief Overview of Manufactured Homes

Manufactured homes differ from conventional single-family homes in a

in a manufactured home community are outside the scope of this book.

number of ways. Most notably, they are produced in sections on a factory assembly line. Some homes are designed to be single-section, though multi-section units have become increasingly popular and now account for the majority of manufactured homes placed for residential use. Although some newer models of manufactured homes are designed to look like traditional homes (with steep pitched roofs, covered porches, etc.), they are not built under the same state and local standards. Rather, manufactured homes are built to a set of construction and safety standards administered by the Department of Housing and Urban Development (the “HUD Code”). These standards supersede any local building codes. Further, because most manufactured homes are not affixed to property on a permanent concrete slab foundation, the homes are generally financed as personal property rather than through a less costly conventional real estate mortgage.

One of the defining characteristics of manufactured homes is that they are built on a permanent chassis attached to axles and wheels for transportation to the resident’s site. For this reason, manufactured homes are often called “mobile homes,” but the term is misleading. In fact, these homes are seldom moved once placed on a resident’s lot. There are several reasons for this. The first is that homes are subject to damage during transportation, and older homes may be more susceptible to damage than newer homes. Second, moving a home is a very expensive proposition and can easily cost \$5,000 to \$10,000, depending on local labor conditions, characteristics of the lots, and the distance of the move. Third, residents who lease the lot on which a home is placed face a growing shortage of manufactured housing communities to move to, particularly communities that would be

willing to accept an older model home. Finally, federal law refers to homes built under the HUD Code as “manufactured homes.” For these reasons, industry and many consumer groups prefer to avoid the term “mobile home” when speaking about manufactured housing.

In general, manufactured homes are less expensive than conventional homes of similar size and features. Part of the reason, of course, is that conventional homes are sold with the land as a package. But even excluding land, manufactured homes are generally less expensive because of the centralized assembly process, which takes advantage of labor savings and other economies of scale. One study has shown that the average construction cost per square foot of a manufactured home is around 42 percent less than that of a site-built house.³

Manufactured Housing Communities

A manufactured housing community is defined in this model statute as “a use of land in which four or more lots or spaces are offered for rent or lease for the placement of manufactured housing and in which the primary use of the community or the manufactured home section thereof is residential.” AARP’s Public Policy Institute estimates that there are about 2.3 million manufactured homes located in manufactured housing communities.

Leasing a lot in a manufactured housing community can, depending on the circumstances, expand homeownership options. This is because it is not necessary to obtain a loan to cover the cost of the land.

³ “Factor and Site Built Housing: A Comparative Analysis,” HUD, October 1998, page 102. Construction costs exclude the value of the lot.

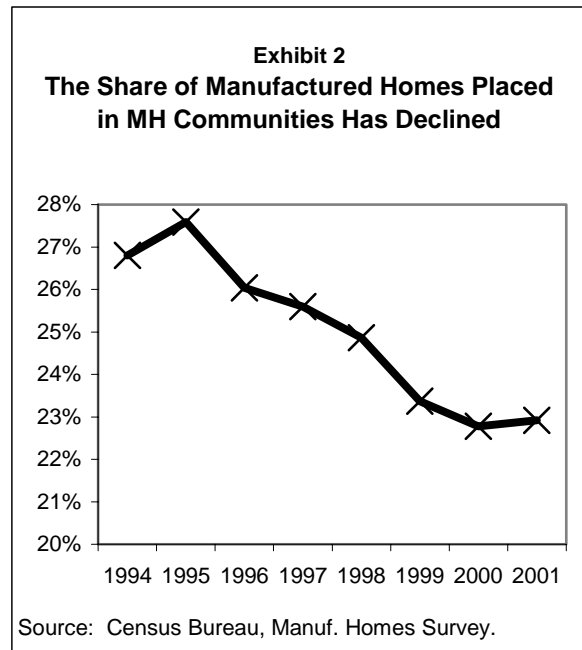
Instead, a monthly rent is paid for use of the lot on which the home is placed. Consequently, leasing a lot has become popular with a large segment of manufactured home owners, especially those with modest incomes. In 2001, the median household income of manufactured home owners who leased a lot in a community was only \$25,000. By comparison, manufactured home owners who also owned the land had a median household income of \$29,000, while owners of “site-built” single-family homes had a median household income of \$52,000.

Manufactured housing communities are more common in suburbs than in rural areas. For instance, only about 15 percent of all manufactured homes are located in the suburban fringe of an urban area, yet those areas contain 30 percent of units placed in manufactured housing communities.

Households in manufactured housing communities are somewhat smaller than households living in manufactured homes elsewhere. These communities have fewer married couples and more single persons, probably because older manufactured housing communities can frequently accommodate only single-section (and therefore, relatively small) units. In fact, the median size of a manufactured home in a community setting is only 980 square feet, compared with 1,200 square feet for manufactured homes located elsewhere.

Anecdotal evidence suggests that relatively few new manufactured housing communities are being developed, and the empirical evidence seems to support this conclusion. In 1994, 27 percent of new manufactured housing units were placed in a manufactured housing community [Exhibit 2]. By 2001, this number had fallen to 23 percent. As a consequence, the median age of

manufactured home units in communities is around 21 years, compared with 16 years for manufactured homes placed elsewhere.



Further, many existing community operators face economic incentives (and sometimes pressure from local governments) to convert their properties to some other use, especially in expanding suburban markets with rapidly increasing land values. Overall, it is becoming more difficult for new manufactured home owners (and existing owners who must relocate) to find space in a manufactured housing community.

Consumer Issues

The nature of manufactured housing community tenancy is unique for a number of other reasons. When an apartment renter moves, the renter has no obligation for the unit other than damages beyond normal wear and tear. A manufactured housing community resident, however, owns the home itself, and terminating a lease means the home must be moved (which is expensive) or abandoned (which has grave

consequences for any built-up equity). Thus, manufactured home residents are nowhere near as mobile as apartment renters. Further, the relationship between the manufactured home resident and the community operator is unique because of the resident's dual role as owner and renter. Homeownership implies a number of legal rights, some of which relate to protecting home equity and others that relate to rights such as full use and enjoyment of the home. However, because the land is owned by the community operator, enjoying the full use of the unit may be difficult. For instance, in a gated community of conventional single-family home owners, architectural restrictions and use of common areas are regulated by a board of residents. In a manufactured housing community, these policies are created and implemented by the community operator, who may or may not rely on input from residents. Guest rules, provision of utilities, rights to congregate, ties between operators and home dealers, and so on, all serve to underline the complicated dual nature of this type of homeownership. In short, the fact that the home is owned by one entity and the land by another entity means that state laws relating to traditional home ownership or apartment rentership are generally inadequate to meet the unique needs of manufactured housing community residents.

To help address this unique situation, AARP has worked with the National Consumer Law Center (NCLC) to develop a model state statute for manufactured housing community residency. The first edition of this model statute was published in 1991 and has proven a valuable resource for consumers and legislators. In 2002, AARP again approached the NCLC. At AARP's request, the center reviewed the 1991 publication in light of emerging issues, new

state laws, court decisions, and so on, and developed this updated model law to reflect the changing needs of residents.

The NCLC reports that 36 states have specialized legislation regulating manufactured housing community tenancies. These statutes vary widely, however, in the types of consumer protections provided. For instance, only 12 states prohibit dealer tie-ins, a practice in which landlords require that tenants purchase their units from a dealer or other agent named by the landlord. Only 16 states prohibit exit fees, and only 19 states even require a written lease.

One common concern expressed by residents relates to sudden and unreasonable rent increases. In markets where rent increases are particularly large, it may be difficult for existing residents to afford the new rents or the costly and difficult process of finding a vacant lot elsewhere and moving their homes. Rent increases are a particularly serious concern for older community residents, because many are retired and living on fixed incomes. Readers will notice that the model state statute does not provide for rent control, though this option is frequently discussed among consumer advocates. While many local areas have instituted rent controls for various types of rental housing, currently no state has adopted statewide rent control (and in some states it is expressly prohibited). AARP and the NCLC believe that rent control could prove to be sufficiently controversial to block passage of this model statute in many states. Nonetheless, AARP's public policy position is that rent stabilization programs at the local level might be appropriate for certain closed-community situations.⁴ Instead, this model

⁴ AARP, "The Public Policy Book," 2002 edition, pages 9–32.

statute envisions a two-year lease, renewable indefinitely, in which the level or manner of future rent increases is disclosed in the lease. This information provides consumers with the ability to negotiate before moving in and eliminates any surprise increases afterward.

Another major issue has to do with change of ownership from an existing community operator to a new operator. This issue has grown in prominence over the last 10 years because of a large number of acquisitions of locally owned and operated manufactured home communities by a few national operators. One of the best solutions to conflicts between community owners and residents regarding rules, rents, and other matters is to provide a mechanism by which residents can purchase the community themselves and operate it as a cooperative or condominium development. The model statute promotes this option by requiring the seller to notify the residents of intent to sell, after which the resident association (if one exists or is formed) has 90 days to express its intent to exercise a right of first refusal, followed by an additional 180 days to obtain financing or guarantees. The intent is to allow the seller the full financial value of selling the community but allow the residents the opportunity to match offers from other interested buyers.

A separate issue is whether the manufactured housing community is converted to another use. This is a much more serious problem, because it creates expensive displacement of existing residents, destroys a community, and contributes to shortages of manufactured housing community sites. It is illegal to forbid an owner to ever change the use of the land. However, it is possible to ameliorate the consequences by requiring that rental agreements be honored for two

years after the owner provides notice of termination of the lease for conversion and by establishing a state relocation fund to assist residents with the move. In order to ensure that residents' right of first refusal for the sale of the community is not compromised or pre-empted by closure, the model statute provides that when a manufactured housing community is closed, the resident association may purchase the community from the operator, unless the operator has owned the community for at least three years and does not intend to sell during the next five years.

The model statute includes a number of additional disclosures and safeguards relating to deceptive practices, lease terms, rent charges, community rules, retaliatory conduct, eviction procedures, and so on to provide a level playing field between residents and community operators.

This edition of the model state statute differs from the 1991 version in a number of significant ways. Users of the earlier edition may find Appendix C, "Changes from the Earlier Edition," to be a useful summary of those changes.

Using this Guide

The model statute is intended to provide a baseline for legislative advocacy at the state level. Sections have been arranged topically, and in some states it may make sense to adopt sections piecemeal if other topical areas have already been addressed by an existing statute. Following each section is the authors' discussion, which addresses the issues behind the language and the reasoning for the specific policy recommendations. In some cases, there may be more than one policy solution, and the authors discuss some of these as alternatives

to the language of the model statute. In other cases, policy solutions that deserve merit but may not be appropriate for a model statute because of differing state constitutional interpretations are also discussed. Finally, this publication provides a brief overview of existing state legal protections in an appendix.

Executive Summary

Background

Manufactured homes, frequently referred to as mobile homes, are a major source of housing for older Americans. In 2001, owners age 50 and older accounted for 3 million (43 percent) of the 7.2 million manufactured housing units occupied year-round as primary residences.

Manufactured home ownership does not necessarily imply ownership of the lot on which the home sits. In fact, nearly a third of occupied manufactured homes are in land-lease communities. This type of housing arrangement is appealing to low- and moderate-income households that may find it difficult to acquire land, especially in high-cost markets. The cost and risk of moving a manufactured home from one rental community to another create significant barriers for homeowners who need or want to move. These barriers make it possible for a segment of community operators to adopt exploitive rules and practices that are unique to this type of housing arrangement.

Purpose

The purpose of this model statute is to provide a context to discuss the problems and issues facing manufactured home community residents and to provide advocates and state legislators with a useful tool to evaluate their own statutory protections for residents of manufactured home communities. Although background discussion frequently refers to the needs of older residents, the model law is designed to meet the needs of residents of all ages and abilities.

Methodology

The current publication is a revision of a 1991 edition. Specifically, the National Consumer Law Center (NCLC) did the following:

- evaluated resident issues based on its own experience and the experience of other interested parties (such as state homeowner associations) contacted during the course of research;
- reviewed case law, so that legislators may be assured that the recommendations included in the model statute reflect state constitutional issues;
- revised the text of the model law and the accompanying discussion; and,
- discussed existing state law and provided summary state tables.

Following each section of the model law is a discussion of the provisions and, where appropriate, alternative ideas that could be presented to state legislatures.

Summary of Model Law Provisions

Among the many statutory provisions, the model law accomplishes the following:

- prohibits a manufactured home community operator from requiring that a resident purchase equipment from a specific supplier;
- establishes a two-year lease, renewable indefinitely;
- clarifies consumer rights during eviction proceedings and strengthens language regarding rights of judicial review;
- prohibits a number of “hidden” fees;
- requires uniform enforcement of community rules;
- clarifies rights of residents to organize peacefully;

- establishes a relocation fund to assist residents of communities that are converting to a different use;
- strengthens consumer rights and disclosure rules in instances where the manufactured home community is sold to another entity; and,
- assigns responsibility for monitoring compliance with the act, disseminating information, etc. to a designated state agency.

Conclusion

This model statute provides manufactured home owners, resident associations, and state legislators with an important and useful resource to improve the rights of manufactured home residents. It also provides a useful appendix that will enable these individuals and groups to evaluate their own state and compare states with one another.

Manufactured Home Owner's Bill of Rights

Sec. 101

Short Title, Declaration of Purpose

- (a) This statute may be cited as the Manufactured Home Owner's Bill of Rights.
- (b) The legislature finds that, without regulation, markets for manufactured housing community spaces may result in monopolistic and unconscionable practices in manufactured housing community tenancies. Further, once a home is situated on a manufactured housing community site, the difficulty and cost of moving the home gives the operator disproportionate power in establishing rent levels, fees, rules, and other terms of tenancy. In addition, a shortage of spaces, inadequacies in existing law with regard to eviction rights, manufactured housing community operator restrictions on residents' sale of homes, and community owner changes in the land use of the manufactured housing community may result in serious economic harm to residents and the loss of their homes and communities. This legislation is intended to provide residents with essential rights and a minimum of security in their homes and to mitigate abuses in the market for spaces in manufactured housing communities.
- (c) This statute is remedial and is to be construed liberally to accomplish its purposes.

Sec. 102 Definitions

- (a) "Common area or facility" includes any communal area or recreation hall or center, or any building or structure, including improvements thereto or open space provided by the manufactured housing community owner for the benefit of residents and their guests.
- (b) "Manufactured home" means a residential structure, transportable in one or more sections, which is 8 body feet or more in width, and 32 body feet or more in length, built on an integral chassis, and designed to be used as a dwelling when connected to the required utilities. "Manufactured home" includes the plumbing, heating, air conditioning, and electrical systems contained therein. A manufactured home does not include travel trailers, camping trailers, truck campers, or motor homes which are primarily designed as temporary living quarters for recreational camping or travel use and which either have their own motor power or are mounted on or drawn by another vehicle.
- (c) "Manufactured housing community" or "community" means a use of land in which four or more lots or spaces are offered for rent or lease for the placement of manufactured housing and in which the primary use of the community or the manufactured home section thereof is residential.
- (d) "Community operator" or "operator" means an owner or manager of a manufactured housing community, including manufactured housing community employees and any

subsequent purchaser of a manufactured housing community.

- (e) “Related individual or entity” has the same meaning as “person related to” as defined by [Uniform Commercial Code Sec. 9-102(a)(62) and (63)].
- (f) “Rental agreement” means any agreement between a community operator and a resident establishing the terms and conditions whereby a manufactured home is placed upon a rented or leased lot in a manufactured housing community. A lease is a rental agreement.
- (g) “Resident” is a person who has a tenancy in a manufactured housing community under a rental agreement. For purposes of the restrictions on eviction set forth in Sec. 110, the term includes those whose leases have not been renewed and those who are living in a resident’s home pursuant to Sec. 104(l). For purposes of Sec. 116, the term includes those who have applied to be residents and those who were residents in the past.
- (h) “Resident association” means any organization of residents representing at least 51% of the residents of the manufactured housing community, which is organized for the purpose of resolving matters relating to living conditions in the manufactured housing community.
- (i) “Utility” or “utility service” means any electric, fuel oil, natural or propane gas, sewer, waste disposal, water, telecommunications, cable television, or Internet service by whatever means furnished.

***Discussion:** These definitions help to avoid ambiguity and clarify the scope of consumer protections discussed elsewhere. For instance, the definition of “resident” has been revised in this edition to make it clearer that the community operator cannot characterize a resident as a “holdover tenant” or “former resident” in order to avoid “cause for eviction” requirements and court procedures for eviction.*

“Related entity” is defined by reference to the Uniform Commercial Code (UCC). A state’s enactment of this provision should reference instead the citation for that state’s enactment of the UCC.

Sec. 103 Unfair and Deceptive Practices, Unfair Methods of Competition, Tie-ins Between Home Purchase and Lease, Purchase of Service and Equipment

No community operator shall:

- (a) Engage in unfair or deceptive acts or practices or unfair methods of competition.
- (b) Require, as a condition to the rental of any site, the purchase of a manufactured home from the community operator, or any dealer, manufacturer, or agent named by the operator.
- (c) Represent to any person that the purchase of a manufactured home from the community operator or any dealer, manufacturer, or agent named by the operator will give the purchaser an advantage over others in the rental or continued occupancy of a site.

- (d) Discriminate or threaten to discriminate regarding the amount of rental charges, service or other fees, or in any other respect against a resident for failure of the resident to purchase a manufactured home from the operator or any dealer, manufacturer, or agent named by the operator.
- (e) Solicit or receive any payment or other thing of value from any person upon the representation or understanding that such consideration will give that person an advantage over others in the rental or continued occupancy of a site.
- (f) Use a manufactured housing community site to display an unoccupied manufactured home offered for sale, or rent a site to a manufactured housing dealer for purposes other than accommodation of a manufactured home occupied as a residence, if the use or rental of the site results in there being no site in the manufactured housing community available to a prospective resident who does not purchase a manufactured home from the operator or renting dealer.
- (g) Require the purchase from the community operator or any person acting directly or indirectly on behalf of the community operator, of commodities or services incidental to placement of the home within such manufactured housing community; nor shall the community operator restrict access to the community to any person employed, retained, or requested by the resident to provide such commodity or service, unless the community operator establishes that such requirement or restriction is necessary to protect the property of such community operator

from substantial harm or impairment.

- (h) Require a prospective resident or resident of the manufactured housing community to purchase from such community operator skirting or equipment for tying down a manufactured home, or any other equipment.

***Discussion:** Because of the shortage of manufactured housing community sites, many community operators may have the market power to require that prospective tenants purchase their manufactured home from a company affiliated with the community operator or from a dealer otherwise specified by the community operator. Community operators may also attempt to profit from the installation of the home by requiring that residents purchase the services of the operator or an affiliate to install the home in the manufactured housing community. Operators may also require that residents purchase certain equipment for the homes from a dealer with whom the operator has a financial arrangement. These arrangements not only restrict the residents from purchasing the home, services, or equipment of their choice, thereby limiting their choice of manufacturer and style, but may also lead to a higher price for the home, service, or equipment because of a lack of competition. In addition, the consumer may be effectively prevented from purchasing a used home, unless the manufactured housing community itself has one for sale, because operators are often tied in with new home dealers.*

Many state statutes lack specific provisions concerning tie-ins. This model statute specifically prohibits tie-ins, as well as any attempt by the community owner to place

restrictions on the purchase of services or equipment that he or she requires residents to procure.

A number of states have such prohibitions. See Mass Gen. laws ch. 140 Sec. 32L; N.Y. Real Prop. Law Sec. 233(h); or Rev. Stat. Sec. 90.525; Wis. Admin. Code Sec. 125.02 (Agriculture, Trade, and Consumer Protection). It is important to clearly set out all prohibited tie-in practices and establish meaningful remedies. Remedies generally are discussed in Secs. 116 and 117.

Sec. 104 Minimum Lease Terms, Renewals, Rental Charges, Security Deposits, Rental Agreements

Term of the Rental Agreement: Early Termination Penalties

- (a) All rental agreements shall be for a term of two years, unless a longer period is mutually agreed upon by the resident and manufactured housing community operator.
- (b) A person who executes a rental agreement offered pursuant to this section may cancel such agreement by notifying the manufactured housing community operator in writing within five business days of the person's execution of the rental agreement. In such event, the manufactured housing community operator shall return any down payment, security deposit, or rent paid by the person within 10 days of receiving the written cancellation. If, in addition to offering a rental agreement, the community operator or a related individual or entity enters into an agreement to sell a manufactured home

to the person or lease it to the person with an option to purchase, the person may cancel the sale or lease-purchase agreement along with the rental agreement by notifying the seller in writing within 5 business days of the person's execution thereof, and in such event the seller shall, within 10 days of receiving written cancellation, refund all consideration paid by the resident and cancel any debt relating to the purchase.

- (c) The maximum amount that a manufactured housing community operator may set and seek as damages for a resident's early termination of a rental agreement is two months' rent, except that if the manufactured housing space is reoccupied within 20 days of vacating, the damages shall be a maximum of one month's rent.

Rental Amount

- (d) During the first rental term, the manufactured housing community operator may propose whatever rental amount it chooses, including rental increases, as long as the amounts or methods of determining the increases are fully and clearly determinable and disclosed in the rental agreement, are not unreasonable, and are binding on the community operator for the term of the rental agreement.
- (e) The manufactured housing community operator shall not charge or impose upon a resident any fee or increase in rent which reflects the cost to the community operator of any fine, forfeiture, penalty, money damages, or fee assessed or awarded by a court of law against the community operator for a violation of this chapter, including any attorney's

fees and costs incurred by the community operator in connection therewith.

operator at least 30 days prior to the agreement's termination of an intent to move, or

Security Deposit

(f) The manufactured housing community operator may require, at the inception of the resident's first rental agreement, a security deposit not exceeding one month's rent. The security deposit with interest of 5 percent per annum shall be returned to the resident when the lease is terminated, provided that the resident has paid in full all rent and other charges due, has caused no more than minimal damage to the leased premises, and has left the lot reasonably clean and free of debris. Within 30 days of the termination of the rental agreement, the community operator shall provide the resident with a written itemized list of charges due and damages to the premises and the estimated cost of repair for each, and tender payment for the difference between the security deposit and the charges due and estimated cost of repair of damages to the premises. Failure to comply with the previous sentence shall constitute admission by the community operator that no damages are due, and it shall immediately remit to the resident the full amount of the security deposit.

i. the manufactured housing community operator seeks to change the terms of the agreement pursuant to Subsections (i) and (j), in which case the procedures set forth in those subsections shall apply.

(h) Six months prior to the end of the rental term in the manufactured housing community, the operator shall offer the resident a renewal rental agreement with a term of at least two years with proposed rental amount and any fee or other lease changes for that term.

(i) If the resident does not accept the new terms, the manufactured housing community operator may initiate a binding appraisal process, pursuant to Sec. 115, whereby an appraiser agreed to by the resident and operator shall determine the fair market value of the lot rent and other charges over the next two years, based on the existing rental agreements of other residents in the same manufactured housing community, any recent or reasonably foreseeable future changes in the local market for manufactured housing community lots, and any discount that is necessary to reflect any future change in land use that the community operator has announced, taking into account any compensation the resident will receive under Sec. 112. The amount determined by the appraiser, including any built-in increases, shall be binding for the next two-year period.

Renewal of Lease

(g) At the expiration of a rental agreement, including one that is a renewal of a previous agreement, the agreement will be renewed automatically for a term of two years with the same terms as the previous rental agreement, unless:

i. the resident notified the manufactured housing community

(j) Residents with existing rental agreements who do not comply with this statute

shall, as soon as practical, be offered a two-year rental agreement complying with this statute, effective on the termination of their existing rental agreement. If the resident does not accept the terms, the resident may initiate a binding appraisal process, pursuant to Sec. 115, whereby an appraiser agreed to by the resident and manufactured housing community operator shall determine the fair market value of the lot rent and other charges over the next two years, based on new rental agreements of other residents in the same community and, if necessary, new rental agreements in comparable communities. The amount determined by the appraiser, including any rental increases, shall be binding for the next two-year period.

Decrease in Services

- (k) If the manufactured housing community operator decreases any services which the operator agreed to provide in the rental agreement, the operator shall reduce the rental amount accordingly. If the operator fails to comply with the preceding sentence, individual residents or a resident association may initiate an appraisal proceeding, pursuant to Sec. 115, to determine the appropriate reduction in rent and to determine the amount of the refund the operator owes residents for excessive rent payments already made.

Absence Due to Illness

- (l) If a resident leaves a manufactured housing community temporarily because of illness or disability, the operator shall allow a relative or relatives, designated by the resident or the resident's guardian

or representative, to live in the home until such time as the resident is able to return, so long as the terms of the lease continue to be met, and unless the relative or relatives are disapproved pursuant to Sec. 111(f). The manufactured housing community operator may not condition approval on transfer of the home into the name of the relative.

Manufactured Home Sales and Rental Purchase Agreements

- (m) Notwithstanding any other provision of state law, if the manufactured housing community operator enters into a lot-rental agreement, and either the operator or a related individual or entity enters into an agreement to sell a manufactured home to the resident or lease it to the resident with an option to purchase, the seller must transfer title to the manufactured home to the buyer at the time of the sale. The seller may take a security interest in the manufactured home. Any reservation of title by the seller merely creates a security interest.

Discussion: Frequent, large, and unpredictable rent increases are one of the most pressing problems facing manufactured home residents. This problem is especially serious for older persons living on fixed incomes.

The immobility of the manufactured home provides extraordinary leverage for the community operator once the home is installed. With the home affixed to the land and costing many thousands of dollars to move, it is difficult for the resident to move in response to frequent or high rent increases. This situation is exacerbated by

the fact that manufactured housing communities are filled to capacity in many areas, and even if a rental space becomes available, operators often refuse to accept older homes. If the resident tries to sell the home and move elsewhere, the community's high rents will lower the home's resale value.

A promising solution incorporated in the model statute is the long-term renewable lease. The original version of the model law required a five-year lease that would be renewable indefinitely. Such a long term is likely, however, to be intimidating to both residents and manufactured housing community owners. A two-year lease, renewable indefinitely, accomplishes the same goals, is less of a departure from existing laws, and is probably more acceptable to residents and manufactured housing community owners.

With a two-year lease, the manufactured housing community operator would be free to establish whatever rent he or she wished during the term of the lease, as long as the rent and other monthly charges were stated clearly before the resident signed the lease. For example, the operator could decide to include annual 10 percent rent increases, or could include a property tax or fuel charge escalator clause, or even peg rent increases to the Consumer Price Index. (See Sec. 107).

This arrangement allows the manufactured housing community operator to charge whatever rent he or she wishes over the full term of the lease but allows the resident to know in advance, before installing the home in the manufactured housing community, what the rent will be.

While long-term leases are not unheard of in a manufactured housing context, they would

be a novel legislative requirement. Many manufactured housing community leases, particularly in Florida and California, are currently for 5-year, 10-year, or even longer terms. When one considers the consumer's investment in installing a home on a particular site, it is certainly reasonable to expect a long-term lease. For example, long-term leases are the general rule in commercial leases, where the tenant also has a significant investment in the lease, either through renovation costs or the inherent advantages for employees and the public of stability of location. Long-term commercial leases are established concepts in our economy, and there is no reason why community leases should not also be long-term, given the similar circumstances of manufactured housing community tenancies.

While many existing manufactured housing community laws seem to be modeled on residential landlord-tenant laws, which usually require only one-year leases at most, a manufactured housing community tenancy is very different from a residential lease. A manufactured housing community resident cannot put his or her belongings in a van and move to a different apartment. The reality of the situation is that people who buy "mobile" (i.e., manufactured) homes generally stay in one place for a long time. Most modern manufactured homes are much closer in design to site-built single-family houses than to old-fashioned "trailers," making them difficult to move. Because residents of such homes usually have no intention of moving them, they should be able to enter into longer-term leases.

States with an existing manufactured housing community statute usually require that lease terms of one year be offered to tenants [see Appendix A], although some

states do not even require the one-year terms. Grounds for nonrenewal are usually limited, so that these statutes in effect require long-term leases. (Cal. Civ. Code Sec. 798.55(b); Wis. Stat. Sec. 710.15) But, being year-to-year, they allow surprise rent increases every year, and some statutes even allow rent increases during the lease term.

A number of considerations must be weighed in determining the length of a required long-term lease. The nature of a state's manufactured housing stock may be a factor. For example, in states such as Florida and California, where many new, expensive double wide or multi-section houses are being permanently installed, with many add-ons, a term longer than two years may be indicated more so than in a state where houses tend to be older, single-section homes with few add-ons and often even without skirting. To the extent that a resident is fully protected in a renewable lease, the term of the original lease is less important. To the extent that the community operator can increase rents at will in the renewal, the length of the initial lease is most critical. Another factor to consider is that if a lease is too long, it may be unfair to ask the community operator to predict that far in advance what the fair market rent will be.

Compared with an apartment dweller, a manufactured housing community resident is much less likely to be troubled by a long-term lease. The arrangement fits his or her expectations. Moreover, if the resident wishes to move, the situation will usually involve selling the home in place, rather than moving it. The fact that there is still a long term left on the site lease will be an advantage in selling the home. Issues concerning a community operator's

willingness to assign a lease to the new buyer are discussed in a later section.

One of the most difficult issues with long-term leases is what happens after the lease expires. Even if the manufactured housing community resident has an absolute right to a renewal lease, a key question remains: what rent can the community operator charge in that renewal? After the two-year lease expires, the operator may try to increase rents well beyond levels affordable to the homeowner.

There is a range of options for the renewal term. The statute could let the operator increase the rent as much as he or she wished, as long as the tenant was given six months' notice and the term was extended to the same length as the original lease (e.g., for another two years). This would give the tenant six months to relocate or sell the home if the rent was unacceptable.

Another option would be to limit the renewal rent to the fair market value of the site, to be determined by a third-party appraiser if the two parties could not agree on a fair rent within the six-month notice period. Many commercial leases operate in this manner. This requirement would be most effective when a tenant association helps the individual tenant in the appraisal process. The tenant will have to help select the appraiser and be prepared to pay a portion of the cost. Where a tenant association and community operator agree on a particular individual to routinely appraise sites, the cost and difficulty of this process would be minimal.

Another option would be to limit the community operator to increases consistent with changes in the Consumer Price Index (CPI) or some other objective measure. The

problem with this approach is that at some point the community operator may want the ability to take advantage of a real estate boom. The operator may not be satisfied with CPI-based increases for the next 20 or 30 years.

One way to minimize the renewal issue is to require leases with especially long terms, making renewals less frequent and thus less troublesome. For example, a 10-year initial lease term would avoid renewal issues for 10 years, by which time the technology of moving homes may have improved and the shortage of sites may have eased. On the other hand, it would require the community operator to anticipate the required rent for a very long period of time—something operators may find difficult.

Perhaps the best option is to require that the rents for the renewal term be consistent with rents elsewhere in the same manufactured housing community. This would mean that as newer residents consider moving into the community, they would help establish a fair market rate through their actual rentals. The longer-term residents on renewal would pay comparable prices. This would simplify the appraisal process and encourage settlements without appraisals. It would still leave community operators free to choose their own rents by increasing rents as new people move in. For example, this would allow operators to increase rents to reflect the tight housing situation. But the rents would be based on the market of new residents, rather than existing residents, who may be effectively locked into their community (due to the cost of transporting the home elsewhere). There would also be no surprise increases, because it would be general knowledge what other residents were paying. This is the approach adopted by this model statute.

Penalties for early lease termination are another important issue. A “lease early termination” penalty is relevant in three situations in which the tenant terminates the lease early: when the resident moves the home elsewhere, when the resident sells the home to the community operator, and when the home is seized by a creditor. Obviously, the community operator is not damaged by an early termination when he or she buys the home. A creditor who seizes the home will still need a site for it, so the creditor will assume the lease. Only in the relatively rare situation when the home is actually moved out of the manufactured housing community are there issues of community operator damages for early termination. As a result, the model law limits resident liability for early termination to a maximum of two months’ rent. If the site is re-rented within a short time, the maximum is one month’s rent.

Manufactured housing community residents obviously have a significant investment in a particular site. As a result, they need a continuing right to stay in the manufactured housing community, absent some special circumstance. This is consistent with other state manufactured housing community laws that allow a resident to stay in the community even after lease termination, subject to specified grounds for eviction such as nonpayment of rent. That is, whether a resident has a month-to-month or year-to-year lease, state laws frequently give the resident the automatic right to stay in the manufactured housing community, subject to new lease terms that the operator may require with the new lease. Also, a change of manufactured housing community ownership should not affect the resident’s right to stay in the community.

The one major exception to the rule that a resident should be able to stay in the manufactured housing community indefinitely, as long as he or she complies with the obligations of a tenant, occurs when the operator or subsequent owner wants to change the use of the land. This is a major source of resident complaints and a complex issue. Sec. 112 discusses this topic at length.

Because of the use of staggered long-term leases with automatic renewals, it would be impossible for manufactured housing communities to change their land use, unless the leases were subject to the operator's right to change land use. For this reason, a statute requiring renewable long-term leases should probably make an exception allowing the operator to terminate a lease if he or she wants to change the land use, as long as that change in use meets the other statutory requirements, such as notice and compensation, described in Sec. 112.

Long-term leases will work fairly well for new residents. But what about residents who are already locked into a manufactured housing community? What is to prevent operators from substantially increasing their rents for the subsequent required two-year lease? The model law's answer is to treat these leases as renewals, rather than renegotiating a new lease. Entering into a long-term lease with a manufactured housing community operator is a serious decision with major financial consequences, particularly if the resident purchases a home as part of the transaction. Another feature of the model law is its provision of a five-day right to cancel a rental agreement. This right extends to any agreement to buy a home when the purchase of a home is part of the transaction or the seller of the home is closely related to the operator. (The

operator may be a manufactured home dealer, or a related business at the same location may sell manufactured homes.) The model law also sets a deadline for the operator's return of the resident's security deposit, rent, or down payment if the buyer cancels. This subsection uses the term "person" rather than "resident" in order to make it clear that a person who signs a lease has the right to cancel even if he or she never moves into the manufactured housing community. The model law also requires sellers to transfer title to the home (reserving a security interest, as appropriate) at the time of sale, regardless of whether the sale is set up as a "rent-to-own" transaction. This protection prevents an operator from treating a rent-to-own buyer as someone other than a resident. It also is a way of ensuring that the seller actually has the power to convey the home to the buyer.

The model law has a number of other protections for residents. A large proportion of manufactured homes are the primary residences of people over age 50. Often when a resident is forced to leave a manufactured home because of illness, the resident wants a family member to stay in the home and maintain it until the resident can return. The model law ensures this right.

Subsection 104(f) protects residents from rent increases that reflect the cost to the operator of any fine, forfeiture, or money damages. This prohibition is based on Cal. Civ. Code Sec. 798.42 and Minn. Stat. Sec. 327C.06. The right to complain to a governmental agency about a manufactured housing community or to take the operator to court would be ineffective if any penalty or damage award could simply be passed

back to residents in the form of increased rent or fees.

Sec. 105

Other Fees or Charges, Restrictions on Choice of Vendors

- (a) The operator shall not charge residents any fees or charges other than the monthly rent charge, except for use-based charges that are set out in the rental agreement. Use-based charges are charges for services or facilities that are based on the amount of the resident's use of a particular service or facility. A charge is not use-based if a resident is charged even when he does not use the service or facility, or if different residents are assessed the same charge for using different levels of service or facilities. If the operator provides utility service to residents that is not individually metered, the cost of that utility service must be included in the rent and charged on a uniform basis to all residents.
- (b) Charges for existing use-based services or facilities shall be set out in the rental agreement and can only be increased as set out in the rental agreement. Any increase shall be reasonably related to the increases in the operator's costs.
- (c) The following fees are specifically prohibited, and any rental agreement provision establishing such fees is void:
 - i. Entrance and exit fees. Fees for credit checks, set-up services, site preparation, or other initial services shall be considered entrance fees if they exceed the actual cost to the operator.
 - ii. Fees for installation of appliances by the resident or by third parties when the installation is paid for by the resident.
 - iii. Fees for a resident's resale of the home, assignment of the lease, or sublet of the home, except when a resident explicitly requests the operator to act as a sales or rental agent on his or her behalf.
 - iv. Fees for additional family members.
 - v. Short-term guest fees. A short-term guest is a guest who stays with the resident for no more than a total of 20 consecutive days or a total of 30 days in a calendar year. However, a resident who is disabled or over 55 years of age may share his or her home with any person over 18 years of age if that person is providing live-in care or live-in supportive care to the resident pursuant to a written treatment plan prepared by the resident's physician. A fee shall not be charged by the operator for that person. That person shall have no rights of tenancy in the manufactured housing community, and any agreement between the resident and the person shall not change the terms and conditions of the rental agreement between the operator and the resident. That person shall comply with the rules and regulations of the manufactured housing community.
 - vi. Pet fees, unless special facilities are provided for pets.

Penalty for Nonpayment of Rent, Fees

- (d) The manufactured housing community operator may charge a penalty for late payment of rent or other fees after such

payments are 15 days delinquent. Such late charge shall not exceed 5 percent of the amount owed and may be imposed only once for a particular late payment.

Utility Charges

- (e) An operator's utility service charge may not exceed prevailing residential utility rates or the actual rate the operator is paying, whichever is higher, as set out in Subsection (b), and must be periodically invoiced in writing, specifying the charge, the rate, and the amount of the utility service used. The operator shall post in a conspicuous place the prevailing residential utilities rate schedule as published by the serving utility. If the operator provides any utility service to residents, it must follow the procedures for suspension and termination of that utility service that are set forth in [state statute or regulation that establishes procedures for public utilities].

Restrictions on Choice of Vendors

- (f) No operator shall restrict the choice of vendors from whom a resident may purchase goods or services (including utility service and services involving set-up, removal, improvement, or sale of the home), or in any other way engage in conduct that discourages residents from selecting the vendor of their choice. This subsection does not apply to:
 - i. Snow removal, lawn care, or similar site maintenance services performed by the operator, upon the failure of a resident to fulfill the resident's site obligations under the rental agreement. No charges may be imposed for site maintenance

services performed by the operator under this paragraph unless the resident, if available, is given prior notice and a reasonable opportunity to perform the resident's obligation under the rental agreement. Charges for site maintenance services shall be set forth in the rental agreement, and shall be reasonable and limited to the operator's actual costs.

- ii. A non-discriminatory prohibition against sales solicitations within the manufactured housing community.

Discussion: Excessive and hidden fees are frequently a problem for manufactured housing community residents. A community can make the base rent look lower by separately charging fees not included in the rent. Increasing the cost and number of fees is also an indirect method of raising rents when a lease or state law limits a community's ability to raise rents. Fees can also be used to discriminate against certain community residents in favor of others. Often a community will have an extra fee for a consumer to bring a manufactured home into the community. This fee can be very large, often in the \$2,000 range. Other upfront costs can involve application fees, credit check fees, and hook-up fees. Where fees are not adequately disclosed before the consumer signs the lease or orders the home to be delivered to the site, it may be too late to back out after discovering the magnitude of hidden fees.

Community operators may also restrict tenants' choices for other transactions, such as whom to use for insurance or home improvements, with the operator getting a kickback from the favored merchants. The manufactured housing community operator

may pay electricity, water, and other utility costs directly to the utility, and then pass on these costs to the consumer at inflated prices. The possibilities for other excessive charges are numerous.

Given the extraordinary difficulty for a tenant to switch to another manufactured housing community, the tenant is often vulnerable to abusive situations involving operator-imposed charges. These can include excessive fees to install appliances, washing machine fees, trash fees, pet fees, maintenance fees, recreational fees, late fees, and bounced-check fees. Community rules can be manipulated to permit operators to collect unwarranted and/or excessive fees. For example, an operator could refuse to let the tenants have television antennas and then charge them excessively to use the operator's satellite dish.

The model law's solution to these types of potential excesses is to require that most fees be subsumed in the basic rent. This will be more informative to residents, help prevent operator attempts to evade rent limitations, and restrict invidious pricing practices. In other words, under the model law the operator may recoup various charges through rent, but separate charges for certain items are prohibited outright.

On the other hand, it is reasonable for the community operator to itemize certain charges separately, particularly where the charge is dependent on the extent of the consumer's use of facilities (e.g., water, utilities, or trash pick-up). The model law narrowly defines such allowed charges as those dependent on the resident's actual use of those services or facilities. For example, if a resident did not use them, there would be no charge.

The model law requires these charges to be clearly disclosed in the lease, with the rate schedule, and there can be no mandatory charge for a fee not in the lease. (Maine Rev. Stat. Ann. tit. 10 Sec. 9093 requires all fees to be disclosed before the resident assumes occupancy and prohibits liability for undisclosed fees, assessments, or charges.) For utility service, the model law allows charges to be based on use only if residents have individual meters. The operator's charges must be based on either prevailing residential rates or the actual cost to the operator. The operator must post the rates and give the residents detailed periodic invoices. To prevent arbitrary termination of operator-supplied utility service, the operator must abide by the same termination procedures that apply to regulated utility companies.

Competitors should be allowed to offer the same services, unless there is a valid justification for the monopoly. The model law prohibits any manufactured housing community operator from engaging in practices that directly or indirectly reduce the effects of such competition. The operator may, however, perform snow removal, lawn care, or similar site maintenance and charge reasonable fees for these services if the homeowner fails to do such maintenance, in accordance with the rules and regulations of the community, after receiving written notification and failing to comply. Cal. Civ. Code Sec. 798.36 and Wis. Admin. Code ATCP Sec. 125.04 have similar provisions.

Particularly when services are purchased from the manufactured housing community operator, prices should not change from those specified in the long-term lease, and the model law provides for this. Of course, the lease could indicate that the prices of

those charges increase each year or increase with the cost of fuel according to some formula. Operators must disclose how they compute fuel adjustment increases or other price formulas allowed by the lease. Certain fees—such as credit checks—should be limited to the operator’s actual out-of-pocket expense.

Certain fees should be specifically prohibited, because they can better be subsumed in the rent: entrance and exit fees (19 states already ban entrance fees and 16 ban exit fees); fees for installation of appliances, unless there is some special cost to the community operator; and fees for allowing resale or subleasing of the home.

A particular fee that concerns manufactured housing community residents is charging for additional family members or extra people. This issue affects families but can also be a serious issue for older persons who might want someone to live with them and help care for them. The justification that operators have for charging for additional occupants is the cost of additional water usage, trash, use of common facilities, and so on. When it is signed, the lease should specify the number of occupants and the rent for that number. There should be no extra charges for any immediate family member who later also occupies the home. (In California, for example, no fee is permitted for immediate family, which includes spouse, children, and parents.) If the operator wishes to charge for extra, nonfamily members who were not listed in the original lease, the lease must clearly disclose in advance the amount of those charges.

The model law prohibits extra fees for short-term guests and includes a definition of “short-term guest” so that disputes and

misunderstandings will be minimized. (See Pa. Cons. Stat. tit. 68 Sec. 398.8.) Similarly, it prohibits pet fees unless the operator makes special arrangements to house them or provide them with special facilities (Cal. Civ. Code Sec. 798.38).

Sec. 106 Community Rules

- (a) The manufactured housing community operator may promulgate rules governing the rental occupancy of a manufactured home lot and the use of common areas and facilities, but no such rule shall be unreasonable, unfair, or unconscionable.
- (b) Any rule which does not apply uniformly to all manufactured home residents of a similar class shall create a rebuttable presumption that such rule or change in rule is unfair.
- (c) All rules must be enforced uniformly as to all residents to whom they apply.
- (d) Each common area facility shall be open or available to residents at all reasonable hours, and the hours of the common recreational facility shall be posted at the facility.
- (e) The operator may not prohibit residents from having such guests and visitors as they choose. The operator may, however, impose a guest fee in the circumstances set forth in Sec.105(c)(v) and may forbid a guest or visitor who has violated a rule or engaged in disorderly conduct or a crime in the manufactured housing community.
- (f) If a bona fide resident association exists for a manufactured housing community,

then no change in a rule shall be implemented without the approval of such organization. If such approval is withheld, the operator may initiate a procedure to determine if the change in the rules should be implemented by notifying the resident association of its intent to submit the dispute to arbitration pursuant to Sec. 115. The resident association may elect to resolve the dispute instead through a court proceeding or submission of the dispute to the [state attorney general office or other appropriate state agency]. If the arbitrator, court, or [state attorney general office or other appropriate state agency] finds that the rule change is unreasonable, unfair, or unconscionable, it may not be implemented.

- (g) Except in a bona fide emergency, no change in a rule shall be effective until at least 60 days after the residents receive notice of the change.
- (h) An operator's rules may require residents to maintain their homes but may not require residents to replace or remove older homes or to make upgrades or improvements to a home that are not health- or safety-related.
- (i) Whenever a rule is enforced against a resident, the resident may seek judicial review of said rule.
- (j) The following rules shall be prohibited:
[list].

Discussion: *In the absence of state law to the contrary, community management can arbitrarily change the terms and conditions of living in the community. This includes standards for the quality and appearance of the home and surrounding lot, such as*

requiring the installation of underskirting, screen porches, and particular types of siding or roof styles and specifying where cars can be parked. Other rules may control the behavior of the tenant and members of the tenant's household, such as no pets, no guests, no babysitting of children from outside the community, no gardening, no more than one car, no car repairs on the premises, no washing machines, or no pulley clotheslines.

The rules may even restrict the number of people in the home, including children. The rules may also restrict where children play or may unreasonably limit the resident's ability to benefit from promised recreational and community facilities.

Unless state law or the community rules specify otherwise, rules and regulations are totally within the operator's control and can be changed at the operator's discretion, with no notice and no appeal. Moreover, many people we interviewed complained that the rules, even if reasonable, are often arbitrarily enforced.

The first approach a statute could take would be to prohibit an operator from enacting certain types of rules. Although the rules prohibited may vary with local conditions, examples that could be prohibited are rules that would do the following:

- *restrict the use of "For Sale" signs,*
- *restrict babysitting,*
- *require the purchase of equipment from one particular vendor,*
- *deny a resident the opportunity to take appurtenances when he or she leaves the manufactured housing community,*

- *restrict the number of people living in the home even if it is within the legal limit,*
- *impose construction standards that are stricter than state or federal standards,*
- *ban old homes from the community, and,*
- *require the purchase of overly expensive equipment merely for aesthetic purposes.*

A second approach would require all community rules to meet general statutory standards. The Massachusetts statutory provision (Mass. Gen. Laws ch. 140 Sec. 32L) states that manufactured housing community rules shall not be “unreasonable, unfair, or unconscionable.” When an operator challenged this as being unconstitutionally vague in Commonwealth v. Gustafsson, 346 N.E.2d. 706 (Mass. 1976), the Massachusetts Supreme Judicial Court upheld the law, stating:

(T)he due process clause does not require great exactitude of statutes which regulate business activities. Regulation of trade practices must be in broad terms in order to prevent circumvention of statutory purposes by new and ingenious ways that were unknown when the statute was enacted. Therefore, the meaning and application of terms must be arrived at by the gradual process of judicial inclusion and exclusion.

The court went on to say:

Although the words “unfair,” “unreasonable,” “unconscionable,” and “deceptive” may appear to lack specificity, if considered in the abstract, we believe that their

meaning may be determined from the circumstances of each case. A court may be guided by the text of the statute and a consideration of the abuses sought to be remedied by its enactment.

The model law generally takes the second approach, requiring all rules to be reasonable, fair, and conscionable. In addition, it prohibits certain restrictions on guests and visitors, rules that require older homes to be removed or upgraded aesthetically, and (see Sec. 109) restrictions on speech, meetings, and similar activities by residents. The model law also allows a legislature to specify in Sec. 106(j) additional rules that are prohibited.

The remaining issue is what procedures should be available for review of changes in the community rules. Because there are many existing rules, the same review mechanism should probably apply to existing community rules.

One effective approach for reviewing community rules is to have the rules reviewed by a government agency such as a manufactured housing community regulator or attorney general’s office, because it is difficult to define in a statute precisely what is and what is not reasonable. In Massachusetts, the attorney general’s office reviews all manufactured housing community rules, although it is a burden for the staff to do this. When the rules seem unreasonable, an assistant attorney general attempts to negotiate with the operator to modify the rules. The assistant attorney general also has the authority to bring suit against the operator if the rules are unreasonable.

The key is probably to require approval before a new rule goes into effect, as opposed to the state's being able to challenge a rule after the fact. In either case, there are obvious problems with relying on a state agency to review in a timely and effective fashion each rule enacted in the state.

One method of minimizing this burden would be to allow rules to go into effect without state approval if the rule change has been approved by a bona fide resident organization. This would also have the effect of encouraging resident organizations.

Another approach would be to eliminate government involvement and require that, if there is a tenant organization in a manufactured housing community, no changes in community rules, as specified in residents' leases, can be made without the approval of the tenant organization. The model law adopts this approach. If approval is not forthcoming, the operator can submit the rule change to binding arbitration or, at the tenant organization's objection, to a court or the state agency. This mechanism should work well in communities with tenant organizations but leaves open the question about communities without such organizations. One possibility is to require that, in cases where there is no tenant organization, the proposed rule change must be submitted directly to the state agency. However, because of the administrative costs involved, this could generate concern among legislators in a tight fiscal environment and is not included in the current model statute.

A third approach would be to give an individual tenant the right to challenge changes in rules in court. The model law adopts this approach in part by allowing a

resident against whom a rule is enforced to seek judicial review of the rule (Sec. 106(i)). In addition, if the operator seeks to evict a resident because of rule violations, he or she has the burden under Sec. 110(c) of demonstrating to the court that the rule is not unfair, unreasonable, or unconscionable.

An alternate approach would be to limit the effectiveness of a rule change that has not been approved by a government agency, tenant organization, or arbitrator. It cannot be grounds for eviction. Instead, the operator can take the tenant to court, and if the court finds that the community rule meets statutory standards, the court can order the tenant to comply or be evicted. The statute would explicitly require the court to give the resident a right to cure before the eviction order. This approach has the attraction of being fairly streamlined, but the disadvantage is that it leaves rules in limbo until a manufactured housing community operator takes a resident to court for a violation. Because fair, reasonable, uniformly enforced rules benefit both operators and residents, the model law opts for allowing rule changes to go into effect upon approval by a tenant organization or a state agency.

In order to prevent the arbitrary enforcement of rules and regulations, the model law requires fair and uniform application of rules to all residents. Stiff penalties (through either state actions or private lawsuits) are available under Secs. 116 and 117 for the violation of this provision. The New York statute (N.Y. Real Prop. Law Sec. 233(f)(2)) indicates that if a rule is not uniformly applied to all tenants of the manufactured housing community, there shall be a rebuttable presumption that such

rule or regulation is prohibited by the statute.

Many manufactured housing communities do not allow older manufactured homes to move in. The model law allows operators to keep such policies. However, far more harmful are policies that require a resident to upgrade or remove the home once it reaches a certain age or that require residents to pay for aesthetic improvements to the home such as roof pitch. Rules of this sort are confiscatory. Their practical effect is to deprive the resident of the equity in the home. Because it is often impossible to find a manufactured housing community to move an older home to, these rules force the resident to make expensive upgrades or buy a new home. Operators who are involved in selling manufactured homes have an interest in creating this artificial market for new homes. The model law prohibits operators from requiring residents to get rid of older homes or to make aesthetic upgrades to them, but allows the operator to require upgrades that relate to health or safety.

Sec. 107 Lease Disclosures, Terms

- (a) All rental agreements and renewal agreements shall be in writing and signed by the manufactured housing community operator or manager and the resident. The operator shall give the prospective resident a copy of the community's standard rental agreement, with all community rules and attachments, and the pamphlet required by Subsection (e), at the time the prospective resident initially contacts the operator or manager concerning a prospective vacancy, and a completed agreement after the rental agreement has been signed by all parties.
- (b) Any rental agreement or renewal agreement shall contain, but is not limited to, the following provisions:
- i. The rental term, which shall be at least two years, and a statement of the resident's right to a two-year renewal agreement at a fair market value.
 - ii. The monthly rental amount and the method for specifically determining the amount of any changes in rent over the lease term. If the rent amount changes over the term of the lease, and the lease does not specify the dollar amount of the subsequent rent levels, the rental agreement shall clearly set forth the formula or method for determining those changes and must also give clear and realistic examples of how such formula or method would work in each year of the lease term. The formula or method must be based on objective, measurable factors that are not within the community operator's control.
 - iii. The rules of the manufactured housing community.
 - iv. A warranty of habitability, as specified in Sec. 108.
 - v. A description of the community operator's maintenance responsibilities.
 - vi. A list of facilities and services which the community operator will provide.
 - vii. Any late charges, fees, or charges for services, including any increases during the term of the lease. If the amount of fees or charges changes

- over the term of the lease, and the lease does not specify the dollar amount of the subsequent levels of fees or charges, the rental agreement must clearly set forth the formula or method for determining those changes and must also give clear and realistic examples of how such formula or method would work in each year of the lease term. The formula or method must be based on objective, measurable factors that are not within the community operator's control.
- viii. Disclosure of the community operator's reservation of the right to evict a resident for a change in the use of the property during the lease term.
 - ix. If there is a temporary zoning permit for the use of the land, the date when the zoning permit expires.
 - x. A description of the resident's manufactured home site and its address or site number, and the number and location of any accompanying automobile parking spaces.
 - xi. The community operator's name and address for the delivery of all official notices, and also the name and telephone number of the individual who can be contacted for emergency maintenance, pursuant to Subsection 108(c).
 - xii. The amount of any security deposit required by the community operator.
 - xiii. Any penalties the community operator may impose for the resident's early termination.
 - xiv. The grounds for eviction.
 - xv. All other terms or conditions of occupancy.
 - xvi. A prominent disclosure that the resident's rights and community operator's obligations are set out in a pamphlet attached to the rental agreement.
 - xvii. A prominent disclosure that the resident can cancel the rental agreement with no obligation for the next seven calendar days after signing the agreement.
- (c) Any provision for rent increases or increases in fees over the term of the lease shall be initialed by the resident.
 - (d) The rental agreement shall be clearly written in understandable language, in at least 10-point type, typewriter, or legible handwriting, in a form and presentation approved by the [attorney general or similar state agency].
 - (e) The [attorney general or other appropriate state agency] shall produce and disseminate within 90 days of the effective date of this statute a pamphlet setting forth clearly and in detail all the resident's rights and community operator's obligations as set forth in this statute.
 - (f) The community operator shall attach one copy of the pamphlet specified in Subsection (e) to each rental agreement.
 - (g) No rental agreement shall contain any terms which are illegal, unfair, unconscionable, or unenforceable.

Discussion: *The advantage of a long-term lease is that there are no surprises, and the consumer has at least some leverage in bargaining for rent. Further, without the*

provisions of 4Sec. 104, once the consumer owns a home installed on the site, there is little choice but to accept whatever rent increases the operator wishes. Because of the complexity of a manufactured housing community lease, Sec. 104 of the model law gives the consumer a five-day cooling-off period to back out of the lease without penalty.

The model law's disclosure provision requires that the lease be in writing and be delivered to the prospective resident before he or she moves into the community. The lease must contain specific identification of the site to be leased; the amount of rent for the site, including any built-in increases; the term of payment; the amount of any late fee; all other fees; a description of all services and facilities that the community operator will provide; rules and regulations of the community; and a description of any termination and renewal option. Built-in increases cannot be based on factors within in the community operator's control. (This is a concept taken from the Truth in Lending Act's restrictions on interest rate increases for home equity loans, which cannot be based on an internal index, such as a bank's own prime rate, that is under the control of the lender.) Also, there are requirements to improve the clarity and legibility of the lease requirements. Additional disclosure requirements are discussed in other sections.

In addition, the model law closely regulates lease terms. Various unconscionable and unfair terms are prohibited by other sections. This section forbids, in general language, all illegal, unfair, unconscionable, or unenforceable terms.

Sec. 108 Warranty of Habitability, Community Operator's Obligations, Resident Self-Help

Warranty of Habitability

- (a) In any rental agreement, the community operator is deemed to covenant and warrant that the premises so leased or rented and all areas used in connection therewith in common with other manufactured home residents, including roads within the manufactured home community, are fit for human habitation and for the uses reasonably intended by the parties and that the occupants of such premises shall not be subject to any conditions which would be dangerous, hazardous, or detrimental to their life, health, or safety.

Community Operator's Obligations

- (b) The community operator shall:
- i. Comply with codes, statutes, ordinances, and administrative rules applicable to the manufactured housing community.
 - ii. Maintain all common areas of the community in a clean and safe condition and provide access to common areas, including improvements and buildings thereto, at reasonable times for the benefit of the community residents and their guests.
 - iii. Maintain street lights, entry lights, and common area lighting, if any, in good working order.
 - iv. Maintain in good working order all electrical, plumbing, sanitary, heating, ventilation, and air

- conditioning units and appliances and recreational facilities that it furnishes.
- v. Provide reliable sewage disposal that is adequate to meet the needs of all the residents in the manufactured housing community.
 - vi. Maintain and protect all utilities provided to the manufactured home and keep water and sewer lines in good working condition. Maintenance responsibility shall extend to that point where the normal manufactured home utility “hook-ups” connect to those provided by the community operator or utility company.
 - vii. Maintain in a safe and secure location individual mailboxes for the residents.
 - viii. Maintain roads and, where present, sidewalks within the manufactured housing community in good and safe condition. Such maintenance shall include snow removal, adequate drainage, and water supply, and the community operator shall be responsible for damage to any vehicle which is the direct result of any unrepaired or poorly maintained access road within the community.
 - ix. Take reasonable steps to exterminate insects, rodents, vermin, or other pests dangerous to the health and safety of the resident whenever infestation exists on the common premises or in the interior of a manufactured home as a result of infestation existing on the common premises.
 - x. Maintain the premises and regrade them when necessary to prevent the accumulation of stagnant water and the detrimental effects of moving water.
 - xi. Take all necessary steps to maintain the integrity of the foundation of the resident’s manufactured home.
 - xii. Keep the common areas of the manufactured housing community free from any species of weed or plant growth that are noxious or detrimental to the health of the residents.
 - xiii. Provide for the removal of garbage, rubbish, and other waste incidental to the occupancy of the manufactured housing space.
 - xiv. Cooperate with and assist residents in applying for property tax abatements, as applicable.
 - xv. Comply with community rules and require other persons on the premises with his or her consent to comply therewith and conduct themselves in a manner that does not unreasonably disturb the community residents or constitute a breach of the peace.
- (c) The community operator shall give individual written notice to residents no less than 72 hours prior to an interruption in utility service, provided that the interruption is not due to an emergency or circumstances beyond the community operator’s control.
 - (d) The community operator shall authorize a manager, assistant manager, or other employee to make repairs that are the responsibility of the community operator or enter into a contract with a third party for such repairs. The community operator shall contract with a third party to provide emergency repairs that are the responsibility of the community operator

on occasions when the manager, assistant manager, or other designated employee are not physically present in the community, and shall notify each resident in writing of the telephone number where such third party may be reached directly.

Self-Help for Defects

- (e) If the community operator fails to comply with Subsections (a), (b), or (d), the resident may recover damages for the breach under Sec. 116 and also may notify the community operator of the resident's intention to correct the condition at the community operator's expense. After being notified by the resident in writing, if the community operator fails to comply within 15 days or more promptly as conditions reasonably require in case of emergency, the resident may cause the work to be done by a contractor and, after submitting to the community operator an itemized statement, deduct from the resident's rent the actual and reasonable cost of the work.

***Discussion:** The lack of community maintenance is one of the chief complaints of manufactured housing community residents. Local departments of health usually have enforcement responsibility, and the quality of such enforcement can vary from state to state. Community facilities often fall into disrepair, septic systems back up, and roads become a series of potholes while the resident is paying the same amount of rent or incurring rent increases.*

One major problem is the lack of an adequate septic system. Manufactured housing communities can outgrow their sewage disposal capacity, and operators are

often reluctant to expand capacity or upgrade the system because of the cost. Old septic systems are expensive to upgrade. Consequently, some manufactured housing communities have faced very serious problems with sewage overflow, especially during rainstorms. Sewage is one of the reasons residents will contact their state's department of health. However, when they contact the department of health, residents risk having the state close the manufactured housing community completely until the operator complies with the sanitary code.

In order to remedy these problems, a manufactured home statute, like landlord-tenant statutes, could contain a warranty of habitability. Such a warranty would require that community operators maintain the communities in a fit and habitable condition and that all facilities be kept in good working order. The community operator would be required to maintain running water, an adequate septic system, electricity, and so on. With a warrant of habitability, if a landlord fails to provide a fit and habitable condition, the tenant(s) could seek actual damages in a court of law.

In addition, the statute could delineate as specifically as possible the responsibilities of the community operator and the responsibilities of the resident for maintenance. This division of responsibility could be clearly stated in the lease and disclosed prominently in the manufactured housing community itself. The community operator's responsibility could be clearly defined for plumbing, electricity, and septic maintenance. For example, the operator could be responsible for maintenance up to the point of hookup, and the resident responsible for maintenance after the hookup point. Other maintenance issues like snow plowing can be resolved in this

manner. For example, the resident must clear his or her own driveway, but the operator could be required to plow the roads in the community.

Though not a part of the current model statute, remedies for community maintenance problems could include the following actions:

- **Rent Withholding.** Rent withholding is an effective means of addressing minor problems in the community. The statute could set out clear standards as to residents' right to withhold rent without facing eviction or other retaliation. These standards could be similar to those found in landlord-tenant legislation.
- **Receivership.** The remedy of receivership can be important, particularly with an absentee community owner or an owner grossly negligent in his or her duties. Receivership will be particularly effective to remedy major problems in the community, such as a lack of running water or electricity, an inadequate septic system, or any other condition imminently dangerous to the life, health, or safety of the residents.
- **Regular Court Action.** Major problems with the manufactured housing community's infrastructure could also be remedied by regular court action. There could be significant remedies available if community residents brought an owner to court—attorney's fees, minimum damages of several months' rent, and punitive damages.

One other example of community owner misconduct is worth discussing. While there

are enormous variations from state to state regarding property tax on manufactured homes, the tenant always pays it, either directly or more often indirectly, through the community operator. Even when the community operator pays the tax, an elderly resident may be eligible for a property tax abatement under local laws. If such abatement exists, the community operator might not be aware of it or might not pass on the property tax rebate to the resident. Depending on existing state and local law regarding abatement, it may be appropriate to include a provision that operators cooperate with resident efforts to secure property tax abatements

Sec. 109 Resident Associations, Retaliatory Conduct, Harassment of Associations, Manufactured Housing Community Operator Right of Entry

Resident Associations

- (a) The membership of a resident association may elect officers of the association at a meeting at which a majority of members are present. Except in emergency situations, there shall be seven days' notice to all residents of any association meeting. All residents may attend meetings, but the community operator and his or her employees shall not be members and shall not attend meetings unless specifically invited to a particular part of a meeting. A resident association may not impose fees, dues, or assessments upon its members or the residents unless two-thirds of the members or residents agree to the specific fees, dues, or assessments. No officer or member of a resident association is personally financially

responsible for the acts or omissions of the association or any other officers or members of the association.

Retaliatory Conduct

- (b) It is unlawful for a community operator to increase a resident's rent or decrease services, alter or refuse to renew an existing rental agreement, impose a fee in violation of Sec. 104(f), change community rules, enforce community rules in an unreasonable or non-uniform manner, bring or threaten to bring an action for eviction or other civil action, or take any other action in retaliation after:
 - i. The resident has expressed an intention to complain or has complained to a governmental agency about conditions in the manufactured housing community.
 - ii. The resident has made any complaint in good faith to the community operator.
 - iii. The resident has filed or expressed an intention to file a lawsuit or administrative action against the community operator.
 - iv. The resident has expressed an intent to organize or has organized or is a member of a resident association.
 - v. The resident has expressed an intent to abate rent or has abated rent pursuant to Sec. 108(e) for the actual and reasonable cost of a contractor to conduct repairs.
 - vi. The resident has performed or expressed intent to perform any other act for the purpose of asserting, protecting, or invoking the protection

of any right secured to residents under any federal, state, or local law.

- (c) Any attempt to evict a resident, except for nonpayment of rent, within six months after the resident has taken such action shall create a reputable presumption that the eviction action is in retaliation against the resident.

Harassment of Resident Associations

- (d) No community operator shall harass or threaten any resident association or engage in any unfair or deceptive conduct to inhibit or interfere with the creation or operation of such association by the residents.

Resident Meetings

- (e) The community operator shall permit meetings by any resident association or residents relating to manufactured home living or for social or educational purposes, including forums for or speeches by public officials or candidates for public office.
- (f) No community operator shall prohibit or adopt any rule prohibiting any resident or resident association or person from:
 - i. Peacefully organizing, assembling, canvassing, petitioning, leafleting, distributing, or otherwise exercising within the community the right of free expression for noncommercial purposes. A community operator may adopt and enforce rules that set reasonable limits as to time, place, and manner.
 - ii. Meeting, with the consent of the resident, in any manufactured home within the community.

(g) The community operator shall permit the resident association to use the common areas and facilities of the community to conduct its meetings and programs.

(h) The community operator shall not charge a resident or resident association a fee to use the common areas or facilities for meetings of the resident association or any of the purposes stated in this section in excess of the fee normally and uniformly charged for use of the common areas or facilities.

(i) The community operator shall not require a resident or resident association to obtain liability insurance in order to use the common areas or facilities of the community for the purposes specified in this section. However, if alcoholic beverages are permitted in common areas or facilities by community rules and are to be served at a meeting or private function, the community operator may require liability insurance.

(j) The community operator shall meet and consult with residents upon written request, within 30 days of the request, either individually, collectively, or with representatives of a group of residents who have signed a request to be so represented on the following matters:

- i. Amendments to community rules and regulations.
- ii. Standards for maintenance of physical improvements in the manufactured housing community.
- iii. Addition, alteration, or deletion of services, equipment, or physical improvements.
- iv. Any increase, or proposed increase, in rent or imposition of a service charge or other fee.

v. Any proposed change or alteration in the rental agreement.

Right of Entry

(k) Except in the case of an emergency or when the resident has abandoned the manufactured home, the community operator shall have no right of entry to a manufactured home without the prior written consent of the resident. Such consent may be revoked in writing by the resident at any time. The community operator shall have a right of entry upon the land where a manufactured home is situated for maintenance of utilities, for maintenance of the premises, and protection of the manufactured housing community, at any reasonable time, but not in a manner or at a time which would interfere with the resident's quiet enjoyment.

***Discussion:** Some community operators may retaliate against residents who have filed complaints or have otherwise attempted to assert their legal rights. The most direct form of retaliation is the eviction of residents who have complained to the operator or government agencies about community conditions or have filed lawsuits against the owner of the community. Operators may also retaliate against an individual resident by selectively enforcing community rules, discriminatorily increasing rent or fees, or decreasing services. Imposing a fee or increasing rent in response to a fine or penalty assessed for a violation of the law is also an act of retaliation. That fine or penalty probably was the result of residents' complaints.*

Prohibiting resident associations from meeting or organizing on the community premises is another form of harassment and

retaliation against residents. The ability to form resident associations and the ability of those associations to meet in the community is critical to leveling the imbalance of power between residents and operators. Such associations are important advocates of residents' rights and often are the source of solutions for residents' problems. Associations can police community operator compliance with the law and help residents negotiate community rules, service charges, and rentals. They are key to any effort to purchase the community as a cooperative. Special care should be taken to prohibit conduct that discourages resident associations, including the harassment of residents who participate in them. Elderly residents, who make up a substantial portion of community residents, are particularly susceptible to such harassment. Community operators may try to discourage meetings by denying residents and associations the right to use the common areas and facilities for meetings or impose burdensome requirements, such as insurance or substantial fees.

One solution to the problem of retaliation would be a strongly worded provision prohibiting retaliatory conduct by the community operator. Resident associations would be permitted to meet on the community premises and post announcements of resident meetings. Moreover, operators would be prohibited from taking any retaliatory action, such as threats to evict, eviction, or selective enforcement of community rules after a resident has joined such an association or has lodged a complaint to the operator, board of health, department of public health, the state's attorney general, or any other appropriate government agency. Residents could also be protected from retaliation after filing lawsuits against community operators or after withholding

rent because of an operator's failure to carry out his or her duties under the statute or lease. The receipt of a notice of termination within six months after making such a complaint could create a reputable presumption that such notice is retaliatory. (See Mass. Gen. laws ch. 140 Sec. 32N.) There could also be stiff penalties for any indirect methods used by a community operator to force a resident out, such as padlocking the home, shutting off utilities, or making threats of bodily harm.

Sec. 110 Grounds for Eviction, Right to Cure, Eviction, Foreclosure Procedures

Grounds for Termination of Rental Agreement

- (a) The community operator may terminate the rental agreement only by following the procedures as set out in Subsection (d) and for only one or more of the following reasons:
 - i. Nonpayment of rent, as specified in Subsection (b).
 - ii. Violation of a community rule, as specified in Subsection (c).
 - iii. Disorderly conduct that results in disruption of the rights of others to the peaceful enjoyment and use of the premises, endangers other residents or community personnel, or causes substantial damage to the community premises.
 - iv. The resident's conviction of a crime, commission of which threatens the health, safety, or welfare of the other residents or the community operator, all as specified in Subsection (c).

- v. Changes in the use of the land if the requirements of Sec. 113 are met.
 - vi. The resident's refusal to enter into a renewal lease, provided that the community operator shows that it followed the procedures required by Sec. 104.
- (b) No community operator may institute eviction procedures as set out in Subsection (d) for nonpayment of rent until 45 days have elapsed from the date the resident receives notice that rent is delinquent, and only if the resident has not tendered that delinquent payment during that 45-day period. The notice must state the total amount of rent due, including an itemization, and must inform the resident that the community operator intends to commence an eviction proceeding unless the resident makes the delinquent payment within 45 days. Nonpayment of any fees, late charges, utility charges, or any charges that violate Sec. 105 is not grounds for eviction. Any payment made by a resident to a community operator shall be attributed first to delinquent rent payments, then to current rent payments, and last to fees, charges, or late fees. The community operator's refusal to accept rent from a resident is not nonpayment of rent and is not grounds for eviction. Withholding rent in good faith under Sec. 108(e) is not nonpayment of rent and is not grounds for eviction.
- (c) Violation of a community rule or regulation shall only be grounds for eviction if all the following conditions are met: the rule has been properly promulgated pursuant to Sec. 106; the rule is not unfair, unreasonable, or unconscionable; the resident has had at

least 60 days' notice of the rule before the violation took place; the rule violation is likely to continue or recur; and the continuing violation would have a significant adverse impact on the community or its residents. A rule violation may not be determined likely to recur unless the community operator gave the resident written notice of the violation, specifying the persons involved and its date, approximate time, and nature, and the resident failed to correct the violation or, in the case of a periodic rather than continuous violation, the violation recurred with such a frequency as to indicate that it is likely to have a significant adverse impact on the community or its residents. Violation of a rule is not a ground for eviction if the resident shows that it was not enforced uniformly within the community. The conduct set out in Subsection (a)(iii) or (iv) shall only be grounds for eviction if there is a likelihood of future conduct that would also be grounds for eviction pursuant to that subsection. There is no such likelihood if the conduct or conviction was committed by a member of the resident's household, and not by the resident, and such other person is no longer living in the home and is not likely to return to the home.

Eviction, Foreclosure Proceedings

- (d) The community operator may terminate the rental agreement or evict the resident only by court process. The grounds for eviction must be alleged in detail in the complaint, including the date, time, persons involved, and nature of any rule violation or disorderly conduct, and the date, person involved, case number, court, and offense for any criminal

conviction. If the eviction is based on nonpayment of rent, a statement of the resident's account that shows all debits and credits from the time of the last zero balance must be attached to or set forth in the complaint. The court shall enter an eviction order only if the community operator proves the grounds for eviction set out in the complaint, and those grounds meet the standards set forth in this section. No eviction shall be ordered if the court determines that the eviction proceeding is in retaliation for the resident's conduct, as set out in Subsection 109(b) or (c).

- (e) In any eviction action for nonpayment of rent, the resident shall be entitled to raise, by defense or counterclaim, any claim against the community operator relating to or arising out of such tenancy for breach of warranty, breach of the rental agreement, or violation of any law. The amounts which the resident may claim hereunder shall include, but shall not be limited to, the difference between the agreed-upon rent and the fair value of the use and occupancy of the manufactured home lot, any amounts reasonably spent by the resident to repair defects in the manufactured housing community, and any damages as set out in Sec. 116. The court, after hearing the case, may require the resident claiming under this section to deposit with the clerk of the court the fair value of the use and occupation of the premises less the amount awarded the resident for any claim under this section, or such installments thereof from time to time as the court may direct, for the occupation of the premises. Such funds may be expended for the repair of the premises by such persons as the court after hearing may direct, including, if appropriate,

a receiver. When all of the conditions found by the court have been corrected, the court shall direct that the balance of funds, if any, remaining with the clerk be paid to the community operator. If the amount found by the court to be due the community operator equals or is less than the amount found to be due the resident, no eviction shall be ordered.

- (f) Any court order for eviction based on the resident's nonpayment of rent shall specify that the sheriff or constable shall not execute upon the eviction order for at least 30 days after the court order. If the order is based on nonpayment of rent, it shall specify that the resident can cure the eviction order by paying the full amount due up until the time the resident is actually evicted by the sheriff or constable. If the order is based on rule violations that are amendable to correction by the resident, it shall specify conditions whereby the resident can cure the violation and remain in the tenancy and the time period for affecting a cure.
- (g) Notwithstanding [Uniform Commercial Code Sec. 9-609], a secured party, in taking possession of a manufactured home, must proceed through judicial process.

Right to Sell Home upon Eviction

- (h) A resident who has been evicted from the community shall have 120 days in which to sell the resident's manufactured home in the community. Such resident shall be responsible for paying the rental amount and for regular maintenance of the manufactured home lot during such 120-day period. During that period no one may reside in the

home. The community shall have a lien on the home to the extent such payments are not made or such maintenance is not performed but shall not be allowed to execute on the home for this or any other lien or judgment during such 120-day period. If the home is sold, any lien or judgment held by the community shall be satisfied out of the proceeds of the sale, following the priority rules established by the Uniform Commercial Code and other law.

Exclusive Procedure

- (i) This section provides the exclusive procedure and grounds for removing, ejecting, or evicting a resident, regardless of any purported termination of the lease and regardless of whether the resident's original lease has expired or been renewed. The community operator's termination of or refusal to renew a lease on any grounds is ineffective unless and until the community operator has obtained a court order under this section.

***Discussion:** As described earlier, a "mobile" home is not mobile. An eviction could cost the consumer many thousands of dollars in moving costs, plus possible structural damage to the home. If the eviction is for nonpayment of rent, the resident's ability to afford the moving charges is probably out of the question. In addition, the manufactured housing community shortage in many states may preclude moving the home. If the eviction is for the tenant's conduct, it is unlikely another landlord in the area will accept the individual, particularly in a tight rental market.*

The nature of eviction gives the landlord extraordinary power over the tenant. The only viable response to an eviction may be the sale of the home to the operator, possibly for a fraction of its worth, and possibly for a fraction of what the tenant still owes the institution that financed the home. The tenant might have to leave with no equity, or even owing a sizable debt to the manufactured home financier.

In many respects, manufactured housing community evictions are much closer to home foreclosures than they are to apartment evictions. As such, community residents should receive many of the protections afforded homeowners faced with foreclosure. Although it is important that community owners be permitted to evict residents for "good cause," residents should have ample time to cure any violations of the rental agreement or community rules so that they cannot be forced to leave the community in a matter of a few days.

Most states with manufactured home statutes have a "good cause" provision. The typical "causes" for eviction are (1) nonpayment of rent or utility charges, (2) violation of any rule or regulation of the manufactured housing community, (3) violation of any laws or ordinances that protect the health or safety of other manufactured housing community residents, and (4) a change in use of the land (this cause will be addressed in a later section).

While nonpayment of rent is a valid reason for eviction, nonpayment of a utility charge may not be. Under the model law, nonpayment of a utility charge justifies only a termination of utility service.

Similarly, as discussed in an earlier section, other charges community operators attempt

to assess may be included in the rent. If there is a separate charge for these extraneous items, it could be an optional service, based on the resident's actual use of that service. As with utilities, nonpayment of such a charge under the model law leads only to termination of the service and a legal action for nonpayment of the debt; it does not lead to eviction.

In addition, the model law specifies that all payments received by a community operator go to rent first and not to these other charges. This provision will prevent a community owner from circumventing the above rule by applying rent payments to other charges instead and then evicting the resident for nonpayment of rent.

Late charges present similar issues. There is often much tenant confusion and misunderstanding as to what late charges are owed. The community operator may even create new late charges because a full rent payment is applied partially to late charges, making that month's rent payment incomplete and thus late. The model law allows reasonable late charges but requires that all payments must first be applied to rent, and there can be no eviction for nonpayment of late charges where rents are current. Eviction is too onerous to be based on late charges.

Because eviction is such an onerous remedy, the resident's right to cure should be similar to those for a home foreclosure. In some states, there is a statutory right to redeem a home even after the foreclosure sale. For a manufactured home eviction, the resident should be able to cure nonpayment of up until the very last feasible moment. As discussed below, we recommend a court procedure for any eviction. Until a physical eviction occurs properly pursuant to a court

order, the tenant should be able to tender back rent and stave off the eviction, assuming, of course, the eviction is based solely on nonpayment of rent. If the eviction order is based on rule violations (such as failure to replace deteriorated skirting) that are amenable to correction by the resident, the model law also requires that the resident be given the opportunity to cure the violation even after the eviction order is entered.

To more nearly approximate rights under other home foreclosure and landlord-tenant laws, the model law requires a 45-day grace period before the community operator can begin the eviction process. During this time the resident has the opportunity to catch up on the rent.

One final but very important issue concerning nonpayment of rent involves rent withholding where a community operator is not meeting his or her obligations. Many state landlord-tenant laws have rent withholding provisions that can serve as examples. The model law establishes that withholding rent for these reasons is not grounds for eviction. If the court finds that a community operator has pursued an eviction proceeding despite the good-faith withholding of rent, the court can award the resident attorney's fees and a statutory penalty of two months' rent under Sec. 116.

Violation of some community rules may be valid cause for eviction; violation of others may not. For instance, driving five miles over the speed limit in the community one time clearly should not be good cause for termination of the lease. But continuous violations of a rule that seriously threaten the health or safety of other community residents is good cause for eviction under the model law. This approach is consistent

with that of other states. For example, California has a provision for eviction for “conduct by the home owner or resident, upon the community premises, which constitutes a substantial annoyance to other homeowners or residents” (Cal. Civ. Code Sec. 798.56(b)). Wisconsin’s provision, similar to California’s but slightly preferable because it is a little more specific, allows eviction for “disorderly conduct that results in a disruption to the rights of others to the peaceful enjoyment and use of the premises” (Wisc. Stat. Sec. 710.15(b)).

The Minnesota statute (Minn. Stat. Sec. 327.C09) allows eviction if the resident acts in the community in a manner that endangers other residents or community personnel, causes substantial damage to the community premises, or substantially annoys other residents. In addition, Minnesota allows eviction when the resident has repeatedly committed serious violations of the rental agreement, or provisions of a local ordinance or state law, or state rule relating to manufactured homes, and the community owner has given the resident written notice of the violations and a written warning against any future serious violation.

A related issue concerns the resident who is threatened with eviction for a violation committed by a child, friend, or spouse who has moved from the premises and can reasonably be expected not to return. Notice issues are important in these instances. For example, it is crucial for an individual to receive notice of his or her spouse’s violation if the spouse has moved so that he or she can defend against a threatened eviction.

Allowing adequate time to cure a violation of a rule is an important part of any termination provision. Massachusetts allows 15 days to cure a violation (Mass. Gen. Law ch. 140 Sec. 32J). Minnesota allows 30 days (Minn. Stat. Sec. 327C.09). Thirty or even 60 days seems more reasonable when there may be violations that involve making repairs to property. The model law requires the court to allow the resident to cure violations that are amendable to correction and allows the court to set the time period for cure.

Because of the shortage of manufactured home spaces in many parts of the country and the difficulty of moving a manufactured home, eviction from a manufactured housing community often means loss of the home. The model law allows the resident to try to sell the home in the community for 120 days after eviction. In addition, the community operator must wait until the end of the 120-day period before executing upon the home to satisfy any judgment for rent or other charges. The community operator is protected because the model law gives the operator a statutory lien on the home for rent during the period the home remains on the lot unsold. Michigan’s provision allows a resident 90 days to sell the home after the date of the judgment of possession (Mich. Stat. Sec. 600.5781), but it may take longer than this to sell a home. One hundred twenty days should be viewed as a minimum, and a state legislature might want to mandate a longer period.

Inclusion of due process procedures is as important as defining the grounds for eviction. The community operator should not have the authority to decide when the statute’s grounds for eviction have been met, padlock the home, or refuse the resident entrance to the manufactured housing

community. The community operator, at a minimum, should have to seek a court order for eviction, based on appropriate grounds specified in the document filed in court.

There is often a close relationship between the manufactured housing community operator and the creditor who financed the resident's purchase of the home, particularly because the community operator or a related party may have sold the home to the resident. Community operators can evade the requirement for due process before an eviction by foreclosing on the home or arranging for the foreclosure instead of evicting the tenant from the site. In some states, manufactured homes may be foreclosed on without due process, solely by a self-help repossession. A self-help repossession is one in which the creditor (or someone working for the creditor) repossesses an asset without a court order or a law officer present. The practical result is that the repossession becomes the same as an eviction without due process.

As a consequence, the model law specifies that the requirement of a court hearing and order applies equally to a manufactured home foreclosure as to a community eviction. This is not a particularly radical suggestion, because most manufactured home foreclosures are accomplished through a court replevin procedure (a procedure that permits the recovery of a home only after an adjudication in court). Nevertheless, one does see the occasional self-help repossession of a manufactured home, usually by way of lock-out.

The model law makes it clear that a court procedure is the only allowable method for the community operator to remove a resident. It also makes it clear that the community operator cannot categorize a

person as something other than a resident as a way of evading the eviction restrictions. Thus, the purported termination, expiration, or nonrenewal of the resident's lease is not a basis for denying the resident the protections of this section. The fact that the resident has refused to enter into a renewal lease or has committed acts that are grounds for lease termination may be grounds for eviction, but the operator still has to notify the resident of the violation, file an eviction case in court, and allow the resident to defend the case.

Sec. 111 Sale of Home, Assignment of Lease, Subleases

Right to Sell Manufactured Home on Lot

- (a) No manufactured housing community operator shall deny any resident the right to sell or interfere with the sale of a manufactured home on a rented space or require the resident to remove the home from the space solely on the basis of a sale of the home. No community operator shall limit the sale of homes on the basis of the home's age or physical condition or in any way misrepresent that such homes may not be sold. No community operator shall require that a resident make any addition or improvement to the home as a condition of sale unless those additions or improvements are required by law.
- (b) No community operator or employee of the community shall act as agent or broker in the sale of a resident's manufactured home, nor shall the community operator or employee exact a commission or fee from the sale of any home owned by a resident. No

community operator or employee shall require that the resident use the services of a particular dealer or broker when selling the home.

- (c) No community operator shall place unreasonable, unfair, or discriminatory restrictions on “For Sale” signs or on access to the community by prospective purchasers, realtors, or other representative of the resident, or interfere with a resident’s efforts to sell a manufactured home.

Assignment of Rental Agreements, Subleases

- (d) Except as specified in Subsections (e) and (f), a resident shall have the right to assign the rental agreement to the purchaser of the resident’s manufactured home or to sublease the manufactured home site.
- (e) The resident shall give the community operator written notice of any assignment or sublease, and the operator may only disapprove of the assignment or sublease if, within seven calendar days, it gives the resident written notice of the disapproval with the reasons for the disapproval stated therein, provided that such disapproval shall only be for reasons set out in Subsection (f) below. If the resident is not provided with such written notice of disapproval within seven calendar days, the prospective resident is deemed approved.
- (f) The community operator may disapprove the assignment of a rental agreement or a sublease only if the assignee or sublessee does not have the financial ability to pay the rental amount or would pose an unreasonable hazard to the safety or peaceful enjoyment of the

residents of the manufactured housing community. The age or condition of the manufactured home is not grounds for disapproving an assignment or sublease. The community operator may impose no application or other fee on the prospective assignee or sublessee. The community operator may not disapprove an assignment from the resident to the resident’s bona fide creditor.

- (g) The resident or prospective sublessee or assignee may seek judicial review of the community operator’s disapproval, and the burden will be on the operator to prove that the disapproval was for reasons permitted by Subsection (f) and that such disapproval was objectively reasonable and in good faith. If the court finds that the disapproval was not justified, the court shall order the assignment or sublease of the rental agreement and award any actual damages, costs, and reasonable attorney’s fees to the resident or prospective sublessee or assignee. If the court finds that the disapproval by the community operator was not in good faith, the court shall instead award treble damages (but no less than two months’ rent), costs, and attorney’s fees.
- (h) A community operator or employee of the community is prohibited from purchasing a resident’s manufactured home if that operator or employee has violated the provisions of Subsections (a), (b), (c), or (f).

Discussion: The ability of residents to assign or sublease their tenancy is an important protection. A resident could “sublease” the site by retaining ownership

of the home and the primary obligation under the lease but lease the home to another individual. The resident could also sell the home and assign the new owner the lease for the site. The new owner could also seek the same lease from the operator in the new owner's name.

The ability to transfer the home and tenancy is critical, because otherwise the consumer will have to abandon the home if he or she has to move to a different location, is evicted, wishes to change homes, or is financially unable to meet the mortgage and community lease payments. Abandonment of the home usually is grounds for the home financier to repossess and sell the home.

When a resident seeks to sell a home that is still situated in the manufactured housing community, some community operators may attempt to restrict that right to sell in several ways. The operator might prohibit "For Sale" signs or insist that the home pass certain inspections before it is resold, inspections that may be impossible for older homes to meet. The operator might also have a right to first refusal and exercise it in a way to make sales difficult, such as by delaying negotiations while other buyers disappear and then offering to buy at a lower price.

More typically, the operator could insist on a large commission for the sale, even if the operator does not act as agent or does nothing to bring about the sale. The commission can take several forms, such as a requirement that the operator is the exclusive agent for any sale or that the operator gets a percentage of any sale.

When the operator is the exclusive agent, the consumer may not only have to pay a large commission but also may not be able to sell the home if the "exclusive agent" is

not interested in marketing it. When the resident has moved or died, there is a particularly troublesome conflict, because the operator has no incentive to sell. The operator can collect rent from the estate, and when the estate needs to be settled and the property sold, offer to purchase the home at a fraction of its worth.

The operator could insist upon trying to make a sale conditional on the operator's approval of the buyer. The operator might refuse permission in order to gain a commission or to force the resident to sell the home to the operator at a reduced price. This could occur if the operator wants to move in a new resident with a new home, or because he or she is attempting to discriminate against certain classes of new residents. Just as critical as the operator's approval of the buyer is the operator's agreement for the old owner to assign the site lease to the new owner. Alternatively, the operator could give the new owner a new lease in the new owner's name. But if the operator refused to do either, the home would become virtually worthless. The new owner would then have to move the home and find a new lot, a costly and difficult task, or resell the home to the operator, perhaps at a fraction of its worth. It may be difficult to distinguish the operator's real reason for refusing the assignment of the lease. That is, the operator might claim the new resident is not creditworthy or a good resident, when the real reason is that the operator wishes to use the site for a new home or wishes to force the homeowner to sell the home to the operator.

One potential solution to the problems relating to sale of the home is to specify that, while the operator may have some rights as to the assignment of the lease, the operator has no right to interfere with the

sale of the home. This is sensible because the operator has no legal interest in or right to control the ownership of the home. The only right the operator may have is to control who leases community space.

In other words, if a resident wishes to sell his or her home and the new buyer wishes to move it elsewhere, the operator has no right to interfere with that sale. If the new owner wishes to have the lease assigned or subleased to himself, then the operator may have a right to interfere in that process. (See Eamiello v. Liberty Manufactured Housing Sales, 546 A. 2d 805, Conn. 1988, where a statutory provision giving residents the right to sell their manufactured home in the community without landlord interference was not found to be an unconstitutional taking of private property.)

As discussed earlier, a community operator may negotiate a right of first refusal or a right to a commission on the sale of the home, either by being the exclusive broker or even after doing no work. But the relationship between the community operator and the resident is such an unbalanced one, and the right to sell the home is so key, that giving an operator additional rights to control the sale of the home gives excessive leverage to the operator. It is important to avoid any opportunity for the community operator to force the resident to sell the home at an unconscionably low price to the operator or to allow the operator to extort a large commission when the home is sold to someone else.

Moreover, a community operator has a conflict of interest in being both the homeowner's fiduciary in selling the home and being the principal potential buyer. The

problem does not stop there. Applicants for scarce community sites may find that a community operator will give sites only to those who purchase a home that the community is brokering or selling.

As a consequence, a potential legislative solution is to prohibit a community operator from receiving any commission for the sale of a home or from requiring a resident to offer a right of first refusal to the community. Although there are obvious benefits to an operator assisting in the sale of a home, there are obvious problems too.

An alternative solution is to put a cap on the community operator's commission—say at 5 percent (Massachusetts limits commissions to 10 percent)—and the commission only if the operator acts as the listing and selling broker. No commissions would be allowed if the operator does not offer significant services. But this solution does not address the problem of an operator who does not want the homeowner to sell the home. The community operator has a major conflict of interest. Moreover, there are alternative means of selling a home instead of using the community operator as a broker. Many homes are sold through advertising, independent brokers, and used home dealers.

The operator has a legitimate interest in the assignment of a resident's lease to the home's new buyer so that the new buyer can remain in the community. Similarly, the operator has an interest in a subtenancy, and this discussion will treat assignment of leases and subtenancies as identical. The community operator should have the right to exclude those who will disturb the other residents, cause damage to the community, or be unlikely to pay rent. So a statute might limit the operator to restricting a lease's

assignability or the creation of a subtenancy for these reasons only. The statute would specify the only grounds for refusal of lease assignability and also would prohibit such refusal based on bad faith or malice.

Some operators attempt to restrict sales and assignments of leases by claiming that the homes are too old, do not conform to code or HUD standards, or do not conform to aesthetic standards. An operator may even require the resident to make costly additions or improvements before the home is sold. All of these problems can be eliminated through specific statutory provisions. There could be no restrictions on the sale of the home due to the home's age. The only allowable consideration regarding the sale of the home could be whether it conforms to state health and safety standards. While the application of some aesthetic considerations may make sense, particularly if the home is in extremely poor condition, these considerations raise issues as to where one draws the line in the statute.

Sometimes operators engage in practices so they can purchase residents' homes, often at prices well below the market value of the homes. The sale price of the home could be greatly reduced due to the operator's misconduct, including unfairly or unreasonably rejecting qualified assignees. If an operator engages in conduct that violates the statute, he or she could be prohibited from purchasing a resident's home and profiting from the conduct. Nevada has a provision prohibiting an operator from purchasing the home when the operator has refused the resident the right to sell or the prospective purchaser the right to purchase the home (Nev. Rev. Stat. Sec. 118B.160(f)).

There are various approaches to enforcing these standards. The statute can indicate that a resident's remedy for failure to assign the lease is to go to court to establish that the operator's reasons for refusal were not those allowed in the statute or were unreasonable. On the other hand, the operator could be required to go to court to block the assignment, and the request granted only if the operator could show that his or her reasons were allowed by the statute and were reasonable.

Sec. 112 Changed Land Use

Termination of Rental Agreements

- (a) A community operator may terminate a rental agreement in order to change the community's land use only if the operator meets all of the following conditions:
 - i. The rental agreement or renewal agreement clearly and conspicuously discloses a change in land use as a ground for terminating the rental agreement;
 - ii. The community operator has fully complied with the provisions of this section; and
 - iii. The community operator has a present intent to change the land use to a use other than a manufactured housing community.

Community Operator's Obligations

- (b) If a community operator intends to discontinue any substantial portion of the manufactured housing community as a manufactured housing community, the operator must, with respect to any

resident whose lease will be terminated due to the change in use, notify [the State Agency] and each resident of the intended change by certified or registered mail, at least two years before the date of the change of use (the “Termination Notice”). The Termination Notice shall notify the resident that the resident can receive relocation benefits from [the State Agency], as described in (c) below. The notice must state that the operator may not terminate any rental agreement on the grounds of the change in land use for two years from the date of the Termination Notice.

Relocation Payment

- (c) If a resident is required to move due to a change in use of the land comprising the manufactured housing community, the resident shall be entitled to a Relocation Payment from the [State Agency Relocation Fund]. The amount of the Relocation Payment shall start at a base amount of \$5,000 for a single-section manufactured home and \$10,000 for a multi-section manufactured home. The Relocation Payment shall be adjusted each year from the date of this Act by an amount proportional to the change in the [one of (Consumer Price Index for All Urban Consumers [CPI-U]: U.S. City Average), (Consumer Price Index for All Urban Consumers [CPI-U]: U.S. City Average, shelter expenditure category), (Consumer Price Index for Urban Consumers [CPI-U]: selected area), or (Consumer Price Index for Urban Wage Earners & Clerical Workers [CPI-W]: U.S. City Average)], published by the Bureau of Labor Statistics, U.S. Department of Labor, for the previous year.

Application for Relocation Payment

- (d) To obtain the Relocation Payment from [the State Agency Relocation Fund], the resident shall submit an application for payment to [the State Agency]. The director of [the State Agency] must approve or disapprove the application within 30 days of receiving the application, or it shall be deemed approved.

Transfer of Home

- (e) A resident who is required to move due to a change in use of the land comprising the manufactured housing community may choose to leave his or her home in the community rather than move it out of the community. The community operator may not assess any fee to the resident for leaving the home if the resident has delivered to the operator the current title duly endorsed by the owner of record, together with valid releases of any liens appearing on the title. The resident, however, is entitled to the Relocation Payment described in (c) regardless of whether the resident moves the home or leaves it behind.

Operator’s Request for Permit

- (f) The community operator shall give to each resident at least 15 days’ written notice, delivered by certified or registered mail, that the operator will be appearing before a governmental board, commission, or body to request a permit for a good-faith change of use or discontinuance of the community. No such permit shall be effective unless the operator has complied with this section.

Right of First Refusal

(g) If a community operator intends to discontinue any substantial portion of the manufactured housing community as a manufactured housing community, a resident association that comprises at least 51% of the households of the manufactured housing community shall have the right to purchase the community, in accordance with the procedure set forth in Sec. 113 below, except that the amount of the purchase price shall be determined by a binding appraisal process, pursuant to Sec. 115, whereby an appraiser agreed to by the resident association and community operator shall determine the fair market value of the land, that appraisal not being limited to the value of the land as a community. For purposes of the right of first refusal, the Termination Notice shall serve the function of the Sale Notice.

Exemption from Right of First Refusal

(h) The community operator need not offer a right to purchase the community under Subsection (g) if at the time of the Termination Notice:

- i. the same entity has owned the community for at least three years and has complied with Sec. 108 during that time, and
- ii. the owner has a bona fide intent not to sell the community land for at least five years. Any sale of all or a substantial portion of the property within five years of a Termination Notice shall be prima facie evidence that the operator did not have a bona fide intent to retain ownership of the property and shall subject the operator to the penalty provision of

Sec. 113(j), unless the operator can show that the operator did intend to retain ownership of the property but was unable to fulfill that intention.

Discussion: When a manufactured housing community operator decides to change the use of the land or to sell the community to someone who intends to change its use, serious eviction problems arise. First, residents are often evicted en masse. A community is destroyed, neighbors are dispersed.

Second, many long-term residents who have always followed community rules and paid their rent on time for years are evicted along with everyone else. These individuals over the years have built up equity in their manufactured homes and are now being forced to undergo a costly and perhaps unaffordable move or to abandon the home and their carefully accrued equity. Many of these residents may be elderly and may not be prepared or able to find other housing options.

A third problem is that the closure of a manufactured housing community seriously aggravates the shortage of manufactured housing sites in that region. Tenants may be forced to remove homes with no place to put them. To address the housing market implications, several jurisdictions now authorize their zoning authorities to condition a community operator's request to change the use of a community on the operator's showing the impact the closure will have on the availability of manufactured housing space within the jurisdiction.

With the exception of states that have enacted special laws in this area, the community operator can keep the sale or

changed land use secret until the very last moment. In states that have not enacted legal protections in this area, residents have no legal form of redress and usually do not have adequate time or opportunity to make a counteroffer to the community operator. Moreover, many tenant organizations lack the financial resources or skills necessary to purchase the community or make a proposal that would convince the operator not to change the land use.

Change of use must be distinguished from change of ownership. Change of manufactured housing community ownership may not affect a resident's rights under a lease or rights to renew that lease. A change in ownership can be a mere paper transfer from one dummy corporation to another. Aside from a right of first refusal for the residents, which is discussed in the next section of the model law, a statute need not place restrictions on changes in community ownership as long as those changes of ownership meet state licensing requirements and as long as the new owner intends to continue to use the land as a manufactured housing community. On the other hand, change of ownership probably should not give the new owner any increased rights with respect to the residents. The buyer of a community who intends to change its use upon purchase should be bound by the same disclosure provisions of this section.

In contrast to change of ownership, change of use will seriously impact residents. However, legislation that prohibited a landowner from ever changing the use of the land, such as from a manufactured housing community to a shopping center, would be regarded as extreme. We will explore various legislative protections for residents short of permanently preventing a

manufactured housing community owner from changing the land's use.

The first protection for residents could be disclosure. When a resident enters a community lease or a renewal lease, the operator could be required to prominently disclose one of two facts. Either the operator guarantees the community will not change use during the term of the lease, or the operator reserves the right to terminate the lease for change in land use. If the operator discloses the latter, the lease should also disclose the resident's rights if the operator evicts the resident because of changed land use.

Disclosure and notice provisions are a less extreme alternative than prohibiting an operator from terminating the lease during the lease term for change of land use, particularly if the provisions of this model law are in place. Because lease terms would be staggered among different residents, and because those residents have an automatic right to renew, prohibiting termination of the lease would be the equivalent of prohibiting change in land use, which would raise constitutional issues.

In addition to disclosure of the possibility of changed land use, residents should be entitled to receive notice of an actual plan to change land use. The community operator could be required to give substantial advance notice of the change in land use, such as one year or two years preceding the change. Illinois, Maine, Rhode Island, and Washington all provide for one year's notice. Massachusetts requires two years, and Delaware gives its manufactured housing community residents three years' immunity from eviction. Extended notice periods allow residents sufficient time to relocate with a minimum of loss and also

give the residents an opportunity to organize to attempt to purchase the land themselves as a cooperative.

Notice alone, however, is not enough. Residents should be compensated for the expenses that the change, and consequent eviction, will impose on them. The relocation costs a resident may incur include the costs of moving the home out of the community, packing and moving the resident's belongings (and those of any others living in the home), finding a new site for the home (whether in another manufactured housing community or on another sort of site), setting up the home in its new location, repairing any damage caused by the move, and the difference between rent levels at the old and new sites.

The relocation payment proposed here provides a resident with a flat amount that is not limited to the resident's actual moving expenses. Furthermore, if it would be an economic waste to move the home, the resident has the option of leaving the home behind after transferring clear title to the operator, while retaining the right to the allowance. Accordingly, the displaced resident gets both flexibility and a fixed sum, which will allow the resident to make the plans best suited for that individual.

States that compensate residents forced to move due to a community's change in use tie the compensation to the resident's actual moving expenses, up to a specific cap. Arizona allows up to \$5,000 for a single-section home and \$10,000 for a multi-section home, while Florida allows up to \$3,000 for a single-section home and \$6,000 for a multi-section home levels(considerably less if the property is abandoned, and with no compensation if there is already a pre-existing eviction for

violation of lease terms). Rhode Island, in contrast, caps compensation at \$2,000. In addition to questions about whether these numbers are adequate, there are problems with fixing a dollar figure in advance. While fixed dollar amounts have the advantage of certainty and ease of administration, they tend to erode with inflation, and a state legislature is unlikely to increase the dollar amounts on a regular basis. Accordingly, some states' relocation compensation levels remain frozen at decades-old levels, much less than current costs to properly take down, transfer, and set up a manufactured home. Regardless of whether a community operator pays relocation costs directly or whether they are paid by a state fund, the statute should accommodate the rising costs of relocation over time. Legislators could choose the index that best suits the needs of their manufactured home residents, whether one of the Consumer Price Indices set out in the section above or some other formula.

A different issue is who should pay for the residents' relocation payments. While having the community operator pay the compensation might encourage him or her to keep the community in operation, courts in both Washington and Florida have struck down as unconstitutional relocation cost statutes that required manufactured housing community operators to either pay residents' moving costs or buy their homes. Nonetheless, several states, including Connecticut, Maine, Massachusetts, Nevada, Oregon, and Rhode Island, continue to require manufactured housing community operators to pay relocation expenses to the tenants they force out. A Massachusetts resident may elect to have the landlord purchase the home at its appraised value in lieu of relocation costs.

Aside from the constitutional question, a risk of having the operator pay compensation is that responsibility for the payment may be unclear if one entity owns the land while another runs the community. If the entity managing the community owes the compensation, residents may be left without recourse if all the land sale proceeds go to the other entity, leaving the operator insolvent. These problems might be avoided by giving the residents a statutory lien on the land in the amount of their statutory right to compensation and in the amount of any other statutory damages for violations by the old or new owner.

A less controversial option is to have a state-administered fund, as this section contemplates. Arizona runs such a program, which set a model for Florida to follow. After Florida's original relocation statute was struck down, the legislature enacted a Florida Mobile Home Relocation Corporation that compensates residents forced to move due to a manufactured housing community closure. Washington runs such a program as well, for low-income residents. The relocation fund is appealing because it eliminates many constitutional issues and places administration in the hands of a government agency, not the operator. Theoretically, community operators might charge less rent because they will have to pay less in compensation if they close the community.

Many options exist for funding a relocation fund. The monies in Arizona's relocation fund come from an annual assessment on owners of manufactured homes who rent the land on which their homes are located; the assessment is at a rate of 50 cents per 100 dollars of the home's assessed value. While resident assessments form the bulk of the fund, landlords who do not comply with the

state's change-in-use statute are assessed a fee that is paid into the fund. Washington finances its fund with a \$100 transfer fee imposed upon every purchase of a manufactured home located in a manufactured housing community (excepting sales for less than \$5,000). Florida established a fund from general revenues and, to help offset claims to the fund, charges the community operator \$2,750 or \$3,750—depending on whether the home is single- or multi-sectioned—for each resident required to move due to a change in land use.

The burden of a state relocation fund should be fairly allocated between residents and community operators. If homeowners have to pay a property tax into the fund, community operators could be assessed a transfer tax paid on the sale of a manufactured home community or a change in the community use. A state could also deposit into the fund fines collected pursuant to Sec. 117.

One issue, however, is the risk that a high number of manufactured housing community closings could deplete the fund. Does the difference come from general state revenues, or do operators have to pay compensation when the fund is depleted? Arizona dealt with this risk by using the relocation fund to purchase insurance coverage for tenant relocation costs from a private insurer.

In addition, states have varying rules concerning appropriations, and in certain states it may be possible for legislators to use the relocation fund to meet other funding needs. In those states, it may be advantageous to statutorily restrict the relocation funds to the use for which they were intended.

A state-run relocation cost program has some disadvantages. A new state agency must be created. A state fund may also ease an operator's decision to close the community. If the operator must pay residents' relocation expenses, the financial advantage of changing land use is lessened. In that case, any offer by the residents to purchase the land to create a cooperative community will become much more attractive by allowing the operator to avoid the compensation that he or she would have to pay the residents if he or she sold to a shopping center developer.

Some community operators try to constructively evict tenants prior to a change in use by escalating their rent rates in the hope that they will voluntarily leave. This model statute prevents this with the limits on rent rates described in Sec. 104. However, if those limits are not enacted, the change-in-use section should specifically provide, as many state manufactured home community statutes do, that an operator may not raise rents within a set period of time prior to applying for any kind of permit to change the use of the community land.

Finally, though many states provide residents with a right of first refusal upon the operator's sale of the community, only Delaware provides a right of first refusal when the operator intends to convert the manufactured housing community or a major portion thereof. Community operators should not be able to dodge the residents' right of first refusal, discussed in the following section, by closing the community with the intent of selling it. However, operators who in good faith seek to change their use of their property from a manufactured housing community to another use should be free to do so without having to offer the community for sale to the residents. Accordingly, this section provides

that a resident association shall have a right to purchase the manufactured housing community from an operator who intends to close it unless the operator has owned the community for at least three years and does not intend to sell the land during the next five years. This provision strikes a balance between the concerns of community operators who want to develop their land for other opportunities and those of residents, who should not be subject to land flips designed to deprive them of their right to make a bona fide, market-rate offer to purchase the community.

Sec. 113 Sale, Lease of Community

Required Sale Notice

- (a) If a community operator receives a bona fide offer to purchase or lease the manufactured housing community that the operator intends to consider or to which the operator intends to make a counteroffer, or if an operator offers the manufactured housing community for sale or lease (other than leases for individual lots to individual residents), the operator must send a letter, by registered or certified mail, to every resident, notifying them of the terms of the offer or intended offer (the "Sale Notice"). The Sale Notice must include the following:
 - i. The offered purchase price or lease payment;
 - ii. The terms of any seller or lessor financing (including the amount, the interest rate, and the amortization rate of the financing);

- iii. The terms of any assumable financing (including the amount, the interest rate, and the amortization rate of the financing);
- iv. A legal description and a statement of the appraised or assessed value of property included in the sale or lease;
- v. Any proposed improvements or economic concessions to be made by the operator in connection with the sale or lease;
- vi. A statement of the right of a resident association to purchase the community, as provided in (b) below;
- vii. A statement that neither the operator nor any purchaser or lessee of the community may terminate a rental agreement by reason of the sale or lease of the community for two years from the date of the Sale Notice.

Resident Association’s Right of First Refusal

- (b) Any resident association that comprises at least 51% of the households of the manufactured housing community shall have the right to purchase or lease the community, provided that the association meets the essential provisions of any bona fide offer of which the residents are entitled to a Sale Notice. The association shall exercise its right by notifying the community operator of the association’s interest in purchasing the community in writing by submitting a proposed purchase and sale agreement or lease agreement with terms substantially equivalent to that of the bona fide offer (the “Purchase Notice”).

The association must deliver the Purchase Notice via certified or registered mail to the community operator within 90 days of receipt of the operator’s Sale Notice. The association shall have 180 days in addition to the 90-day period in which to obtain any necessary financing or guarantees and to close on the purchase or lease. If no resident association exists at the time the operator gives its Sale Notice, the residents may form one for the purpose of considering whether to exercise the right of first refusal, provided that the association represents at least 51% of the households of the manufactured housing community.

Safe Period

- (c) The community operator may not enter into an agreement to sell or lease the community for 90 days following the Sale Notice, unless the agreement expressly provides that it is contingent upon the failure of the resident association to exercise its right of first refusal. If the community operator receives a Purchase Notice from a resident association within those 90 days, the operator may not enter into an agreement to sell or lease the community for an additional 180 days after the initial 90-day period expires, as extended according to Subsection (f) below, unless the agreement expressly provides that it is contingent upon the failure of the resident association to complete its purchase or lease of the community.

Information to Association

- (d) Within 30 days of the community operator’s receipt of a Purchase Notice,

the community operator must provide the resident association with the following:

- i. A survey and legal description of the community, plus an itemized list of monthly operating expenses, utility consumption rates, taxes, insurance, and capital expenditures for each of the preceding three years;
- ii. The most recent rent roll, a list of residents, a list of vacant units, and a statement of the community's vacancy rate for each of the preceding three years;
- iii. Any available data relating to the past or present existence of hazardous waste either on the community property or in close proximity;
- iv. Any available data relating to the water, sewer, and electrical systems of the community; and
- v. All income and operating expenses relating to the community for the three preceding calendar years.

The community operator shall also provide any additional information that a prospective lender requires.

Good-Faith Negotiations

- (e) No community operator shall unreasonably refuse to enter into, or unreasonably delay, the execution of a purchase and sale or lease agreement with a resident association that has submitted a Purchase Notice to the community operator. The community operator shall negotiate with the resident association in good faith.

Completion Deadline

- (f) The resident association shall have a total of 270 days from the receipt of the Sale Notice to complete a transaction under the right of first refusal provided by this section. The amount of any delays by the community operator in supplying information to be provided to the association as stated in this legislation, or any delay resulting from litigation involving the sale of and/or litigation affecting the marketability of the title of the manufactured housing community shall be added to the 270 days available to the association.

Limitation on Remedies

- (g) If the resident association defaults in the performance of its obligations as a purchaser or lessee under the terms of the purchase and sale agreement or lease agreement, the community operator shall have, as sole and exclusive remedy for such default, the right to retain any deposit provided for by the agreement as liquidated damages in full settlement of the resident association's obligations.

Repeat Effective Periods

- (h) The effective period of the right of first refusal shall apply separately to each substantially different bona fide offer to purchase or lease the community.

Exclusions

- (i) No right of first refusal shall apply to a government taking by eminent domain, a forced sale pursuant to foreclosure (except that the community operator must notify residents of any impending

or actual foreclosure action), transfer by gift, devise or operation of law, a transfer by a corporation to an affiliate, a transfer by a partnership to one or more of its partners, or a sale or transfer to a person who would be an heir of the community operator if the community operator were to die intestate.

Right to Buy from Purchaser

- (j) If the purchaser of a manufactured housing community decides to convert the community to another use within one year after the purchase of the community, the purchaser must offer the community for purchase by the resident association for a cash price equal to the original purchase price paid by the purchaser plus any documented expenses relating to the acquisition and improvement of the community property, together with any increase in value due to appreciation of the community. The availability of this right does not impact the community operator's obligation to comply with the provisions of Sec. 112, regarding notice in advance of change of land use.

Penalty

- (k) A community operator who sells, leases, or transfers a community and fails to comply with the terms of this section shall be liable to the residents as a group in the amount of \$50,000 or 50% of the gain realized by the community operator from the sale, whichever is greater. In addition, the residents shall have the right to seek those remedies available to them under Sec. 116.

State Agency Assistance

- (l) Upon the request of the resident association, the [relevant state agency] shall assist the association in acquiring financing for the purchase of the community.

***Discussion:** Resident ownership of manufactured housing communities in many ways is the best solution to most of the problems facing manufactured housing community residents. Converting these communities to resident cooperative or condominium ownership often solves the most serious problems affecting residents, such as rent and fee increases, unreasonable rules, and community closures, because it eliminates the profit motive and gives residents control over their own community. The residents regulate and manage the community themselves, hopefully keeping rents and fees at a reasonable level, and setting rules and regulations that will be acceptable to all community residents. Residents often are willing to take on the responsibility for running and maintaining the community themselves, thus saving expenses.*

While conversion to cooperatives is a viable solution, community residents face several obstacles to purchasing their community. The major obstacles are the lack of financing, resident organization, public assistance, and adequate notice that the community is for sale.

The model statute establishes a right of first refusal to help facilitate the process of community purchase by its residents. Many states have legislated such a right. In addition, residents need a "breathing period" in which to create an offer for the community once they have been notified that

it is for sale. Massachusetts's law allows 45 days to enter into a contract. This is a short time period, given that the residents must consult with each other, determine what they can afford to pay for the community, and try to find adequate financing. In order to do these things, residents might need at least 90 days (provided in this model statute) to put together an offer, with additional time to conduct inspections and structure financing. The sale notice should provide meaningful information about the terms of the proposed sale or lease, so that residents know from the outset the terms that they will need to meet.

Rhode Island is the only state that requires the owner to make available to residents the legal and economic data of the community, including a survey, a rent roll, and statements of income and operating expenses. These are documents that any commercial buyer would demand, and the residents should have access to this information in order to evaluate whether the community is financially viable.

Rights of first refusal have been challenged as unconstitutional takings without just compensation. A Massachusetts court upheld its statute against such a challenge, emphasizing the important public policies of preserving available property to accommodate manufactured housing communities and of protecting tenants who may simply be unable to relocate because of the shortage of affordable space. Although decisions in Washington and California have struck down rights of first refusal, neither decision was based on current analysis of the U.S. Constitution's Fifth Amendment takings clause.

State financing for residents' community purchases would be an additional aid.

Because manufactured housing communities are frequently situated in areas zoned for commercial uses, the fair market value of the community can be very high, often making it difficult for the residents to buy the community without assistance from state agencies. Oregon has provided that its Housing and Community Services Department may lend funds for such purchases. Lack of government financing does not totally foreclose resident purchases. In Florida, numerous communities have already converted to resident-owned communities, largely achieved without government assistance, financial or otherwise. Banks and other financial institutions have been quite willing to provide the financing needed for community buyouts because cooperative communities have proved to be a good investment. Nonprofit community-based programs can also help residents with the purchase process and with obtaining loans. The Florida Mobile Home Owners Association has provided information and support to its members who want to convert their communities to resident ownership. The New Hampshire Community Loan Fund, Inc. has helped tenants purchase and improve their communities with loans and technical assistance and also publishes advice for tenants considering a cooperative option. In New York, residents can seek assistance from the Manufactured Home Cooperative Fund Program.

Communities converted to resident ownership have, for the most part, favored conversion to cooperatives rather than condominiums. Conversion to a cooperative is a less cumbersome and less expensive process. When a community is converted to condominiums, each lot must be individually deeded, appraised, and surveyed. When a cooperative structure is used, only the

community as a whole must be deeded, appraised, and surveyed, because all the residents own a share of the whole community, not identifiable sites.

Resident organizations are obviously key to any cooperative purchase of a community. Community legislation that encourages such organizations and discourages harassment of them will indirectly foster the creation of cooperative-owned communities. These issues have been addressed in previous sections.

Any state laws that unreasonably impede the conversion of a community to a cooperative should be removed. Similarly, any ambiguities should be resolved to reassure financial institutions that loans to resident cooperatives are a safe investment.

Finally, while some states have developed significant expertise in the creation of cooperative communities, other states have not. Such expertise, along with model documents, could be disseminated through the Internet for use by community residents across the country.

Sec. 114

Report to the Legislature on Resident Manufactured Housing Community Ownership

- (a) The state Attorney General shall submit a report to the state legislature within six months of the effective date of this statute delineating any legal impediments presently existing in state law to cooperative or similar purchase of manufactured housing communities by resident associations or other groups of residents and proposing the legal

changes necessary to remove those impediments.

- (b) The state Attorney General shall prepare a report for dissemination at a minimal charge to the public compiling information from other states on successful approaches and methods for resident associations and other groups of residents to purchase manufactured housing communities.

Sec. 115

Arbitration, Appraisals

- (a) If the resident or resident association and the community operator fail to select an appraiser or arbitrator, pursuant to Subsections 104(j), (k), (l), 106(f), or 112(g), the court, upon application of a party, shall appoint the arbitrator or appraiser.
- (b) The arbitrator or appraiser decision shall be a signed written document, with copies provided to each party. The decision shall apportion expenses and fees incurred between the parties as equitable.
- (c) Parties have the right in the arbitration or appraisal procedure to be represented by attorneys or, in the case of the resident, by the resident association.
- (d) Upon application of a party, a court may vacate, modify, or correct a decision if the decision was procured by undue means; there was evident partiality of an appraiser or arbitrator or misconduct prejudicial to the rights of a party; the arbitrator or appraiser exceeded his powers; or the decision was demonstrably irrational. If the court

vacates a decision, it shall appoint a new arbitrator or appraiser.

- (e) Notwithstanding Subsection (d), a party may seek court review of an appraisal that was conducted pursuant to Sec. 112, and, if the court determines the appraisal to be unreasonable, the court shall establish the fair market value of the land.

Discussion: *The model statute requires use of an arbitration process in one instance and an appraisal process in several others. In general, the model statute favors an appraisal process as more appropriate for the task at hand and as less expensive than an arbitration proceeding.*

Arbitration can be surprisingly expensive, because the parties must pay for arbitrator costs. These are often as high as several thousand dollars a day for hearings as well as for the arbitrator's preparation, travel, and deliberation. A court proceeding does not assess the parties for such costs. Consequently, community residents may find arbitration a less practical option than a court proceeding.

This model statute specifies arbitration when a community operator seeks a rule change over the objection of a resident association, and in that situation allows the resident association to opt instead for a determination by a court or state official.

Sec. 116

Private Remedies, Statutory Lien, Waiver of Rights

- (a) A community operator who fails to comply with any requirement of this statute shall be liable to a resident or a resident association for the sum of:
- i. Any actual damage, including any emotional distress, sustained by such resident or resident association;
 - ii. In the case of an individual action, twice the monthly rental amount; in the case of a class action, one month's rent for each class member; in the case of an action by a resident association, the sum of \$2,000;
 - iii. The resident or resident association's reasonable attorney's fees and costs, including an upward multiplier of the fees to account for the contingent nature or other risk of the litigation. The court shall have authority to order temporary and permanent injunctive relief and such other equitable relief as may be appropriate, including appointment of a receiver to operate the community, if necessary.
- (b) Where the court determines that a community operator's violation is willful or reckless, or where the court finds that the community operator has not attempted to resolve the dispute in good faith, the court shall award at least treble actual damages in addition to the relief specified in Subsections (a)(ii) and (iii) and may in its discretion award punitive damages greater than treble actual damages. There shall be a

presumption that any attempt to unlawfully evict a resident or terminate utility service or prevent the resident from entering the resident's home is a willful or reckless violation of Sec.110.

- (c) Where the court finds that the action brought by the resident or resident association was brought in bad faith, knowing that the action was groundless, and was brought for the purpose of harassment, the court shall award the community operator its reasonable attorney's fees, but only as necessary to defend the action relating to this statute.
- (d) Any resident or resident association may petition the court for the establishment of a receivership upon the grounds that there has existed for five days or more after written notice to the community operator:
 - i. A lack of heat, or running water, or electricity, or adequate sewage facilities, which the community operator has a duty to provide under a rental agreement, or any statute, code, or regulation; or
 - ii. Any conditions imminently dangerous to the life, health, or safety of the residents.

No Displacement of Other State Law

- (e) The provision of this statute shall not bar any claim against any person, including any claim under [the state deceptive practices statute, landlord-tenant law, and similar legislation].

Statutory Requirements Implied into Rental Agreement

- (f) For purposes of resident enforcement rights under the rental agreement, all terms required by this Act to be included in the rental agreement shall be deemed as a matter of law to be part of the rental agreement, whether incorporated in the actual agreement or not.

Statutory Lien

- (g) The resident has a lien against the realty on which the manufactured housing community is situated for any amounts owed the resident pursuant to this Act.

Waiver

- (h) The rights of residents or obligations of community operators under this statute may not be waived by any provision of the rental agreement, the community rules, or any attachments to them. In addition to the remedies specified in Secs. 116 and 117, any such agreement attempting to limit these rights shall be void and unenforceable. Any rights of a resident or obligation of a community operator may be settled by means of a written compromise that is knowingly, intelligently, and voluntarily entered into by a resident. A compromise is presumed to be knowing, intelligent, and voluntary only if the resident was represented by an attorney in executing the compromise.

Discussion: Private remedies are key to compliance with this statute. A frequent criticism has concerned the limitations of state enforcement. In any event, state enforcement will often merely order the cessation of a practice or fine a community

operator and will not result in compensation for injured residents. On the other hand, private enforcement is difficult where only actual damages can be recovered.

Many factors may deter individual community residents from enforcing their rights under the statute, not the least of which are the potential expense of hiring an attorney and the difficulty of proving damages. On the other hand, if private individuals do not enforce the statute, there will be little incentive for community operators to comply. Individuals harmed by a violation of the statute should obtain meaningful compensation.

Minimum statutory damages deter law violations and provide some minimal compensation for victims of those violations, even where it is too difficult to prove the exact amount of actual damages. In common law, punitive damages are available for willful or reckless conduct. The same should be the case for this statute. In addition, community operators should have an incentive to make reasonable settlements and not use their superior legal resources to prolong a case.

Attorney fees for prevailing residents are essential if residents are to have any hope of obtaining legal representation. It makes little sense to pay an attorney \$5,000 when the most the consumer can recover is \$4,000. Nor will attorneys take relatively small cases on a contingent fee basis. Corporations with greater legal resources can also use dilatory tactics to make litigation unaffordable, even if the consumer can retain an attorney. On the other hand, if the community must pay for the consumer's attorney fees if the consumer prevails, settlement is encouraged and the consumer need not pay when the community operator

has violated the law. If the resident is litigating in bad faith to harass the community operator, the resident pays the operator's reasonable attorney fees.

The remedy of receivership is critical in addressing major problems within communities that may be too expensive or complicated to be remedied by residents acting under the self-help provision of 108(d). Residents may also need a receiver to quickly remedy conditions that are dangerous to their health, safety, or welfare.

Other laws may provide important consumer rights, and this model statute does not intend to take any of those rights away; this is explicitly stated in the statute. Nor may the provisions of the model statute be waived, because it would be too easy for a community operator to obtain such a waiver in negotiating a lease or lease renewal. If the statute requires certain information be placed in the lease, a community operator violating the requirement cannot profit from it. The terms must be implied into the lease so that the manufactured housing community operator who violates the law is not in a better position than one who complies. Finally, court judgments against a community operator must be paid. An operator should not be able to sell the community, keep the money, and not pay valid court judgments to the residents. A lien on the community prevents this abuse.

Sec. 117

State Regulation and Remedies

- (a) The state Attorney General and the [district or county attorney or similar local enforcement official] may seek temporary and permanent injunctions for any violation of this statute, civil penalties in the amount of \$10,000 per violation, and restitution on behalf of all residents or resident associations injured by such violation. In any such successful action, the court shall award costs and attorney's fees.
- (b) The court may award civil penalties in the amount of \$10,000 per violation for any violation of an injunction ordered pursuant to Subsection (a).
- (c) Where the operator does not have the financial capacity to operate the manufactured housing community or where it is the most effective means of insuring compliance with court orders, the court may order a receiver to operate the community.
- (d) The state Attorney General and the [district or county attorney or similar local enforcement official] may use, whenever the official deems it within the public interest, all the agency's investigatory powers, including [specify subpoena, investigative demand, and similar investigatory powers].
- (e) The [state agency] shall establish a division to monitor compliance and facilitate the implementation of this Act. [For purposes of this model, this division of the appropriate state agency will be referred to as the Division.]
- (f) The Division may adopt regulations to carry out the provisions of this Act.
- (g) The Division may, upon its own determination or after receiving a complaint, issue subpoenas for the production of documents and may inspect at reasonable times in a reasonable manner the premises and records and documents of the community operator. The Division representative shall, upon request, furnish identification.
- (h) The Division may require a person to file a statement in writing as to the facts concerning a matter being investigated.
- (i) The Division may apply to a court for the enforcement of such powers set out in Subsections (g) and (h).
- (j) Any information obtained by the Division in an investigation, including the name of a complaining tenant, is confidential and must not be disclosed unless so ordered by a court.
- (k) The Division may mediate grievances between community operators and residents.
- (l) Whenever the Division has reason to believe that a community operator or other person is violating the Act; local or state standards to protect the health, safety, and welfare of residents; or other state law, the Division shall refer that matter to the state Attorney General's office or other state agency, as applicable.
- (m) The Division may publish and promote advisory information concerning this Act and related matters, including the rights and responsibilities of community

operators and residents and a description of local, state, and federal standards to protect the health, safety, and welfare of residents.

- (n) No employee of the Division shall hold an interest in a manufactured home community.

Discussion: A frequent complaint is that there is no one agency a resident can turn to in order to resolve problems. Instead, the consumer might be told to go to a different agency for each type of problem. Further, it might not be obvious which agency to go to, and for many problems there might be no agency that claims responsibility. A much better solution is for one agency to field all inquiries and bring in other state agencies if needed.

Another complaint is that enforcement of manufactured home community statutes is very limited, and that private enforcement is often impractical. The model statute does not call for the creation of a new state agency. Instead, the legislature selects one existing agency (such as a housing agency or consumer agency) and requires that agency to create a division to regulate manufactured home communities. While enforcement would still reside with the attorney general, district attorney, or other law enforcement officials, the division would investigate complaints, mediate and resolve matters short of litigation, and refer certain matters to other state agencies as appropriate.

Sec. 118 Severability

If any provision of this Act, or its application to any person or circumstances, is held invalid, the remainder of the Act, or the application of the provision to other persons or circumstances, is not affected.

Appendix A: Existing Legislation Protecting Manufactured Home Community Residents, Year 2003

How to Use the State Manufactured Home Statute Charts

A comprehensive statute specifically designed to address the issues of residents who rent spaces in a manufactured housing community is an indispensable source of legislative protection. The 2003 State Manufactured Home Statute Charts (Appendix B) itemize, state by state, the provisions of the 36 state manufactured housing community statutes, organized into 43 categories. Although other sources of state or local law may apply to manufactured home community residents, such sources merely supplement, without substituting for, comprehensive protections.

As can be seen from the charts, 14 states—Alabama, Arkansas, Georgia, Hawaii, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Dakota, Tennessee, Texas, and Wyoming—have not enacted manufactured housing community legislation. According to the United States Census 2000, these states account for approximately 40 percent of the manufactured home units in the United States. This legislative void leaves unprotected that portion of approximately 3.5 million manufactured home households whose homes are in communities in those states. Many of the states lacking comprehensive legislation are located in the Southeast, where manufactured homes account for a much larger percentage of the housing stock than in the United States as a whole. For example, manufactured homes are 15 percent of the housing units in Alabama and Mississippi. South Carolina

has the nation's highest percentage of manufactured homes—nearly one in five homes in the state. Although it has enacted a manufactured housing communities statute, its protections are limited, leaving out most of the provisions suggested by the preceding Manufactured Home Owner's Bill of Rights.

South Carolina is not alone; among the 36 states that have adopted a manufactured housing communities statute, about one-fourth have enacted skeletal statutes that address only a few of the most basic aspects of manufactured housing community space rental, providing no guidance on such important questions as

- whether an owner must disclose fees at the outset of a lease,
- whether an owner may impose unreasonable rules and regulations on residents and evict those who do not comply, and
- whether an owner may arbitrarily refuse to allow a purchaser of a sited manufactured home to keep it in the community.

As for the rest of the states with manufactured housing community statutes, most, but not all, have incorporated a number of key protections. These include the following:

- Requirements for a written lease, upfront disclosure of fees, and notice to increase rent, change rules, or convert a community to another use;
- Prohibitions on retaliatory evictions, entrance fees, unreasonable rules and regulations, or arbitrary veto of a new purchaser;
- Time for residents to cure a breach of community rules; and

- Specific community maintenance standards that must be adhered to by a community owner.

Over the last decade, manufactured housing community residents have gradually garnered more statutory safeguards. If consumer protections in manufactured housing community statutes are thought of as furthering three goals—tenancy security, economic predictability, and equity protection—statutes as a whole have advanced in all three areas. For example, in terms of providing a secure tenancy, more states now require a written lease, the offer or requirement of a one-year lease term, good cause eviction, the right to cure, notice of change in rules, and notice of change in use. Although only 11 states limit a community operator’s right to evict for noncompliance with rules, this is an increase from 6 in 1990. In another encouraging trend, more states have required advance notice to be given tenants before closing the community. Some states that lacked a requirement for such notice—Colorado, Illinois, New Hampshire, New Jersey, North Dakota, and West Virginia—now have provisions that include a meaningful notice period. Several states that already required such notice significantly increased the notice length: Alaska (from 90 to 180 days), Connecticut (from 365 to 545 days), Maryland (from 6 months to 1 year), Massachusetts (from 2 years to, in some cases, 4 years), Minnesota (from 1 month to 9 months), and Vermont (from 6 months to 12 months). This trend reflects legislative recognition of the difficulties faced by tenants when they are forced to move due to a community closure. Only Florida went against the current trend, cutting its previous notice period from one year to six months.

As for economic predictability provisions, more statutes now require the community operator to disclose fees in the lease, prohibit or cap assorted miscellaneous fees (which can substantially raise the tenant’s cost of housing), and provide meaningful notice of a rent increase.

An effective statute should also safeguard the equity in residents’ homes. Because of the practical immobility of manufactured homes, any community policy that prohibits or hinders the sale of the home on the site or that provides inadequate time to sell the home after eviction, puts the homeowner’s equity at risk. Furthermore, statutes that do not require an attractive level of services and maintenance of the community also put that equity at risk by allowing the community, usually the permanent location of the home, to deteriorate to the point where a resident may not be able to find a buyer for the home, even if allowed to do so. A substantial majority of the state statutes allow the sale of the home in the community, and nearly all of those limit a community owner’s ability to arbitrarily veto a new purchaser. Nearly half of the manufactured housing community statutes impose specific maintenance obligations on community operators. Although only four states impose a warranty of habitability for communities, that is double the number that did so in the early 1990s. However, an evicted tenant suffers an immediate removal crisis in all but those four states that give residents time to sell their homes after eviction, maximizing the chances that the tenant will not only lose a place to live, but most if not all of the investment in the home.

Though protections have increased over the last 10 years, no state has enacted legislation fully consistent with the protections set out in the preceding *Manufactured Home*

Owner’s Bill of Rights. Some of the issues most lagging include providing relocation expenses when a community changes use; effective state remedies; and the means to not only curb the unreasonable veto of new purchasers, but to provide a specific time period in which a community owner must respond to an approval request so that a tenant does not lose a prospective purchaser due to an owner’s tardiness.

Readers may assess the strength of protections provided by legislation in a specific state by comparing the summary for that state with the Manufactured Home Owner’s Bill of Rights. The chart can also be used to compare existing laws in different states with one another.

Important Caveat

The State Manufactured Home Statute Charts analyze comprehensive state statutes protecting manufactured housing community residents. Where another state statute may impact a particular issue of protection, that statute is noted under the subheading with a statutory reference. However, many states have laws that affect manufactured home residents by addressing other issues (such as health department requirements), and these might not be addressed in the chart provided. In particular, California has enacted numerous pieces of manufactured housing community legislation that are scattered throughout the California statute books. As a result, do not rely exclusively on the state charts, but supplement them with other state law, as applicable.

State “UDAP” Statutes

Every state has enacted a statute of general applicability prohibiting deception or fraud in the marketplace. Many of these statutes

also prohibit unfair or unconscionable practices—hence the acronym “UDAP,” which is short for unfair and deceptive acts and practices. Victimized manufactured housing community residents should always consider their rights and remedies under these statutes because of their general applicability and favorable remedial provisions. But there are a number of reasons why UDAP statutes cannot protect residents nearly as effectively as the Manufactured Home Owner’s Bill of Rights.

First, one state (Iowa) does not provide for private enforcement. Second, in a number of states, such as Missouri, the UDAP statute specifically excludes practices relating to real estate, thus throwing into doubt the coverage of manufactured housing community practices. Similarly, some state UDAP statutes exclude practices otherwise regulated by state law. The existence of other state regulation of manufactured housing communities may thus prevent the UDAP statute from applying. The result of these scope limitations is that in many states the applicability of the UDAP statute to manufactured housing communities is unclear, which means that any use of the statute could be subject to litigation.

Even in those states where the UDAP statute clearly covers manufactured housing community practices, the statute will prohibit only “deceptive” or “unfair and deceptive” practices but will not set out specific guidelines or requirements for manufactured housing communities. Further, the statute will not specify whether certain eviction practices, fees, rent increases, community rules, and so on are unfair or deceptive. Nor will it create procedures for residents to resolve disputes or have standards for resident compensation for evictions based on changed use of the

community land. Finally, there will be no special protections for residents who wish to sell the home on the site.

Massachusetts and Wisconsin are the only states that have enacted detailed regulations relating to manufactured housing communities under the UDAP statute, and even these regulations are much less extensive than the Manufactured Home Owner's Bill of Rights. In about half the states, there is not even legal authority to enact regulations under the UDAP statute.

Remedies under UDAP statutes vary. Some states' remedies are as or almost as effective as those provided by the Manufactured Home Owner's Bill of Rights. But some states provide only for actual damages; they do not provide for or allow attorney's fees, but leave it up to the court to decide whether to award fees in any particular case. If manufactured housing community residents had to litigate under these UDAP statutes, they would have to be prepared to bear the costs of litigation themselves, even if they won. The right to seek an injunction or receivership, sometimes the only effective way to force correction of community conditions, is also unclear (or clearly unavailable to private litigants) under many UDAP statutes.

State Landlord-Tenant Statutes

Nearly every state has some type of landlord-tenant legislation that governs the rental of residential dwellings. Some of these laws are comprehensive codes that cover every aspect of landlord-tenant relations and provide extensive remedies. In other states, the legislation covers a limited range of issues and contains few remedies.

Some state landlord-tenant statutes cover some manufactured housing community practices, but many do not, or their applicability is unclear and untested. These laws were designed to define and regulate the relationship between the owner of a dwelling unit and the person who leases that unit from the owner. While these laws may apply to situations where a consumer rents both the site and the manufactured home itself from the community, they may not apply where only the site is rented.

In any event, whatever the type of landlord-tenant legislation, it is not a satisfactory substitute for the Manufactured Home Owner's Bill of Rights. Victimized consumers will, of course, need to check if any state landlord-tenant legislation might provide them with rights and remedies. However, as a general rule, such legislation—even if technically applicable to the lease of a site in a manufactured home community—will not address the problems peculiar or unique to manufactured housing community residents. The lessee of an apartment or other type of dwelling usually will not have equity in the unit and can simply pack up and move, without the cost of moving anything other than personal belongings. In contrast, manufactured home owners cannot simply drag the home behind them, and they may have significant investment in a virtually immobile home. Evictions, nonrenewal of leases, and rent increases have drastic consequences for a consumer who is essentially tied to a particular site. Furthermore, because residential landlord-tenant statutes envision a standard lease of a dwelling unit owned by the landlord and not a ground lease of land beneath a dwelling unit owned by someone else, many issues critical to manufactured housing community tenants, such as the right to sell a home or to receive ample

notice of a change in use, simply are not addressed by such statutes.

Local Ordinances

Local ordinances in some states, particularly California, New York, and New Jersey, protect manufactured housing community residents. In California, such ordinances typically establish rent control commissions that not only control rent levels, but also closely regulate many aspects of the community's relations with residents. The Manufactured Home Owner's Bill of Rights sets out a different approach that avoids rent control and detailed regulation. Rather, the proposed statute envisions a level playing field with, among other provisions, a two-year lease with automatic renewals, arbitration provisions, and private remedies with which the parties can settle most aspects of their relationship privately. Furthermore, the Bill of Rights is less likely to be the target of a constitutional challenge. Rent control ordinances have received uneven treatment in the courts. Individual communities may prefer one approach over another, but since no state has enacted statewide manufactured housing community rent control, the Bill of Rights is a viable option in all states.

Common Law Theories

Common law breach of contract and tort claims obviously can apply to manufactured housing community resident cases. However, these claims have serious limitations, the most significant of which is that they generally do not allow a successful plaintiff to recover attorney's fees. The inability to recoup fees will make such claims economically infeasible for most plaintiffs, particularly those who by virtue of a dispute with the community owner may be

trying to meet unexpected demands on their financial resources. In many manufactured housing community cases, the actual damages involved may be small by general litigation standards and may in fact amount to a mere fraction of the anticipated fees and costs needed to recover them. Nonetheless, those damages may well be monumental in the eyes of the resident, beyond his or her ability to absorb. Although a contract claim may allow a successful party to recover attorney's fees if the underlying contract provides so in writing, many resident claims will be based on oral agreements. These agreements not only give rise to fees and costs but also present difficult issues of proof.

Another drawback of contract claims is that they do not allow for punitive damages, unless the claim is joined with that of an independent tort. Although some tort claims may allow for the opportunity of punitive damages, a plaintiff may have to show that the owner acted with malice or similar state of mind and may have to meet a higher standard of proof of the community owner's malfeasance. A manufactured home statute can redress an injury without reference to the operator's state of mind.

Nonetheless, contract and tort claims may be appropriate to supplement a claim under a manufactured housing community act. Both may offer an alternative avenue for a resident to recover his or her actual damages. But the existence of such causes of action do little to address what may be the resident's most pressing problems: where is he or she going to live, and at what cost? The Manufactured Home Owner's Bill of Rights seeks to do more than just resolve disputes, but to provide a method by which the resident and the community owner can

arrange a continued relationship that is satisfactory and fair to both sides.

Appendix B: State Manufactured Home Statute Charts, 2003

States Without Laws Specifically Protecting Manufactured Housing Community Residents

Alabama
Arkansas
Georgia
Hawaii
Kentucky
Louisiana
Mississippi
Missouri
North Carolina
Oklahoma
South Dakota
Tennessee
Texas
Wyoming

Summary of State Charts, 2003

Prohibits Tie-Ins (Model Statute § 103), 10 states: AK, AZ, CO, IL, MI, NV, NY, OH, OR, WI; Prohibited Except for First Rental of Lot, 8 states: FL, MD, MA, NH, NJ, NM, VA, WV

Prohibits Restriction in Choice of Vendor (Model Statute § 103), 24 states: AZ, CT, DE, FL, ID, IL, ME, MA, MI, MN, NE, NV, NH, NJ, NY, OR, PA, RI, UT, VT, VA, WA, WV, WI; Limited Restriction, 5 states: CA, IA, KS, MD, OH

Written Lease Required (Model Statute § 104), 21 states: AZ, CA, CO, CT, DE, ID, MD, MA, MN, NV, NH, NJ, NM, ND (if term greater than one year), SC, UT, VT, VA, WA, WV, WI; Must Be Offered, 7 states: IL, IA, MI, NY, OH, OR, RI

One-Year Lease Term, 5 states: CT, FL, MD, NJ, ND; Must Be Offered, 11 states: CA, DE, IL, IA, NY, OH, OR, RI, VA, WA, WI

Multi-Year Lease (Model Statute § 104 (two years)), 3 states: AZ (four years), CA (provides for long-term leases), MA (five years)

Automatic Renewal (Model Statute § 104), 11 states: AZ, CT (except by 60-day notice), DE (except by 60-day notice), ID, IL, MD, NJ, NY, VA, WA, WI

Good Cause Eviction (Model Statute § 110), 33 states: AK, AZ, CA, CO, CT, DE, FL, ID, IL, ME, MD, MA, MI, MN, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OR, PA, RI, SC, UT, VT, VA, WA, WV, WI

Nonpayment of Fees and Late Charges Is Grounds for Eviction, 18 states: CA, CT, DE, ID, IN, ME, MI, MT, NV, NH, NM (rules), ND, OR, RI, SC, UT, WA, WI

Prohibits Retaliatory Eviction (Model Statute § 109), 27 states: AZ, DE, FL, ID, IL, IA, KS, ME, MD, MA, MN, NE, NV, NH, NJ, NM, NY, OH, OR, PA, RI, SC, VT, VA, WA, WV, WI

Cure Provision (Model Statute § 110), 30 states: AZ, CA, CO, CT, DE, FL, ID, IL, IA, KS, ME, MD, MA, MN, MT, NE, NV, NH, NM, NY, OH, OR, PA, RI, SC, UT, VA, VT, WA, WI

Requirement of Court Procedure Before Eviction (Model Statute § 110), 9 states: CO, IL, IN, ME, MD, MN, NY, RI, UT

Limited Right to Evict for Noncompliance with Rules (Model Statute § 110), 11 states: AZ, CT, IA, MD, MA, NE, OH, PA, VT, VA, WI

Adequate Time after Eviction to Sell Home, 6 states (Model Statute § 110): IA, MA, MI, MN, NV, VA

Fees Disclosed in Lease (Model Statute § 105), 22 states: AZ (if tenant demands), CA, CO, CT, DE, FL, ID, IL, MD, MA, MN, NV, NM, OR, RI, SC, UT, VT, VA, WA, WV, WI; Must Be Disclosed in Writing Prior to Occupancy, 5 states: ME, NH, NJ, NY, PA

Prohibits Entrance Fees (Beyond Actual Costs Incurred) (Model Statute § 105), 23 states: CA, CO, CT, ID, IA, KS, MD, MA, MI, MN, NE, NV, NJ, NM, NY, OH, PA, UT, VT, VA, WA, WV (factory-built home site), WI; Otherwise Limits Entrance Fees, 7 states: AZ, DE, IA, ME, NH, ND, RI

Prohibits Exit Fees (Beyond Actual Costs Incurred) (Model Statute § 105), 20 states: DE, FL, ID, IA, KS, ME (unless in original contract), MD, MA, MI, MN, NE, NV, NJ, NY, OH, PA, UT, VA, WA, WI; Otherwise Limits Exit Fees, 4 states: AZ, NH, NM, ND

Prohibits Guest Fees (Model Statute § 105), 14 states: AZ, CA, CT, FL, KS, MD, MA, MN, NV, NM (limited), ND (limited), PA, VA, WA

Prohibits Pet Fees (Beyond Special Services Actually Provided) (Model Statute § 105), 6 states: CA, MA, NV, NH, ND, RI; Caps Pet Fees, 1 state: MN

Other Fees Prohibited (Model Statute § 105), 31 states: AZ, CA, CO, CT, DE, FL, IL, IA, KS, ME, MD, MA, MI, MN, NE, NV, NH, NJ, NM, NY, ND, OH, OR, PA, RI, SC, UT, VT, VA, WA, WV

Prohibits Unreasonable Rules/Regs. (Model Statute § 106), 24 states: AZ, CO, CT, DE, IL, IA, KS, ME, MD, MA, MN, MT, NE, NV, NH, NM, NY, OH, OR, PA, RI, UT, VA, WA

Specific Rules Prohibited (Model Statute § 106), 16 states: AZ, FL, IL, IA, ME, MD, MI, MN, NH, NJ, NM, NY, OR, PA, UT, WI

Live-In Care Provider Provision (Model Statute § 105), 3 states: AZ, CA, WA

Notice for Increase in Rent (Model Statute § 104), 22 states: AZ, CA, CO, CT, FL, ID, IL, IA, KS, MD, MN, NE, NV, NM, OH, OR, PA, RI, UT, VT, WA, WI

Notice for Change in Rules (Model Statute § 106), 23 states: AZ, CO, FL, ID, IL, IA, KS, MD, MA, MN, MT, NE, NV, NH, NJ (fees, also), NM, NY, OH, OR, RI, UT, WA, WI

Allows Subleasing (With Community Operator's Consent) (Model Statute § 111), 10 states: AZ, ID, IA, KS, MA (may not be unreasonably restricted), MN, NE, NV (restrictions must be in agreement), NY, VT

Allows Sale of Home in Community (Model Statute § 111), 30 states: AZ, CA, CO, CT, DE, FL, ID, IL, IA, KS, ME, MD, MA, MI, MN, NE, NV, NH, NJ, NM, NY, OH, OR, PA, RI, UT, VT, VA, WA, WI

Allows Assignment of Lease (Model Statute § 111), 7 states: CT, DE, FL, ID, MA (may not be unreasonably restricted), NY, WA

Allows "For Sale" Signs (Model Statute § 111), 15 states: AZ, CA, CO, FL, ME, MA, MN, NV, NH, NJ, NY, OR, RI, UT, VA

Limitations on Community Owner's Right to Veto New Purchaser (Model Statute § 111), 29 states: AZ, CA, CT, DE, FL, ID, IL, IA, KS, ME, MD, MA, MN, MT, NE, NV, NH, NJ, NY, OH, OR, PA, RI, SC, UT, VT, VA, WA, WI

Prohibits Consideration of Age of Manufactured Home Upon Sale (Model Statute § 111), 9 states: AZ, CA, DE (can't be exclusive or dominant factor), IL (can't be sole factor), ME (can't be sole factor), MA, MI (can't be sole factor), WA (can't be sole factor), WI

Notice of Change of Use (Model Statute § 112), 28 states: AK, AZ, CA, CO, CT, DE, FL, ID, IL, ME, MD, MA, MN, MT, NV, NH, NJ, NM, NY, ND, OH, OR, RI, UT, VT, VA, WA, WV

Relocation Expenses (Model Statute § 112), 7 states: AZ, CT, FL, MA, NV, OR, RI; Discretionary or Limited by Circumstance, 7 states: DE, ME, MN, NJ, VT, WA, WV

Right of 1st Refusal (Model Statute § 113), 9 states: CT, DE, FL, MA, MN, NJ, RI, VT, WA*; Community Owner Required to Negotiate in Good Faith, 3 states: NH, NJ, OR

Buyout at Fair Market Value, 2 states: MA, MI (limited)

Outlines Community Owner's Maintenance Obligations (Model Statute § 108), 22 states: AZ, CA, CT, DE, FL, IL, IA, KS, MD, MT, NE, NV, NM, ND, OH, OR, RI, SC, VT, VA, WA, WV

Warranty of Habitability (Model Statute § 108), 4 states: ME, NY, OR, VT

Utility Provision (Model Statute § 108), 19 states: AZ, CA, FL, IL, ME, MD, MA, MI, MN, NE, NH, NM, OR, RI, UT, VT, VA, WA, WI

State Remedies (Model Statute § 117), 19 states: AK, CT, DE, FL, ID, IN, ME, MD, MA, MI, MN, NV, NM, NY, ND, PA, RI, VT, VA

Enforcement Authority Specified (Model Statute § 117), 18 states: CA, CT, DE, FL, IN, MD, MA, MI, MN, NV, NH, NY, ND, PA, RI, VT, VA, WA

Private Remedies (Model Statute § 116), 33 states: AK, AZ, CA, CO, CT, DE, FL, ID, IL, IA, KS, ME, MD, MA, MI, MN, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OR, PA, RI, SC, VT, VA, WA, WV

Rent Withholding/Receivership (Model Statute § 108), 12 states: AZ, DE, FL, MT, NE, NV, NH, OH, RI, VT, VA, WA

Waiver of Rights Provision Prohibited (Model Statute § 116), 29 states: AZ, CA, CO, CT, DE, FL, ID, IL, IA, KS, ME, MD, MI, MN, MT, NE, NV, NH, NJ, NM, OH, PA, RI, SC, UT, VT, VA, WA, WV

Community Operators Must Obtain License, 19 states: CA, CT, FL, IL, IN, ME, MA, MI, MN, NE, NY, ND, OH, RI, SC, VT, WV, WI, WY**

*The Washington statute's right of first refusal provision has been declared unconstitutional by the state Supreme Court in *Manufactured Hous. Communities v. State*, 142 Wash. 2d 347, 13 P.3d 183 (2001).

**Wyoming lacks a comprehensive manufactured housing community statute but provides by administrative regulation that such communities must be licensed.

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2003 Summary of State Statutes

Model Statute

Statutory Reference	Mfrd. Home Owner's Bill of Rights
Prohibits Tie-Ins	Yes
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes
One-Year Lease Term	No provision
Multi-Year Lease Term	Yes, two years
Automatic Renewal	Yes
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	No
Prohibits Retaliatory Eviction	Yes
Cure Provision	45 days (rent), 60 days (rules)
Requirement of Court Procedure Before Eviction	Yes
Limited Right to Evict for Noncompliance with Rules	Yes
Adequate Time After Eviction to Sell Home	Yes, 120 days
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes
Prohibits Exit Fees	Yes
Prohibits Guest Fees	Yes, unless guest stays beyond 20 consecutive days or 30 days in a calendar year
Prohibits Pet Fees	Yes, unless special services are provided
Other Fees Prohibited	Yes
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	Yes
Live-In Care Provider Provision	Yes
Notice for Increase in Rent	Yes, six months
Notice for Change in Rules	Yes, 60 days

2003 Summary of State Statutes

Model Statute continued

Allows Subleasing	Yes
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	Yes
Allows "For Sale" Signs	Yes
Limitations on Community Operator's Right to Veto New Purchaser	Yes
Prohibits Consideration of Age of Manufactured Home Upon Sale	Yes
Notice of Change of Use	Two years
Relocation Expenses	Yes, starting at \$5,000 for a single-section home, \$10,000 for a multi-section home
Right of 1st Refusal	Yes
Buyout at Fair Market Value	No
Outlines Community Operator's Maintenance Obligations	Yes
Warranty of Habitability	Yes
Utility Provision	Yes
State Remedies	Penalties of \$10,000 per violation, restitution to residents, receivership, attorney's fees and costs
Private Remedies	Actual damages; two months' rent (or one month's, in case of class action, or \$2,000, in case of action by resident association); treble damages (willful violation); lien; attorney's fees and costs
Enforcement Authority	Attorney general and local district attorney
Rent Withholding/Receivership	Yes
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No provision

2003 Summary of State Statutes

Alaska

Manufactured Home Statutes	Alaska Stat. §§ 34.03.225, 45.30.070
Prohibits Tie-Ins	Yes
Prohibits Restriction in Choice of Vendor	No
Written Lease Required	No
One-Year Lease Term	No provision
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	No provision
Prohibits Retaliatory Eviction	No
Cure Provision	No provision
Requirement of Court Procedure Before Eviction	No (but see § 33.04.280; Uniform Residential Landlord-Tenant Act)
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	No provision
Prohibits Entrance Fees	No
Prohibits Exit Fees	No
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No
Prohibits Unreasonable Rules/Regs.	No
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision
Notice for Change in Rules	No provision
Allows Subleasing	No provision
Allows Sale of Home in Community	No provision

2003 Summary of State Statutes

Alaska continued

Allows Assignment of Lease	No provision
Allows “For Sale” Signs	No provision
Limitations on Community Operator’s Right to Veto New Purchaser	No provision
Prohibits Consideration of Age of Manufactured Home Upon Sale	No provision
Notice of Change of Use	270 days
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	No provision
State Remedies	Unfair Trade Practice
Private Remedies	Actual damages, treble damages (discretionary), equitable relief
Enforcement Authority	None specified
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	No
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

Arizona

Manufactured Home Statutes	Ariz. Rev. Stat. Ann. §§ 33-1401 to 1491
Prohibits Tie-Ins	Cannot require prospective tenant to use specific sales agency
Prohibits Restriction in Choice of Vendor	Yes, unless necessary to protect health, safety, aesthetic value, or welfare of tenants
Written Lease Required	Yes
One-Year Lease Term	Any term permitted by agreement, if no agreement 12 months; tenant may demand four-year term
Multi-Year Lease Term	No provision, but tenant may demand four-year lease or renewal
Automatic Renewal	Yes, on either party's request
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	No
Prohibits Retaliatory Eviction	Yes
Cure Provision	Rent—seven days
Requirement of Court Procedure Before Eviction	No (see also § 33-361, allowing community owner repossession)
Limited Right to Evict for Noncompliance with Rules	Yes, no eviction for violation of community rules
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes, if tenant demands
Prohibits Entrance Fees	Yes—unless for services actually provided or agreed to
Prohibits Exit Fees	Yes—however, tenant must submit notice to landlord of removal and obtain clearance, provide name of party who will be moving home, and meet other obligations
Prohibits Guest Fees	Permitted only if guest stays more than 14 days in one month
Prohibits Pet Fees	No
Other Fees Prohibited	Penalty fee for late payment of rent prohibited unless tenant is allowed five days to remit payment; community owner may charge separately for waste, garbage, rubbish removal, and sewer services, but only at prevailing rate
Prohibits Unreasonable Rules/Regs.	Yes—rules must promote convenience, safety, welfare of tenants and be reasonably related to purpose for which adopted
Specific Rules Prohibited	Can't require tenant to furnish permanent improvements that cannot be removed without damage at end of tenancy
Live-In Care Provider Provision	Yes, if pursuant to physician's written treatment plan

2003 Summary of State Statutes

Arizona continued

Notice for Increase in Rent	90 days before expiration or renewal
Notice for Change in Rules	30 days
Allows Subleasing	Yes, with agreement of community owner
Allows Sale of Home in Community	Yes—except for homes not compatible with other homes or in rundown condition
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	Yes
Limitations on Community Operator’s Right to Veto New Purchaser	Yes—approval may not be unreasonably withheld
Prohibits Consideration of Age of Manufactured Home Upon Sale	Yes, if manufactured home is built after 6/15/1976, landlord cannot require removal of home upon sale solely because of age
Notice of Change of Use	180 days
Relocation Expenses	Yes—lesser of actual expenses within 50 miles or \$5,000; \$10,000 for a multi-section home
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes
Warranty of Habitability	No provision
Utility Provision	Separate meters required for separate charges—community owner may charge only the prevailing rate
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	Admin. hearing, damages, injunctive relief, treble damages, attorney’s fees
Rent Withholding/Receivership	Yes, after 20 days’ notice or emergency
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

California

Manufactured Home Statutes	Cal. Civ. Code § 798
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	Yes—for landscaping
Written Lease Required	Yes
One-Year Lease Term	Yes, or less if requested; special provision for longer lease
Multi-Year Lease Term	No specific provision but allows for long-term leases
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes, nonpayment of reasonable incidental charges
Prohibits Retaliatory Eviction	No
Cure Provision	Seven days for community rules, five days for rent, utilities (plus three days' notice)
Requirement of Court Procedure Before Eviction	No (but see Cal. Civ. Proc. Code § 1159 [forcible entry])
Limited Right to Evict for Noncompliance with Rules	Allows eviction for noncompliance with reasonable community rules after seven days to cure
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes
Prohibits Exit Fees	No
Prohibits Guest Fees	Yes—unless 20 consecutive days or 30 days in one year
Prohibits Pet Fees	Yes—unless community owner provides special services; must allow each tenant one pet
Other Fees Prohibited	No fees for additional family members; no fees for rule enforcement; no fees for transfer or sale
Prohibits Unreasonable Rules/Regs.	No
Specific Rules Prohibited	No
Live-In Care Provider Provision	Yes, no fee may be charged for a live-in care provider
Notice for Increase in Rent	90 days
Notice for Change in Rules	No provision

2003 Summary of State Statutes

California continued

Allows Subleasing	Rental agreement may prohibit
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	Yes
Limitations on Community Operator’s Right to Veto New Purchaser	May veto only for financial inability or inability to comply with community rules and regulations
Prohibits Consideration of Age of Manufactured Home Upon Sale	Home can be removed only if it does not conform with health and safety standards
Notice of Change of Use	12 months if no local government permit required, 6 months if all permits have been approved
Relocation Expenses	No provision
Right of 1st Refusal	Tenants’ organization must be given notice that community is listed for sale
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	Community owner must post prevailing residential rate schedules
State Remedies	No provision
Enforcement Authority	Attorney general
Private Remedies	Attorney’s fees, costs, damages, \$2,000 for each willful violation. Tenant may obtain punitive damages in lieu of the statutory penalty
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

Colorado

Manufactured Home Statutes	Colo. Rev. Stat. §§ 38-12-200.1 to 217
Prohibits Tie-Ins	Yes
Prohibits Restriction in Choice of Vendor	No
Written Lease Required	Yes
One-Year Lease Term	No provision
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Unclear
Prohibits Retaliatory Eviction	No
Cure Provision	5 days for rent, 30 days for rules
Requirement of Court Procedure Before Eviction	Yes (refers to Colo. Rev. Stat. § 13-40-101 <i>et seq.</i> [forcible detainer])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes
Prohibits Exit Fees	No
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No transfer or sales fee without services
Prohibits Unreasonable Rules/Regs.	Rules must promote convenience, safety, or welfare of homeowners and protect premises from abuse
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	60 days
Notice for Change in Rules	60 days or with tenant's consent
Allows Subleasing	No provision
Allows Sale of Home in Community	Yes

2003 Summary of State Statutes

Colorado continued

Allows Assignment of Lease	No provision
Allows “For Sale” Signs	Yes
Limitations on Community Operator’s Right to Veto New Purchaser	No provision
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	Six months
Relocation Expenses	No
Right of 1st Refusal	Requires notice of sale to homeowners 10 days prior to scheduled closing
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	No provision
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	Mediation, court action
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

Connecticut

Manufactured Home Statutes	Conn. Gen. Stat. §§ 21-64 to 84a
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	Can't restrict without good cause
Written Lease Required	Yes
One-Year Lease Term	Yes—unless tenant requests shorter term in writing
Multi-Year Lease Term	No provision
Automatic Renewal	Yes—for one year if not terminated on 60 days' notice
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes—nonpayment of reasonable service charges
Prohibits Retaliatory Eviction	No
Cure Provision	30 days for rent, noncompliance with rules
Requirement of Court Procedure Before Eviction	No (but see Conn. Gen. Stat. § 47a-23a [summary process])
Limited Right to Evict for Noncompliance with Rules	Must be material noncompliance
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes
Prohibits Exit Fees	No
Prohibits Guest Fees	Yes
Prohibits Pet Fees	No
Other Fees Prohibited	No late fee until nine days after due date, capped at 5%
Prohibits Unreasonable Rules/Regs.	Rules must be reasonably related to purpose for which adopted
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	30 days
Notice for Change in Rules	No provision
Allows Subleasing	No provision
Allows Sale of Home in Community	Yes—if home is safe, sanitary, and in conformance with aesthetic standards

2003 Summary of State Statutes

Connecticut continued

Allows Assignment of Lease	Yes—to mortgagee also
Allows “For Sale” Signs	No provision
Limitations on Community Operator’s Right to Veto New Purchaser	Yes—only with good cause
Prohibits Consideration of Age of Manufactured Home Upon Sale	Home must conform to aesthetic standards
Notice of Change of Use	545 days
Relocation Expenses	Yes—up to \$7,000 or \$10,000, depending on type of notice
Right of 1st Refusal	Yes—365 days to reach agreement or complete statutory procedure
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	No
State Remedies	License suspension; fine of up to \$100 per offense
Enforcement Authority	Department of Consumer Protection
Private Remedies	Deceptive trade practice (allows damages; punitive damages, equitable relief, attorney’s fees, and costs are within court’s discretion)
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

Delaware

Manufactured Home Statutes	Del. Code Ann. tit. 25, §§ 7001 to 7037, 7101 to 7114
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	Yes, unless danger to community created by too many vendors
Written Lease Required	Yes
One-Year Lease Term	Yes, or less if requested
Multi-Year Lease Term	No provision
Automatic Renewal	Yes—unless tenant notified of nonrenewal 60 days prior to lease expiration
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Substantial noncompliance with any provision of the rental agreement
Prohibits Retaliatory Eviction	Yes
Cure Provision	10 days
Requirement of Court Procedure Before Eviction	No (but see Del. Code Ann. tit. 25, §§ 5701 – 5718 (residential summary possession))
Limited Right to Evict for Noncompliance with Rules	No (after cure period)
Adequate Time After Eviction to Sell Home	No—seven-day period on deposit of fee allowed by tit. 25, § 5715
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes (in excess of \$50)
Prohibits Exit Fees	Yes
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No late fee for rent without five-day grace period
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	60-day notice to increase fees
Notice for Change in Rules	No provision
Allows Subleasing	No provision

2003 Summary of State Statutes

Delaware continued

Allows Sale of Home in Community	Yes
Allows Assignment of Lease	Yes
Allows “For Sale” Signs	No provision
Limitations on Community Operator’s Right to Veto New Purchaser	Yes, community owner must give reasons in writing
Prohibits Consideration of Age of Manufactured Home Upon Sale	Age of home cannot be exclusive or dominant factor prohibiting sale
Notice of Change of Use	180 days; upon conversion to multiple-unit usage, tenants have three-year grace period; elderly and handicapped tenants have an extended right to stay beyond three-year grace period in certain circumstances
Relocation Expenses	Yes—when tenant is evicted at end of grace period when community owner converting to multiple-unit use
Right of 1st Refusal	Yes—90 days from notice to exercise option, when community owner converting to multiple-unit use
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	No
State Remedies	\$500 fine, 30 days in jail for some violations
Enforcement Authority	Division of Consumer Protection
Private Remedies	Petition for receivership, damages
Rent Withholding/Receivership	Yes
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

Florida

Manufactured Home Statutes	Fla. Stat. Ann. §§ 723.001 to .0861
Prohibits Tie-Ins	Community owner may condition initial rental agreement on tenant's purchasing home from dealer chosen by community owner
Prohibits Restriction in Choice of Vendor	Yes, though community owner may determine style or quality
Written Lease Required	No
One-Year Lease Term	Yes—except first agreement may be less than one year to have all leases begin at same time
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	No
Prohibits Retaliatory Eviction	Yes
Cure Provision	Five days for rent, seven days for some rule violations
Requirement of Court Procedure Before Eviction	No (but see Fla. Stat. Ann. § 83.21 [removal of tenant, nonresidential tenancies])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No
Fees Disclosed in Lease	Must be disclosed prior to tenancy
Prohibits Entrance Fees	Permitted—but must be set forth in prospectus and specified in writing at time rental agreement signed; refundable under certain circumstances
Prohibits Exit Fees	Yes
Prohibits Guest Fees	Yes—if not more than 15 consecutive days or 30 in a year
Prohibits Pet Fees	No
Other Fees Prohibited	No fee for installation of appliances, no fee for spouse, no fee upon sale of home unless community owner acted as broker
Prohibits Unreasonable Rules/Regs.	No
Specific Rules Prohibited	Can't restrict installation or service of appliances or interior improvements so long as in compliance with applicable code
Live-In Care Provider Provision	No

2003 Summary of State Statutes

Florida continued

Notice for Increase in Rent	90 days
Notice for Change in Rules	90 days
Allows Subleasing	No provision
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	Yes, if purchaser would otherwise qualify; lifetime leases not assignable unless specifically provided for
Allows "For Sale" Signs	Yes
Limitations on Community Operator's Right to Veto New Purchaser	Yes, approval may not be unreasonably withheld
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	Six months
Relocation Expenses	Yes
Right of 1st Refusal	Yes, 45 days to reach agreement
Buyout at Fair Market Value	Yes
Outlines Community Operator's Maintenance Obligations	Limited
Warranty of Habitability	No
Utility Provision	Community owner may not charge more than rates charged by utility
State Remedies	Admin. remedies, declaratory or injunctive relief, restitution, civil penalty up to \$5,000
Enforcement Authority	Division of Florida Land Sales, Condominiums & Mobile Homes of the Dept. of Business & Professional Registration
Private Remedies	Mediation or arbitration, court action, attorney's fees
Rent Withholding/Receivership	May withhold rent with written notification to community owner due to noncompliance with statute
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

Idaho

Manufactured Home Statutes	Idaho Code §§ 55-2001 to 2019
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes
One-Year Lease Term	No provision
Multi-Year Lease Term	No provision
Automatic Renewal	Yes, unless community owner gives 90-day notice
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes
Prohibits Retaliatory Eviction	Yes
Cure Provision	Three days for rent and rules
Requirement of Court Procedure Before Eviction	No (but see Idaho Code §§ 6-301 to 6-316 [forcible entry and detainer])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes
Prohibits Exit Fees	Yes
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No
Prohibits Unreasonable Rules/Regs.	Must be part of rental agreement and must be fairly and uniformly enforced
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	90 days
Notice for Change in Rules	90 days
Allows Subleasing	Yes, but sublessee must enter into new agreement with community owner

2003 Summary of State Statutes

Idaho continued

Allows Sale of Home in Community	Yes
Allows Assignment of Lease	Yes, but assignee must enter into new agreement with community owner
Allows "For Sale" Signs	No provision
Limitations on Community Operator's Right to Veto New Purchaser	May veto on same basis as any other new tenant
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	120 days
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No
Outlines Community Operator's Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	No
State Remedies	Provides for penalties
Enforcement Authority	None specified
Private Remedies	Damages, specific performance, treble damages, attorney's fees, costs
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

Illinois

Manufactured Home Statutes	765 Ill. Comp. Stat. Ann. 745/1 to 26
Prohibits Tie-Ins	Yes
Prohibits Restriction in Choice of Vendor	Yes, unless to protect health and safety of community tenants
Written Lease Required	Must be offered
One-Year Lease Term	Must be offered
Multi-Year Lease Term	No provision
Automatic Renewal	Yes, except with good cause community owner may not renew on 30 days' notice
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Unclear
Prohibits Retaliatory Eviction	Yes
Cure Provision	Five days for rent before late charge may be imposed
Requirement of Court Procedure Before Eviction	Yes (745/22; see also 735 Ill. Comp. Stat. 5/9-101 [prohibiting forcible entry])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	No
Prohibits Exit Fees	No
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No fee upon sale of home unless services provided
Prohibits Unreasonable Rules/Regs.	Rules must be reasonably related to purpose for which adopted
Specific Rules Prohibited	Can't restrict use of TV antenna
Live-In Care Provider Provision	No
Notice for Increase in Rent	60 days
Notice for Change in Rules	30 days
Allows Subleasing	No provision

2003 Summary of State Statutes

Illinois continued

Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No, purchaser must obtain new lease
Allows “For Sale” Signs	No provision
Limitations on Community Operator’s Right to Veto New Purchaser	Yes, only if new purchaser doesn’t meet general qualifications or lawful restrictions on community tenants
Prohibits Consideration of Age of Manufactured Home Upon Sale	Age may not be sole reason
Notice of Change of Use	12 months
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	Community owner cannot charge more than reasonable retail price for fuel or bottled gas
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	Damages, injunctive relief, termination of lease
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

Indiana

Manufactured Home Statutes	Ind. Code Ann. §§ 16-41-27-1 to 34
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	No
Written Lease Required	No
One-Year Lease Term	No provision
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	No
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes
Prohibits Retaliatory Eviction	No
Cure Provision	10 days (see § 32-7-1-5)
Requirement of Court Procedure Before Eviction	Yes
Limited Right to Evict for Noncompliance with Rules	No (but see Ind. Code §§ 32-6-1.5-1 to 35-6-1.5-12 [ejectment actions])
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	No
Prohibits Entrance Fees	No
Prohibits Exit Fees	No
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No
Prohibits Unreasonable Rules/Regs.	No
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision
Notice for Change in Rules	No provision
Allows Subleasing	No provision
Allows Sale of Home in Community	No provision

2003 Summary of State Statutes

Indiana continued

Allows Assignment of Lease	No provision
Allows “For Sale” Signs	No provision
Limitations on Community Operator’s Right to Veto New Purchaser	No provision
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	No provision
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	No
State Remedies	Civil penalties
Enforcement Authority	State department of health
Private Remedies	No provision
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	No
MH Community Operators Must Obtain License	Yes
<p><i>See Barber v. Echo Lake Mobile Home Com, 759 N.E.2d 253 (Ind. 2001) (state mobile home statute’s list of reasons for which tenancy may be terminated was not exhaustive and did not override state statute allowing month-to-month tenancies to be terminated on one month’s notice).</i></p>	

2003 Summary of State Statutes

Iowa

Manufactured Home Statutes	Iowa Code Ann. §§ 562B.1 to .32
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	Yes, unless necessary to protect other tenants
Written Lease Required	Must be offered
One-Year Lease Term	Yes, unless otherwise agreed
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes, though community owner may terminate at any time with 60 days' notice
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Unclear
Prohibits Retaliatory Eviction	Yes
Cure Provision	3 days for rent, 14 days for other violations
Requirement of Court Procedure Before Eviction	No (but see Iowa Code Ann. § 562A.33 [limiting recovery of possession])
Limited Right to Evict for Noncompliance with Rules	Must be material noncompliance
Adequate Time After Eviction to Sell Home	60 days
Fees Disclosed in Lease	No provision
Prohibits Entrance Fees	Yes, unless for services actually provided
Prohibits Exit Fees	Yes, unless for services actually provided
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No fee upon sale of home unless community owner acted as agent
Prohibits Unreasonable Rules/Regs.	Rules must be reasonably related to purpose for which adopted
Specific Rules Prohibited	Can't prohibit tenant meetings in community
Live-In Care Provider Provision	No
Notice for Increase in Rent	60 days, but not before end of current agreement
Notice for Change in Rules	30 days
Allows Subleasing	Only with agreement of community management

2003 Summary of State Statutes

Iowa continued

Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	No provision
Limitations on Community Operator’s Right to Veto New Purchaser	Yes, approval may not be unreasonably withheld; community owner may require removal of a rundown home
Prohibits Consideration of Age of Manufactured Home Upon Sale	No, and community owner may require removal of a rundown home
Notice of Change of Use	No provision
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	No
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	Damages, injunctive relief, termination of lease
Rent Withholding/Receivership	No
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

Kansas

Manufactured Home Statutes	Kan. Stat. Ann. §§ 58-25,100 to 25,126
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	Yes, unless necessary to protect other tenants
Written Lease Required	No
One-Year Lease Term	No provision
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes, but community owner may terminate any time with 60 days' notice
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Unclear
Prohibits Retaliatory Eviction	Yes
Cure Provision	3 days for rent, 14 days for other violations
Requirement of Court Procedure Before Eviction	Unclear (see Kan. Stat. Ann. § 60-1001)
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	No provision
Prohibits Entrance Fees	Yes, unless for services actually provided
Prohibits Exit Fees	Yes, unless for services actually provided
Prohibits Guest Fees	May not charge for family member or for one person who stays with a single tenant or for a guest who stays fewer than 30 days in a year
Prohibits Pet Fees	No
Other Fees Prohibited	No fee upon sale of home unless community owner acted as agent
Prohibits Unreasonable Rules/Regs.	Rules must be reasonably related to purpose for which adopted
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	60 days, but not before end of current agreement
Notice for Change in Rules	30 days

2003 Summary of State Statutes

Kansas continued

Allows Subleasing	Only with agreement of community management
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	No provision
Limitations on Community Operator’s Right to Veto New Purchaser	Yes, approval may not be unreasonably withheld; community owner may require removal of a rundown home
Prohibits Consideration of Age of Manufactured Home Upon Sale	No, and community owner may require removal of a rundown home
Notice of Change of Use	No provision
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	No
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	Damages, injunctive relief, termination of lease
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

Maine

Manufactured Home Statutes	Me. Rev. Stat. Ann. tit. 10, §§ 9091 to 9100
Prohibits Tie-Ins	No, though community owner may not require tenant to purchase equipment from community owner
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	No, but all fees, charges, and rules must be disclosed in writing
One-Year Lease Term	No provision
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes
Prohibits Retaliatory Eviction	Yes
Cure Provision	30 days for rent, reasonable opportunity for violation of rules
Requirement of Court Procedure Before Eviction	Yes (§ 9097-B, referring to forcible entry and detainer provisions)
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No
Fees Disclosed in Lease	Must be disclosed in writing prior to tenant taking occupancy
Prohibits Entrance Fees	No, but fee may not exceed two months' rent
Prohibits Exit Fees	Yes, unless provided for in original lease agreement
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No fees other than rent, utilities, incidental service charges, entrance fees, or security deposits unless provided for in rental agreement; no fee upon sale of home unless community owner has acted as agent
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	Rule allowing removal of home from community because of age or condition must be approved by Manufactured Housing Board
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision

2003 Summary of State Statutes

Maine continued

Notice for Change in Rules	No provision
Allows Subleasing	No provision
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	Allows reasonable advertising
Limitations on Community Operator’s Right to Veto New Purchaser	No provision
Prohibits Consideration of Age of Manufactured Home Upon Sale	May not require removal from community based on age alone
Notice of Change of Use	One year
Relocation Expenses	Yes, if community owner doesn’t give one year’s notice of renovation or reconstruction of the community
Right of 1st Refusal	No, but community owner must give tenants 45-day notice of intent to sell community unless buyer covenants in deed not to change use for two years
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	No
Warranty of Habitability	Yes
Utility Provision	Community owner can’t charge more than average retail price for fuel
State Remedies	Unfair trade practice
Enforcement Authority	None specified
Private Remedies	Damages, injunctive relief, rent abatement, unfair trade practice (allows restitution, damages, equitable relief, attorney’s fees, and costs)
Rent Withholding/Receivership	No
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

Maryland

Manufactured Home Statutes	Md. Code Ann., Real Prop. tit. 8A, §§ 101 to 1803
Prohibits Tie-Ins	May require if first rental of lot
Prohibits Restriction in Choice of Vendor	Yes, except for first rental of lot, or as relates directly to safety
Written Lease Required	Yes
One-Year Lease Term	Yes
Multi-Year Lease Term	No provision
Automatic Renewal	Yes, for qualified tenants
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Only if repeated within a six-month period
Prohibits Retaliatory Eviction	Yes
Cure Provision	Late fee may be imposed only after five days
Requirement of Court Procedure Before Eviction	Yes, for repossession for failure to pay rent (§ 8A-1701)
Limited Right to Evict for Noncompliance with Rules	May evict only if noncompliance repeated within a six-month period
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes, with service to be provided for each fee
Prohibits Entrance Fees	Yes, but may charge service fee for costs directly incurred
Prohibits Exit Fees	Yes, but may charge service fee based on costs directly incurred
Prohibits Guest Fees	Yes, so long as no more than 15 consecutive days or 30 days in one year
Prohibits Pet Fees	No
Other Fees Prohibited	May collect commission on sale only if acted as agent
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	Can't restrict installation of appliances or improvement of interior if in compliance with building code
Live-In Care Provider Provision	No
Notice for Increase in Rent	30 days
Notice for Change in Rules	30 days
Allows Subleasing	No provision

2003 Summary of State Statutes

Maryland continued

Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	No provision
Limitations on Community Operator’s Right to Veto New Purchaser	Yes, approval may not be unreasonably withheld
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	One year
Relocation Expenses	No, but community owner must submit relocation plan
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	Community owner can’t charge more than utility for service to tenant
State Remedies	No provision
Enforcement Authority	Consumer Protection Division of Office of Attorney General
Private Remedies	Civil action, attorney’s fees, equitable relief
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

Massachusetts

Manufactured Home Statutes	Mass. Gen. Laws ch. 140, §§ 32A to 32S; Mass. Regs. Code tit. 940, §§ 10.01 to 10.14
Prohibits Tie-Ins	Yes, unless first rental of lot
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes
One-Year Lease Term	No provision
Multi-Year Lease Term	Yes (five years)
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	No
Prohibits Retaliatory Eviction	Yes
Cure Provision	15 days
Requirement of Court Procedure Before Eviction	See Mass. Gen. Laws Ann. ch. 239, § 1 (summary process)
Limited Right to Evict for Noncompliance with Rules	Must be substantial violation of enforceable community rule
Adequate Time After Eviction to Sell Home	120 days
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes
Prohibits Exit Fees	Yes
Prohibits Guest Fees	Yes
Prohibits Pet Fees	Yes, unless reasonably related to service actually provided; no charge for guide dogs, service animals
Other Fees Prohibited	No fee for service unless listed in agreement or requested by resident and actually provided; no fee upon sale unless community owner acted as agent; commission may not exceed 10%
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision

2003 Summary of State Statutes

Massachusetts continued

Notice for Change in Rules	30 days, and must have been approved by attorney general or director of Housing and Community Development
Allows Subleasing	Yes (may not be unreasonably restricted)
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	Yes (may not be unreasonably restricted)
Allows “For Sale” Signs	Yes
Limitations on Community Operator’s Right to Veto New Purchaser	May veto only if prospective tenant does not meet community rules
Prohibits Consideration of Age of Manufactured Home Upon Sale	Yes
Notice of Change of Use	Two years (four years in certain circumstances); community owner must post available sites within 100 miles
Relocation Expenses	Yes
Right of 1st Refusal	Yes
Buyout at Fair Market Value	Yes, in lieu of relocation costs
Outlines Community Operator’s Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	Community owner may not charge more than average prevailing price in locality
State Remedies	Unfair and deceptive trade practice
Enforcement Authority	Attorney general, town or city’s board of health
Private Remedies	Yes, as unfair and deceptive trade practice (allows damages, equitable relief, double or treble damages in some circumstances, attorney’s fees and costs), damages
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	No
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

Michigan

Manufactured Home Statutes	Mich. Comp. Laws Ann. §§ 125.2301 to .2350, 600.5771 to .5785
Prohibits Tie-Ins	Yes
Choice of Vendor	Yes
Written Lease Required	Must be offered
One-Year Lease Term	No provision
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes
Prohibits Retaliatory Eviction	No
Cure Provision	No
Requirement of Court Procedure Before Eviction	No (but see Mich. Comp. Laws Ann. § 600.5714 [summary proceedings to recover possession])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	90 days
Fees Disclosed in Lease	No provision
Prohibits Entrance Fees	Yes
Prohibits Exit Fees	Yes
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	Fee above cost for inspection of manufactured home by community owner
Prohibits Unreasonable Rules/Regs.	No
Specific Rules Prohibited	May not prohibit children of tenants already in community or pets that were approved under prior community rules
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision
Notice for Change in Rules	No provision
Allows Subleasing	No provision

2003 Summary of State Statutes

Michigan continued

Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows "For Sale" Signs	No provision
Limitations on Community Operator's Right to Veto New Purchaser	No
Prohibits Consideration of Age of Manufactured Home Upon Sale	Age cannot be sole basis for requiring removal of home
Notice of Change of Use	No provision
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	Yes, if sold to community owner or related entity
Outlines Community Operator's Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	Utility company must notify state before shutoff of service to community for nonpayment
State Remedies	Injunction, violation of law is misdemeanor, fine of \$500 per day or one-year sentence or both for each violation
Enforcement Authority	Mobile Home Commission
Private Remedies	Available for some provisions
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

Minnesota

Manufactured Home Statutes	Minn. Stat. Ann. §§ 327C.01 to .15
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes
One-Year Lease Term	No provision
Multi-Year Lease Term	No provision
Automatic Renewal	Unclear
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	No
Prohibits Retaliatory Eviction	Yes
Cure Provision	10 days for rent, 30 days for rule violations
Requirement of Court Procedure Before Eviction	No (but see Minn. Stat. Ann. § 487.17 [forcible entry and unlawful detainer])
Limited Right to Evict for Noncompliance with Rules	No (other than 30-day cure provision)
Adequate Time After Eviction to Sell Home	Court may issue writ allowing 60 days after eviction
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes, except for services actually provided
Prohibits Exit Fees	Yes, except for services actually provided
Prohibits Guest Fees	Yes
Other Fees Prohibited	Fees for right to obtain rental lot, all other fees unless specifically provided for in lease
Prohibits Unreasonable Rules/Regs.	Yes
Prohibits Pet Fees	May charge up to \$4 per month
Specific Rules Prohibited	Rule requiring that more than one occupant of a home have an ownership interest in that home
Live-In Care Provider Provision	No
Notice for Increase in Rent	60 days
Notice for Change in Rules	60 days
Allows Subleasing	Yes, but only with agreement of community management

2003 Summary of State Statutes

Minnesota continued

Allows Sale of Home in Community	Yes, but community management may charge fee for processing new sale
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	Yes
Limitations on Community Operator’s Right to Veto New Purchaser	Yes—community owner must specify in writing criteria used to eliminate new purchaser
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	Nine months
Relocation Expenses	May be required by government agency or municipality, and required if tenant cannot relocate within 25-mile radius
Right of 1st Refusal	Yes
Buyout at Fair Market Value	No
Outlines Community Operator’s Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	Rates must be same as prevailing utility rates in the vicinity
State Remedies	Not specified
Enforcement Authority	Attorney general (see § 8.31)
Private Remedies	Damages, costs, attorney’s fees, equitable relief (see § 8.31)
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

Montana

Manufactured Home Statutes	Mont. Code Ann. §§ 70-24-313 to 315, 70-24-436
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	No
Written Lease Required	No
One-Year Lease Term	No provision
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes
Prohibits Retaliatory Eviction	No
Cure Provision	7 days for rent, 14 days for violation of rules
Requirement of Court Procedure Before Eviction	No (but see Mont. Code Ann. § 70-24-427 [action for possession])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	No
Prohibits Entrance Fees	No
Prohibits Exit Fees	No
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision
Notice for Change in Rules	If substantial modification, 30 days
Allows Subleasing	No provision
Allows Sale of Home in Community	No provision

2003 Summary of State Statutes

Montana continued

Allows Assignment of Lease	No provision
Allows "For Sale" Signs	No provision
Limitations on Community Operator's Right to Veto New Purchaser	No
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	Six months
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator's Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	No
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	Damages, treble damages for bad-faith refusal to deliver possession, termination, injunction
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

Nebraska

Manufactured Home Statutes	Neb. Rev. Stat. Ann. §§ 76-1450 to 14,
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	No
One-Year Lease Term	No, may be month to month
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	No provision
Prohibits Retaliatory Eviction	Yes
Cure Provision	5 days for rent, 30 days for other violations
Requirement of Court Procedure Before Eviction	No (but see Neb. Rev. Stat. § 25-21,219 [forcible entry and detainer])
Limited Right to Evict for Noncompliance with Rules	Yes, must be material noncompliance with rental agreement or other prohibited behavior that materially affects health and safety
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	No provision
Prohibits Entrance Fees	Yes, unless for services actually provided or pursuant to a written agreement
Prohibits Exit Fees	Yes, unless for services actually provided or pursuant to written agreement
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No fee upon sale unless community owner acted as agent
Prohibits Unreasonable Rules/Regs.	Rules must be reasonably related to purpose for which adopted
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	60 days
Notice for Change in Rules	60 days
Allows Subleasing	Yes, with agreement of community management

2003 Summary of State Statutes

Nebraska continued

Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows "For Sale" Signs	No provision
Limitations on Community Operator's Right to Veto New Purchaser	Yes, approval may not be unreasonably withheld
Prohibits Consideration of Age of Manufactured Home Upon Sale	No, expressly allows
Notice of Change of Use	No provision
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator's Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	Utility rates and charges must be explained to prospective tenants
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	Damages, termination, injunctive relief
Rent Withholding/Receivership	Yes, for wrongful failure to supply heat, water, hot water, or essential services (Neb. Rev. Stat. Ann. § 76-1427)
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

Nevada

Manufactured Home Statutes	Nev. Rev. Stat. Ann. §§ 118B.010 to .260
Prohibits Tie-Ins	Yes
Prohibits Restriction in Choice of Vendor	Yes—however, landlord must notify a tenant bringing a home into the park that only licensed installers may install
Written Lease Required	Yes
One-Year Lease Term	Not required
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes
Prohibits Retaliatory Eviction	Yes
Cure Provision	10 days for rent, 3 days for certain criminal activities, 45 days for other violations
Requirement of Court Procedure Before Eviction	No (but see Nev. Rev. Stat. § 118A.480 [recovery of possession])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	If the tenant is 60 or older or has a physical or mental disability, the tenant is entitled to an additional 30 days upon request
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes
Prohibits Exit Fees	Yes
Prohibits Guest Fees	Yes—unless guest stays 60 days in one year; single tenant may allow one other person to stay without additional charge or fee
Prohibits Pet Fees	Yes—unless specific service provided
Other Fees Prohibited	Fees for transfer or sale of home unless community owner is a licensed dealer and acted as agent; any fees for spouse or children
Prohibits Unreasonable Rules/Regs.	Rules must be reasonably related to purpose for which adopted
Specific Rules Prohibited	No
Live-In Care Provider Provision	No, but single tenant may allow one other person to stay without additional charge or fee
Notice for Increase in Rent	60 days
Notice for Change in Rules	90 days

2003 Summary of State Statutes

Nevada continued

Allows Subleasing	Restrictions must be in rental agreement
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows "For Sale" Signs	Yes
Limitations on Community Operator's Right to Veto New Purchaser	Yes, but approval may not be unreasonably withheld
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	180 days
Relocation Expenses	Yes, within 50-mile radius; if moved more than 50 miles, must pay costs for the first 50 miles. If tenant chooses to abandon home, or if home can't be moved without structural damage, or if no park within 50 miles will accept the home, the landlord may have it removed and disposed of and then pay the tenant fair market value, less costs, which are determined by statute
Right of 1st Refusal	Community owner must notify tenants that community is listed for sale
Buyout at Fair Market Value	No provision
Outlines Community Operator's Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	No
State Remedies	Civil penalties up to \$5,000, injunction, costs, attorney's fees
Enforcement Authority	Chief of Manufactured Housing Division of the Dept. of Business & Industry
Private Remedies	Rent abatement in certain circumstances
Rent Withholding/Receivership	Yes, rent abatement
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

New Hampshire

Manufactured Home Statutes	N.H. Rev. Stat. Ann. ch. 205-A
Prohibits Tie-Ins	Yes, except for first rental of lot
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes
One-Year Lease Term	Not required
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes
Prohibits Retaliatory Eviction	No eviction for tenant organizing
Cure Provision	30 days for rent, reasonable time period for other violations
Requirement of Court Procedure Before Eviction	No (but see N.H. Rev. Stat. Ann. § 540-A:3 [prohibiting certain acts by community owner])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No
Fees Disclosed in Lease	Must be disclosed in writing prior to entering written agreement
Prohibits Entrance Fees	May not exceed three months' rent, must be for services actually provided
Prohibits Exit Fees	May not exceed three months' rent, must be for services actually provided
Prohibits Guest Fees	No
Prohibits Pet Fees	Yes, unless community owner establishes costs incurred due to pets
Other Fees Prohibited	No fees unless for services actually provided; no fees for persons under 18; fees for additional adults may not exceed \$10/month; no fee upon sale of home unless community owner acted as agent pursuant to written contract
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	May not charge for person under 18
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision

2003 Summary of State Statutes

New Hampshire continued

Notice for Change in Rules	Three months
Allows Subleasing	No provision
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows "For Sale" Signs	Allows two signs
Limitations on Community Operator's Right to Veto New Purchaser	Yes, approval may not be unreasonably withheld
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	60 days
Relocation Expenses	No provision
Right of 1st Refusal	Tenants have 60 days to make offer, community owner must negotiate in good faith
Buyout at Fair Market Value	No provision
Outlines Community Operator's Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	Community owner can't charge over prevailing price for similar services
State Remedies	Violation is unfair trade practice
Enforcement Authority	Board of Manufactured Housing (for community rules issues), Consumer Protection & Antitrust Bureau of the Dept. of Justice, police dept.
Private Remedies	Violation is unfair trade practice (allows damages, double or treble damages for willful violation, equitable relief, attorney's fees, and costs)
Rent Withholding/Receivership	Yes, rent withholding after court issues injunction or receivership
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

New Jersey

Manufactured Home Statutes	N.J. Rev. Stat. §§ 2A:18-61.1, 46:8C-2 to 46:8C-21; N.J. Admin. Code tit. 5, §§ 5:24-1.1 to 2.11
Prohibits Tie-Ins	Yes, except for first rental of lot
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes
One-Year Lease Term	Yes
Multi-Year Lease Term	No
Automatic Renewal	Yes, except for good cause
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Unclear
Prohibits Retaliatory Eviction	Yes (see § 2A:42-10.12)
Cure Provision	No provision
Requirement of Court Procedure Before Eviction	No (but see N.J. Rev. Stat. § 2A:18-53 [removal of tenant])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Must be disclosed in writing prior to occupancy
Prohibits Entrance Fees	Must be specifically related to actual cost incurred by community owner
Prohibits Exit Fees	Must be specifically related to actual cost incurred by community owner
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	Fee for credit check can't exceed community owner's cost; no fee for installing appliance unless fee reflects cost
Prohibits Unreasonable Rules/Regs.	No
Specific Rules Prohibited	Can't restrict installation of appliances or interior improvements as long as in compliance with code
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision
Notice for Change in Rules	30 days (for fee changes as well)

2003 Summary of State Statutes

New Jersey continued

Allows Subleasing	No provision
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	Yes
Limitations on Community Operator’s Right to Veto New Purchaser	Yes, approval may not be unreasonably withheld
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	60 days if conversion into condominium or cooperative, and if tenant 62 or older and meets income cap, may not be evicted; 18 months if retiring community from rental market
Relocation Expenses	Upon conversion, certain tenants may get five months’ rent; others may get one month’s waiver of rent
Right of 1st Refusal	Yes (for private, residential leasehold communities), 45 days to reach agreement; if conversion to condominium or cooperative, 90 days to purchase stock or shares
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	No
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	Action for damages, for wrongful refusal to allow sale of home; treble damages for failure to comply with conversion requirements
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

New Mexico

Manufactured Home Statutes	N.M. Stat. Ann. §§ 47-10-1 to 23
Prohibits Tie-Ins	Permitted for first rental of lot
Prohibits Restriction in Choice of Vendor	No
Written Lease Required	Yes
One-Year Lease Term	Not required
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Limited right to evict for noncompliance with rules and regulations
Prohibits Retaliatory Eviction	Yes
Cure Provision	Three days for rent
Requirement of Court Procedure Before Eviction	No (but see N.M. Stat. Ann. § 35-10-1 [forcible entry or detainer])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes, except for incidental charges for services actually provided
Prohibits Exit Fees	Yes, except for incidental charges for services actually provided
Prohibits Guest Fees	May charge fees only for services actually provided
Prohibits Pet Fees	No
Other Fees Prohibited	No fee upon sale unless for services actually provided
Prohibits Unreasonable Rules/Regs.	Must be reasonably related to purpose for which adopted
Specific Rules Prohibited	No retaliatory or discriminatory rules; existing pets exempt from subsequent prohibitions
Live-In Care Provider Provision	No
Notice for Increase in Rent	60 days
Notice for Change in Rules	Community owner must submit proposed rule change to tenants for comment 60 days prior to being implemented and must allow 30-day comment period

2003 Summary of State Statutes

New Mexico continued

Allows Subleasing	No provision
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	No provision
Limitations on Community Operator’s Right to Veto New Purchaser	Community owner may apply normal community standards
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	Six months
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	Community owner can’t charge more than paid by community owner
State Remedies	Civil penalty of \$500
Enforcement Authority	None specified
Private Remedies	Mediation, court action for violation of agreement reached in mediation
Rent Withholding/Receivership	Unclear (Note that Landlord/Tenant Act does not define tenant to include one who merely rents a mobile home lot)
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

New York

Manufactured Home Statutes	N.Y. Real Prop. Law §§ 233, 735
Prohibits Tie-Ins	Yes
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Must be offered
One-Year Lease Term	Must be offered
Multi-Year Lease Term	No provision
Automatic Renewal	Renewal must be offered to tenants in good standing
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Unclear
Prohibits Retaliatory Eviction	Yes
Cure Provision	3 days for rent, 10 days for violation of rule or lease
Requirement of Court Procedure Before Eviction	Yes (N.Y. Real Prop. Law § 233 (d) [provides that evictions are governed by Article 7 of Real Property Actions and Proceedings Law])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Must be disclosed prior to occupancy
Prohibits Entrance Fees	Yes, except for services actually provided
Prohibits Exit Fees	Yes, except for services actually provided
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No fees other than rent, utilities, and charges for facilities and services actually provided; no fee for installation of appliances unless performed by community owner; no fee upon sale unless community owner acted as agent
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	Can't restrict occupancy of mobile home to tenant's immediate family
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision

2003 Summary of State Statutes

New York continued

Notice for Change in Rules	30 days
Allows Subleasing	Yes, with written consent of community owner
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	Yes, with community owner's written consent, which may not be unreasonably withheld
Allows "For Sale" Signs	Yes
Limitations on Community Operator's Right to Veto New Purchaser	Yes, approval may not be unreasonably withheld
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	Six months
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator's Maintenance Obligations	No
Warranty of Habitability	Yes
Utility Provision	No
State Remedies	Injunction, \$2,000 fine, restitution
Enforcement Authority	Commission of Housing and Community Renewal, attorney general
Private Remedies	Action for damages
Rent Withholding/Receivership	Yes (governed by Article 7 of Real Property Actions and Proceedings Law)
Waiver of Rights Provision Prohibited	No
MH Community Operators Must Obtain License	Yes (by administrative regulation)

2003 Summary of State Statutes

North Dakota

Manufactured Home Statutes	N.D. Cent. Code §§ 23-10-01 to 12
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	No
Written Lease Required	Yes, if greater than one year
One-Year Lease Term	One year presumed
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes
Prohibits Retaliatory Eviction	No
Cure Provision	No
Requirement of Court Procedure Before Eviction	No (but see N.D. Cent. Code § 33-06-01 [action of eviction])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	No provision
Prohibits Entrance Fees	No, but fee must reasonably reflect cost of service provided
Prohibits Exit Fees	No, but fee must reasonably reflect cost of service provided
Prohibits Guest Fees	No, but fee must reasonably reflect cost of service provided
Prohibits Pet Fees	No, but fee must reasonably reflect cost of service provided
Other Fees Prohibited	No, but all fees must reasonably reflect cost of service provided
Prohibits Unreasonable Rules/Regs.	No
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision
Notice for Change in Rules	No provision
Allows Subleasing	No provision

2003 Summary of State Statutes

North Dakota continued

Allows Sale of Home in Community	No provision
Allows Assignment of Lease	No provision
Allows "For Sale" Signs	No provision
Limitations on Community Operator's Right to Veto New Purchaser	No provision
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	180 days
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator's Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	No provision
State Remedies	Revocation of license
Enforcement Authority	State department of health
Private Remedies	Damages, injunction (§ 43-32-6)
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	No
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

Ohio

Manufactured Home Statutes	Ohio Rev. Code Ann. §§ 3733.01 to .20
Prohibits Tie-Ins	Yes
Prohibits Restriction in Choice of Vendor	Community owner may choose vendor for equipment, provided that equipment is readily available to tenant; may not require tenant to use any specific person for installation or performance of any service
Written Lease Required	Must be offered
One-Year Lease Term	Must be offered
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Eviction allowed for violation of community rules
Prohibits Retaliatory Eviction	Yes
Cure Provision	30 days for violation of community rules
Requirement of Court Procedure Before Eviction	No (but see Ohio Rev. Code § 1923.01 [forcible entry and detainer])
Limited Right to Evict for Noncompliance with Rules	Yes, violation must be material
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Not required
Prohibits Entrance Fees	May charge only actual costs
Prohibits Exit Fees	May charge only actual costs
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No fee for installation of appliances unless performed by community owner; no fee upon sale unless community owner acts as agent
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	30 days
Notice for Change in Rules	30 days

2003 Summary of State Statutes

Ohio continued

Allows Subleasing	No provision
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows "For Sale" Signs	No provision
Limitations on Community Operator's Right to Veto New Purchaser	Community owner cannot unreasonably refuse to enter into agreement with new purchaser
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	120 days
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator's Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	No provision
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	Damages, attorney's fees
Rent Withholding/Receivership	Rent may be deposited with court after notice to community owner of violations of statute
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

Oregon

Manufactured Home Statutes	Or. Rev. Stat. §§ 90.505 to .840
Prohibits Tie-Ins	Yes
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes, though tenant may refuse to sign
One-Year Lease Term	Must be offered
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes
Prohibits Retaliatory Eviction	Yes
Cure Provision	30 days for first violation
Requirement of Court Procedure Before Eviction	No (but see Or. Rev. Stat. § 105.105 [prohibiting nonpeaceful entry])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	No provision
Prohibits Exit Fees	No provision
Prohibits Guest Fees	No
Prohibits Pet Fees	May charge up to \$50 for violation of written pet agreement
Other Fees Prohibited	No fee upon sale unless acted as agent
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	Can't prevent tenants from holding meetings in community, communicating, or canvassing; can't change rule to prohibit pre-existing pet or subsequent similar pet
Live-In Care Provider Provision	No
Notice for Increase in Rent	90 days
Notice for Change in Rules	60 days
Allows Subleasing	No provision

2003 Summary of State Statutes

Oregon continued

Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	Yes
Limitations on Community Operator’s Right to Veto New Purchaser	May only veto for cause; conditions for approval of purchaser must be in lease
Prohibits Consideration of Age of Manufactured Home Upon Sale	No provision
Notice of Change of Use	365 days, or 180 days if community owner finds new space for tenant
Relocation Expenses	Yes, the greater of cost of moving and set-up or \$3,500, if community owner finds space acceptable to tenant
Right of 1st Refusal	Community owner must give notice to tenants’ organization and negotiate in good faith
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes
Warranty of Habitability	Yes
Utility Provision	Community owner may charge only amount billed to community owner
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	Damages for certain violations, injunction, attorney’s fees, informal dispute resolution regarding rules
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	No
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

Pennsylvania

Manufactured Home Statutes	68 Pa. Cons. Stat. §§ 398.1 to 16
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Not required
One-Year Lease Term	No provision
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	No
Prohibits Retaliatory Eviction	Yes
Cure Provision	20-30 days for rent, depending on time of year
Requirement of Court Procedure Before Eviction	No (but see 68 Pa. Cons. Stat. § 250.501 [action for possession])
Limited Right to Evict for Noncompliance with Rules	Only for second violation of community rules within six-month period
Adequate Time After Eviction to Sell Home	No
Fees Disclosed in Lease	Must be disclosed in writing prior to occupancy
Prohibits Entrance Fees	Yes, except for installation fees for actual costs incurred
Prohibits Exit Fees	Yes, except for removal fees for actual costs incurred
Prohibits Guest Fees	Yes
Prohibits Pet Fees	No
Other Fees Prohibited	Fees for installation of appliances cannot exceed actual costs incurred
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	Can't prevent sale of home
Live-In Care Provider Provision	No
Notice for Increase in Rent	60 days (30 days to increase fees)
Notice for Change in Rules	No provision
Allows Subleasing	No provision

2003 Summary of State Statutes

Pennsylvania continued

Allows Sale of Home in Community	Yes, but community owner must approve purchaser
Allows Assignment of Lease	No provision
Allows "For Sale" Signs	No provision
Limitations on Community Operator's Right to Veto New Purchaser	Yes, approval may not be unreasonably withheld
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	No provision
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator's Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	No provision
State Remedies	Injunctive relief
Enforcement Authority	Attorney general
Private Remedies	Damages, treble damages in certain circumstances, restitution
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

Rhode Island

Manufactured Home Statutes	R.I. Gen. Laws §§ 31-44-1 to 21, 31-44.1-1 to 31-44.1-3
Prohibits Tie-Ins	Permitted for first rental of lot
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes, must be offered; written lease required in town of Exeter
One-Year Lease Term	Yes, unless tenant requests shorter term
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes
Prohibits Retaliatory Eviction	Yes
Cure Provision	Seven days for rent, reasonable opportunity for violation of rules
Requirement of Court Procedure Before Eviction	Yes (§ 31-44-2 [referring to action for possession in Residential Landlord/Tenant Act])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	May be charged if home transported to the lot but not if community owner received commission on sale
Prohibits Exit Fees	No
Prohibits Guest Fees	No
Prohibits Pet Fees	Yes, unless special facilities provided and fee reasonably relates to cost of facilities
Other Fees Prohibited	No fees for tenant's installation of cable television, no fee upon sale of home unless community owner was licensed and acted as agent
Prohibits Unreasonable Rules/Regs.	Yes, provides for agency review of community rules
Specific Rules Prohibited	Agency review; if rules relating to pets change, won't apply to pre-existing pet or subsequent pet that replaces one that dies
Live-In Care Provider Provision	No
Notice for Increase in Rent	60 days

2003 Summary of State Statutes

Rhode Island continued

Notice for Change in Rules	Three months, unless with tenants' consent
Allows Subleasing	No provision
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows "For Sale" Signs	Yes
Limitations on Community Operator's Right to Veto New Purchaser	Only for good cause
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	One year
Relocation Expenses	Lesser of \$2,000 or actual expenses
Right of 1st Refusal	Yes, for both sale and lease of the community
Buyout at Fair Market Value	No provision
Outlines Community Operator's Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	Cannot charge more for resale than paid to distributor
State Remedies	Up to \$5,000 fine, loss of license
Enforcement Authority	Dept. of Business Regulation
Private Remedies	Damages, mediation for excessive rent increases
Rent Withholding/Receivership	Yes, rent abatement for certain repairs
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

South Carolina

Manufactured Home Statutes	S.C. Code Ann. §§ 27-47-10 to 620
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	No
Written Lease Required	Yes
One-Year Lease Term	Not required
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes
Prohibits Retaliatory Eviction	Yes
Cure Provision	5 days for rent, 14 days for other violations
Requirement of Court Procedure Before Eviction	No (but see S.C. Code Ann. § 27-5-110 [requiring lawful and peaceable entry])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes, service fees must be in separate document
Prohibits Entrance Fees	No
Prohibits Exit Fees	No
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	Cannot charge a user fee for service previously included in rental amount unless community owner makes corresponding decrease in rent
Prohibits Unreasonable Rules/Regs.	No
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision
Notice for Change in Rules	No provision
Allows Subleasing	No provision

2003 Summary of State Statutes

South Carolina continued

Allows Sale of Home in Community	No provision
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	No provision
Limitations on Community Operator’s Right to Veto New Purchaser	Yes, approval may not be unreasonably withheld
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	No provision
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes (see Residential Landlord and Tenant Act)
Warranty of Habitability	No
Utility Provision	No provision
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	Damages, termination (see Residential Landlord and Tenant Act, §§ 27-40-10 to 27-40-940)
Rent Withholding/Receivership	No
Waiver of Rights Provision Prohibited	Yes (see Residential Landlord and Tenant Act)
MH Community Operators Must Obtain License	Yes (by administrative regulation)

2003 Summary of State Statutes

Utah

Manufactured Home Statutes	Utah Code Ann. §§ 57-16-1 to 15.1
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	No
Written Lease Required	Yes
One-Year Lease Term	Not required
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes
Prohibits Retaliatory Eviction	No
Cure Provision	5 days for rent and fees, 7 days for community rules violations, 60 days for repair/maintenance
Requirement of Court Procedure Before Eviction	Yes (Utah Code Ann. § 57-16-6 [referring to unlawful detainer actions])
Limited Right to Evict for Noncompliance with Rules	No, but resident has right to meet with management regarding disputed rules violations
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes
Prohibits Exit Fees	Yes
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	Installation fees
Prohibits Unreasonable Rules/Regs.	Rules must relate to health, safety, and appropriate conduct of tenants or maintenance and upkeep of the community
Specific Rules Prohibited	Rules that prevent unreasonable prohibition on sale of home in community
Live-In Care Provider Provision	No
Notice for Increase in Rent	60 days

2003 Summary of State Statutes

Utah continued

Notice for Change in Rules	120 days for changes that require resident to make changes to home's exterior or home space in excess of \$2,000; 90 days if greater than \$250 but less than \$2,000; 60 days for other exterior changes
Allows Subleasing	No provision
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows "For Sale" Signs	Yes
Limitations on Community Operator's Right to Veto New Purchaser	Yes, approval may not be unreasonably withheld
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	90 days
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator's Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	Water, sewage, and sanitation providers cannot receive a greater net return from mobile home community customers
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	No provision
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

Vermont

Manufactured Home Statutes	Vt. Stat. Ann. tit. 10, §§ 6201 to 6266
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes
One-Year Lease Term	Not required
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Only if substantial violation of lease terms
Prohibits Retaliatory Eviction	Yes
Cure Provision	20 days for rent
Requirement of Court Procedure Before Eviction	No (but see Vt. Stat. Ann. tit 12, § 4911 [prohibiting forcible entry])
Limited Right to Evict for Noncompliance with Rules	Eviction only if substantial violation of lease terms
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes, but may charge reasonable fee for installation of home
Prohibits Exit Fees	No
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No fee upon sale of home unless community owner acted as agent; no fees for improvements unless tenant employed community operator
Prohibits Unreasonable Rules/Regs.	Requires reasonable and fair lease terms
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	60 days
Notice for Change in Rules	No provision

2003 Summary of State Statutes

Vermont continued

Allows Subleasing	With community owner's express permission, which cannot be unreasonably withheld
Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows "For Sale" Signs	No provision
Limitations on Community Operator's Right to Veto New Purchaser	May veto if purchaser does not qualify under lease terms
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	12 months; 6 months for condominium conversion
Relocation Expenses	Yes, if community condemned due to owner's actions
Right of 1st Refusal	Yes, owner must negotiate in good faith
Buyout at Fair Market Value	No provision
Outlines Community Operator's Maintenance Obligations	Yes
Warranty of Habitability	Yes
Utility Provision	Yes, may not charge more than charged to community owner
State Remedies	\$1,000 fine or six months in jail
Enforcement Authority	Agency of Natural Resources (licensing issues), Dept. of Housing & Community Affairs (landlord/tenant issues)
Private Remedies	Injunction, \$10,000 or 50% of gain on sale if community owner fails to comply with right of first refusal provisions, mediation for excessive rent increases
Rent Withholding/Receivership	Yes, for repairs
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	Yes

2003 Summary of State Statutes

Virginia

Manufactured Home Statutes	Va. Code Ann. §§ 55-248.41 to .52
Prohibits Tie-Ins	Yes, except for first rental of lot
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes
One-Year Lease Term	Must be offered
Multi-Year Lease Term	No provision
Automatic Renewal	Yes
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	No provision
Prohibits Retaliatory Eviction	Yes
Cure Provision	5 days for rent, 21 days for material noncompliance with lease
Requirement of Court Procedure Before Eviction	No (but see Va. Code Ann. § 8.01-124 [unlawful entry or detainer])
Limited Right to Evict for Noncompliance with Rules	Yes, must be material noncompliance affecting the health, safety, or welfare of others
Adequate Time After Eviction to Sell Home	90 days
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes
Prohibits Exit Fees	Yes
Prohibits Guest Fees	Yes
Prohibits Pet Fees	No
Other Fees Prohibited	No fee upon sale of home unless community owner acted as agent; fees for use of satellite or cable
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision
Notice for Change in Rules	No provision
Allows Subleasing	No provision

2003 Summary of State Statutes

Virginia continued

Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	Yes
Limitations on Community Operator’s Right to Veto New Purchaser	Yes, approval may not be unreasonably withheld
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	120 days
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	Community owner may not charge more than was charged to community owner
State Remedies	Injunctive relief
Enforcement Authority	Local government’s attorney
Private Remedies	Greater of one month’s rent or actual damages and reasonable attorney’s fees
Rent Withholding/Receivership	Yes
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

Washington

Manufactured Home Statutes	Wash Rev. Code §§ 59.20.010 to .901
Prohibits Tie-Ins	No
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes
One-Year Lease Term	Must be offered
Multi-Year Lease Term	No provision
Automatic Renewal	Yes
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes, those specified in lease agreement upon five days' notice
Prohibits Retaliatory Eviction	Yes
Cure Provision	5 days for rent, 15 days for violation of rules
Requirement of Court Procedure Before Eviction	No (but see Wash. Rev. Code § 59.12.070 [forcible entry and forcible and unlawful detainer])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes (unless part of a continuing care contract)
Prohibits Exit Fees	Yes
Prohibits Guest Fees	Yes, unless guest stays more than 15 days, may charge for parking if guest parks for an extended period; no fee for live-in care provider
Prohibits Pet Fees	No
Other Fees Prohibited	No fees for guest parking unless extended stay
Prohibits Unreasonable Rules/Regs.	Yes
Specific Rules Prohibited	No
Live-In Care Provider Provision	Yes, can't charge fee for live-in care provider
Notice for Increase in Rent	Three months
Notice for Change in Rules	Six months
Allows Subleasing	No provision

2003 Summary of State Statutes

Washington continued

Allows Sale of Home in Community	Yes
Allows Assignment of Lease	Yes
Allows “For Sale” Signs	No provision
Limitations on Community Operator’s Right to Veto New Purchaser	May veto on same basis as new tenant
Prohibits Consideration of Age of Manufactured Home Upon Sale	Age can’t be sole reason to deny entry or require removal
Notice of Change of Use	12 months
Relocation Expenses	State relocation assistance program provides up to \$7,000 for a double-wide home; \$3,500 for a single-wide to eligible low-income tenants
Right of 1st Refusal	Yes, but provision struck by state Supreme Court in <i>Manufactured Hous. Communities v. State</i> , 142 Wash. 2d 347, 13 P.3d 183 (2001)
Buyout at Fair Market Value	No
Outlines Community Operator’s Maintenance Obligations	Yes
Warranty of Habitability	No
Utility Provision	Can’t charge more than actual utility costs
State Remedies	No provision
Enforcement Authority	Health officer for jurisdiction in which community is located (health and sanitation standards)
Private Remedies	Mediation, arbitration, termination, rent abatement, attorney’s fees, costs
Rent Withholding/Receivership	Yes, rent abatement for repairs
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	No

2003 Summary of State Statutes

West Virginia

Manufactured Home Statutes	W. Va. Code §§ 37-15-1 to 8
Prohibits Tie-Ins	Yes, except for first rental of lot
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes
One-Year Lease Term	Not required
Multi-Year Lease Term	No provision
Automatic Renewal	No provision
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	No provision
Prohibits Retaliatory Eviction	Yes
Cure Provision	No provision
Requirement of Court Procedure Before Eviction	No (but see W. Va. Code § 55-3-1 [forcible or unlawful entry])
Limited Right to Evict for Noncompliance with Rules	No
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes (factory-built home site)
Prohibits Exit Fees	No
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No fee upon sale unless community owner provides service; no fee for improvements or installations on interior unless community owner employed for service
Prohibits Unreasonable Rules/Regs.	No
Specific Rules Prohibited	No
Live-In Care Provider Provision	No
Notice for Increase in Rent	No provision
Notice for Change in Rules	No provision
Allows Subleasing	No provision

2003 Summary of State Statutes

West Virginia continued

Allows Sale of Home in Community	No provision
Allows Assignment of Lease	No provision
Allows “For Sale” Signs	No provision
Limitations on Community Operator’s Right to Veto New Purchaser	No provision
Prohibits Consideration of Age of Manufactured Home Upon Sale	No
Notice of Change of Use	6 months if 25 or more tenants evicted in 18-month period
Relocation Expenses	No, unless community owner violates mass eviction notice requirements
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator’s Maintenance Obligations	Yes (see § 37-6-30)
Warranty of Habitability	No
Utility Provision	No provision
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	For failure to comply with mass eviction notice requirements, damages, relocation costs, may receive greater of one year’s rent or treble damages in certain circumstances, attorney’s fees
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	Yes
MH Community Operators Must Obtain License	Yes (by administrative regulation)

2003 Summary of State Statutes

Wisconsin

Manufactured Home Statutes	Wis. Stat. Ann. § 710.15; Wis. Admin. Code Agriculture, Trade & Consumer Protection §§ 125.01 to.08
Prohibits Tie-Ins	Yes
Prohibits Restriction in Choice of Vendor	Yes
Written Lease Required	Yes
One-Year Lease Term	Yes, unless shorter term requested by tenant
Multi-Year Lease Term	No provision
Automatic Renewal	Yes, except for good cause
Good Cause Eviction	Yes
Nonpayment of Fees and Late Charges Is Grounds for Eviction	Yes, fees
Prohibits Retaliatory Eviction	Yes
Cure Provision	Five days for rent or other violation of the lease
Requirement of Court Procedure Before Eviction	No (but see Wis. Stat. § 799.40 [eviction actions])
Limited Right to Evict for Noncompliance with Rules	Yes, must be a violation that endangers health or safety of others or disrupts right to peaceful enjoyment
Adequate Time After Eviction to Sell Home	No provision
Fees Disclosed in Lease	Yes
Prohibits Entrance Fees	Yes, except for actual costs incurred
Prohibits Exit Fees	Yes, except for actual costs incurred
Prohibits Guest Fees	No
Prohibits Pet Fees	No
Other Fees Prohibited	No
Prohibits Unreasonable Rules/Regs.	No
Specific Rules Prohibited	Rules that substantially affect rights or duties of tenant may not be changed during the lease term
Live-In Care Provider Provision	No
Notice for Increase in Rent	28 days (for fees as well)
Notice for Change in Rules	28 days
Allows Subleasing	No provision

2003 Summary of State Statutes

Wisconsin continued

Allows Sale of Home in Community	Yes
Allows Assignment of Lease	No provision
Allows "For Sale" Signs	No provision
Limitations on Community Operator's Right to Veto New Purchaser	May veto only for listed reasons
Prohibits Consideration of Age of Manufactured Home Upon Sale	Yes
Notice of Change of Use	No
Relocation Expenses	No provision
Right of 1st Refusal	No provision
Buyout at Fair Market Value	No provision
Outlines Community Operator's Maintenance Obligations	No
Warranty of Habitability	No
Utility Provision	Prices must be competitive with retail prices
State Remedies	No provision
Enforcement Authority	None specified
Private Remedies	No provision
Rent Withholding/Receivership	No provision
Waiver of Rights Provision Prohibited	No
MH Community Operators Must Obtain License	Yes

Appendix C: Changes from Earlier Edition

This edition of the model state statute differs from the 1991 version in a number of significant ways. Among the major changes are the following:

- **Utilities.** The issue of utilities has been expanded to clarify what is meant by the term, and a provision has been added to ensure that residents have the same protection from arbitrary termination of operator-supplied utility service that they would if a regulated utility company provided the service.
- **Tie-ins.** The section addressing tie-ins between manufactured housing community operators and suppliers has been expanded to include commodities and services that are incidental to the placement of the home within the community.
- **Term of Lease.** Based on feedback to the earlier edition from consumers and consumer advocates, the recommended lease term has been shortened from five years to two years. This lease is renewable indefinitely, and the model statute has been further expanded to include a method by which the consumer can appeal rent increases on the basis of fair market appraisal.
- **Evictions.** The revised statute clarifies that manufactured housing community operators cannot circumvent eviction procedures by categorizing residents as “former residents,” for instance, by refusing to renew the lease. Further, it clarifies consumer rights in eviction proceedings; for instance, a community operator’s refusal to accept rent from a resident is not “nonpayment of rent” and is not grounds for eviction. The revised statute also has further detail relating to judicial review of eviction procedures and stronger language requiring a court order for eviction.
- **Temporary Absence by the Homeowner.** Residents who must leave the manufactured housing community temporarily due to illness or disability may retain their lease by designating a relative or relatives to live in and maintain the home and otherwise maintain the requirements of the lease on behalf of that resident.
- **Fees.** The current edition expands the types of hidden fees that are prohibited—for instance, credit checks and set-up services that exceed actual cost or prevailing rates and appliance installation fees when the community operator is not involved in the installation.
- **Guests.** The current edition defines “short-term guest” and prohibits extra fees for short-term guests.
- **Enforcement of Community Rules.** The current edition clarifies that any manufactured housing community rules must be enforced uniformly and provides expanded judicial scope for challenge of rule violations.
- **Rent Calculation Formulas.** If the lease does not explicitly state what future rent increases may be but relies on a formula, then that formula must be based on objective measures not controlled by the community operator.
- **Warranty of Habitability.** This edition includes improved language related to warranty of habitability.

2003 Summary of State Statutes

- **Common Areas.** This edition contains improved language concerning community operator responsibility for common areas and services (for instance, septic systems).
- **Right to Organize.** This edition includes expanded language relating to the rights of residents to peacefully organize.
- **Change in Land Use.** The section on Changed Land Use has been almost entirely revised. Of particular note is that the earlier edition envisioned the community operator paying some level of relocation costs when the community is converted to some other use. However, at least two state courts have recently overturned similar laws on constitutional grounds. The revised statute envisions a state-administered relocation fund.
- **Manufactured Housing Community Sales.** The section on Sale of Community has also been substantially revised. The new edition expands what must be disclosed to residents, clarifies notice periods, and strengthens language relating to the right of first refusal when residents seek to purchase their manufactured housing community.
- **Arbitration.** In cases where arbitration is recommended by the model statute, language has been added to clarify that any arbitration is nonbinding; that is, either party may seek judicial review.
- **State Enforcement Agency.** New language has been added requiring a state agency to monitor compliance, facilitate implementation of the act, mediate grievances between operators and residents, disseminate information, and so on. This does not require establishing a new state agency. For instance, an existing housing or consumer agency may be assigned the responsibility.



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