

CHAPTER 723 / CHAPTER 513

The following is a comparison of some of the key aspects of Chapter 723, Florida Statutes, the law governing mobile parks in Florida, and Chapter 513, Florida Statutes, the law governing recreational vehicle parks in Florida.

Governing Agencies - Mobile home parks are regulated by the Florida Department of Business and Professional Regulation (DBPR) and recreational vehicle parks are regulated by the Florida Department of Health (DOH).

Lease Term - Chapter 723 requires that a mobile home park lease term be for a period of at least one year. Recreational vehicle parks lease terms are generally for a period of six months.

Notice Requirements - Chapter 723 requires 90 days notice to all affected home owners prior to an increase in lot rental amount, change in the rules and regulations, or reduction in services. Chapter 513 requires only 5 days notice to DOH of an increase in rent rates. Rules can be changed without notice.

Increase in Lot Rental Amount - Chapter 723 limits increases in lot rental amount to once annually and only on the lease anniversary date (except ad valorem property taxes, utility charges, and pass through charges which may be charged more than once and at any time during the year).

Pass on and Pass Through Charges - Chapter 723 provides that home owners are responsible for the payment of a pro rata share of governmentally mandated capital improvements to the park (pass through charges) and, upon prior disclosure, for payment of ad valorem property taxes and utility costs assessed against the park or increases of either (pass on charges). Pass on and pass through charges are not addressed in Chapter 513.

Homeowner's Associations - Chapter 723 gives homeowners the right to organize as an incorporated home owner's association. Recreational vehicle park applicants have no statutory right to organize as such.

Prospectus / Disclosure Document - Chapter 723 requires owners of mobile home parks which offer 10 or more mobile home lots for rent deliver a disclosure document. In parks containing 26 or more mobile home spaces, the document, a prospectus, must be approved by DBPR. The prospectus sets forth the terms which govern a home owner's tenancy in the park, including, but not limited to, the manner in which rent can be increased, mobile home owner required improvements, park amenities, fees and charges, the manner in which utilities and other services are provided and by whom, and rules and regulations. Severe limitations apply to any amendment of the prospectus, even to reflect changes to the park itself.

Recreational vehicle park owners are required only to provide a lease. Rules and regulations must be posted, and such rules and regulations control the liabilities, responsibilities, and obligations of all parties.

Change In The Use Of The Land - Mobile home park owners are required to provide 6 months notice to residents of any change in the use of the land. There is no such requirement for change in the use of the land of a recreational vehicle park.

Advertisement - Chapter 723 requires that all advertisements used by mobile home parks must be filed with the DBPR within 30 days of the end of each calendar quarter in which it was used. The wording and content of such advertising is restricted. Such limitations apply to the information regarding the location of the park, lot rental information, and the size, nature, extent, qualities and characteristics of park facilities.

Advertising for recreational vehicle parks is does not need to be filed with DOH and restrictions on advertising are much more general and apply mostly to rental rates.

Note that notwithstanding the above, care should be taken to ensure that any advertising used in mobile home or recreational vehicle parks does not discriminate against any protected class as set forth in the United States Fair Housing Amendments Act.

Abandonment - Under Chapter 723, an abandoned mobile home must be evicted upon court order prior to the park owner's execution of a lien or writ of possession against the abandoned property.

Chapter 513 provides that an abandoned recreational vehicle may be removed from the site by the recreational vehicle park owner.

Storage Charges - Chapter 723 provides that storage charges may be assessed against a purchase money lienholder as to mobile homes being evicted, or which have been voluntarily surrendered to the lienholder, or for which the lienholder has filed an action for replevin or foreclosure. Chapter 513 does not provide for storage charges.

Screening of Residents - Chapter 723 provides that potential residents may be screened to determine qualifications to become a tenant of the park, including financial capabilities.

Chapter 513 provides that a recreational park may refuse accommodations to anyone based on intoxication, profanity, lewdness, or brawling, who indulges in such language or conduct so as to disturb the peace or comfort of other guests; who engages in illegal or disorderly conduct; or whose conduct constitutes a nuisance.

All screening of residents should be applied uniformly to avoid discrimination against protected classes under fair housing laws.

Eviction - Under Chapter 723 eviction can only be accomplished by court order and only on limited grounds provided by Section 723.061, Florida Statutes.

Under Chapter 513, eviction of guests can be accomplished by providing written notice of the reasons for the eviction and by returning the unused portion of any advance payment of rent. Eviction may be based on disturbing the peace or comfort of others or failure to pay the rental rate, or on grounds established in the lease between the

recreational vehicle park owner and the recreational vehicle occupant. The recreational vehicle park owner may disconnect the utilities (as long as sanitary nuisance is not created) for recreational vehicle occupants who accumulate an outstanding account. Recreational vehicle park owners may pursue a writ of distress to recover unpaid rent.

Sale of Park - Chapter 723 gives certain rights to properly organized mobile homeowner's associations when a community is offered for sale or receives an unsolicited offer of sale. Chapter 513 does not address sales of parks.

Mediation - Chapter 723 provides both home owners and park owners the right to seek mediation of proposed increases in lot rental amount, changes in rules and regulations, or reduction in services.