

**Introduced by Senator Polanco**

February 20, 1998

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An act to amend Sections 798.15, 798.49, 798.55, and 798.56a of the Civil Code, and to amend Section 11353.1 of the Health and Safety Code, relating to mobilehome parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 2095, as introduced, Polanco. Mobilehome parks.

(1) Existing law, the Mobilehome Residency Law, requires a rental agreement to contain specified provisions. It also requires a copy of the text of the law to be attached to the rental agreement and incorporated into the agreement by reference.

This bill would require the rental agreement to contain a copy of the text of the law unless a copy is provided with the rental agreement and the rental agreement incorporates the text by reference.

(2) Existing law requires, except as specified, a local agency that administers an ordinance, rule, regulation, or initiative measure that establishes a maximum rent that the management of a mobilehome park may charge a tenant, to permit management to separately charge a homeowner for specified government charges first imposed on or after January 1, 1995, upon the space rented by the mobilehome owner, and for the amount of any increase on or after January 1, 1995, in an existing government charge imposed upon the space rented by the mobilehome owner.

This bill would require the local agency to also permit management to separately charge the homeowner for the

government charges first imposed on or after January 1, 1995, upon the assessor's parcel in which the space is situated, and the amount of any increase on or after January 1, 1995, in the government charge imposed upon the assessor's parcel in which the space is situated.

(3) Existing law prohibits management from terminating or refusing to renew a tenancy, except for specified reasons and upon the giving of a prescribed written notice.

This bill would require the homeowner of a mobilehome that remains in the mobilehome park after service of this notice to continue to be subject to the Mobilehome Residency Law and the rules and regulations of the park. It would also provide that no lawful act by the management to enforce the law or rules and regulations may be deemed or construed to waive or otherwise affect the notice to remove the mobilehome.

(4) Under existing law, legal owners and holders of junior liens against mobilehomes in mobilehome parks may sell the mobilehome within the park to a third party and keep the mobilehome on the site within the park until it is sold only if specified requirements are met. Existing law provides that, if these requirements are not met and the management of the park either removes the mobilehome from the premises and places it in storage or stores it on its site, the management shall have a warehouseman's lien on against the mobilehome for specified costs.

This bill would require, upon completion of any sale to enforce this lien, the management to provide the purchaser at the sale with evidence of the sale, as specified by the Department of Housing and Community Development. This bill would require the department, upon request of the purchaser of the mobilehome, to register title to the mobilehome to the purchaser.

(5) Existing law establishes a sentence enhancement of one year in the state prison for any person 18 years of age or older who is convicted of certain offenses involving minors and controlled substances if the offense involved specified controlled substances and occurred upon the grounds of, or within, a church or synagogue, a playground, a public or



private youth center, a child day care facility, or a public swimming pool, as specified.

This bill would extend the applicability of the enhancement to where the offense occurs within a mobilehome park, thereby imposing a state-mandated local program by increasing the scope of a criminal statute.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 798.15 of the Civil Code is  
2 amended to read:

3 798.15. The rental agreement shall be in writing and  
4 shall contain, in addition to the provisions otherwise  
5 required by law to be included, all of the following:

6 (a) The term of the tenancy and the rent therefor.

7 (b) The rules and regulations of the park.

8 (c) A copy of the text of this chapter ~~shall be attached~~  
9 ~~as an exhibit and shall be incorporated into the rental~~  
10 ~~agreement by reference unless a copy of the text of this~~  
11 ~~chapter is provided with the rental agreement, either by~~  
12 ~~attachment or personal service, and the rental agreement~~  
13 ~~incorporates the text of this chapter by reference.~~  
14 Management shall provide all homeowners with a copy  
15 of this chapter prior to February 1 of each year, if a  
16 significant change was made in the chapter by legislation  
17 enacted in the prior year.

18 (d) A provision specifying that (1) it is the  
19 responsibility of the management to provide and  
20 maintain physical improvements in the common facilities  
21 in good working order and condition and (2) with respect  
22 to a sudden or unforeseeable breakdown or deterioration  
23 of these improvements, the management shall have a



1 reasonable period of time to repair the sudden or  
2 unforeseeable breakdown or deterioration and bring the  
3 improvements into good working order and condition  
4 after management knows or should have known of the  
5 breakdown or deterioration. For purposes of this  
6 subdivision, a reasonable period of time to repair a sudden  
7 or unforeseeable breakdown or deterioration shall be as  
8 soon as possible in situations affecting a health or safety  
9 condition, and shall not exceed 30 days in any other case  
10 except where exigent circumstances justify a delay.

11 (e) A description of the physical improvements to be  
12 provided the homeowner during his or her tenancy.

13 (f) A provision listing those services which will be  
14 provided at the time the rental agreement is executed  
15 and will continue to be offered for the term of tenancy  
16 and the fees, if any, to be charged for those services.

17 (g) A provision stating that management may charge  
18 a reasonable fee for services relating to the maintenance  
19 of the land and premises upon which a mobilehome is  
20 situated in the event the homeowner fails to maintain the  
21 land or premises in accordance with the rules and  
22 regulations of the park after written notification to the  
23 homeowner and the failure of the homeowner to comply  
24 within 14 days. The written notice shall state the specific  
25 condition to be corrected and an estimate of the charges  
26 to be imposed by management if the services are  
27 performed by management or its agent.

28 (h) All other provisions governing the tenancy.

29 SEC. 2. Section 798.49 of the Civil Code is amended  
30 to read:

31 798.49. (a) Except as provided in subdivision (d), the  
32 local agency of any city, including a charter city, county,  
33 or city and county, which administers an ordinance, rule,  
34 regulation, or initiative measure that establishes a  
35 maximum amount that management may charge a  
36 tenant for rent shall permit the management to  
37 separately charge a homeowner for any of the following:

38 (1) The amount of any fee, assessment or other charge  
39 first imposed by a city, including a charter city, a county,  
40 a city and county, the state, or the federal government on



1 or after January 1, 1995, upon the space rented by the  
2 homeowner *or upon the assessor's parcel in which the*  
3 *space is situated.*

4 (2) The amount of any increase on or after January 1,  
5 1995, in an existing fee, assessment or other charge  
6 imposed by any governmental entity upon the space  
7 rented by the homeowner *or upon the assessor's parcel in*  
8 *which the space is situated.*

9 (3) The amount of any fee, assessment or other charge  
10 upon the space first imposed or increased on or after  
11 January 1, 1993, pursuant to any state or locally mandated  
12 program relating to housing contained in the Health and  
13 Safety Code.

14 (b) If management has charged the homeowner for a  
15 fee, assessment, or other charge specified in subdivision  
16 (a) that was increased or first imposed on or after January  
17 1, 1993, and the fee, assessment, or other charge is  
18 decreased or eliminated thereafter, the charge to the  
19 homeowner shall be decreased or eliminated  
20 accordingly.

21 (c) The amount of the fee, assessment or other charges  
22 authorized by subdivision (a) shall be separately stated  
23 on any billing to the homeowner. Any change in the  
24 amount of the fee, assessment, or other charges that are  
25 separately billed pursuant to subdivision (a) shall be  
26 considered when determining any rental adjustment  
27 under the local ordinance.

28 (d) This section shall not apply to any of the following:

29 (1) Those fees, assessments, or charges imposed  
30 pursuant to the Mobilehome Parks Act (Part 2.1  
31 (commencing with Section 18200) of Division 13 of the  
32 Health and Safety Code), unless specifically authorized  
33 by Section 18502 of the Health and Safety Code.

34 (2) Those costs that are imposed on management by  
35 a court pursuant to Section 798.42.

36 (3) Any fee or other exaction imposed upon  
37 management for the specific purpose of defraying the  
38 cost of administration of any ordinance, rule, regulation,  
39 or initiative measure that establishes a maximum amount  
40 that management may charge a tenant for rent.



1 (4) Any tax imposed upon the property by a city,  
2 including a charter city, county, or city and county.

3 (e) Those fees and charges specified in subdivision (a)  
4 shall be separately stated on any monthly or other  
5 periodic billing to the homeowner. If the fee or charge has  
6 a limited duration or is amortized for a specified period,  
7 the expiration date shall be stated on the initial notice and  
8 each subsequent billing to the homeowner while the fee  
9 or charge is billed to the homeowner.

10 SEC. 3. Section 798.55 of the Civil Code is amended  
11 to read:

12 798.55. (a) The Legislature finds and declares that,  
13 because of the high cost of moving mobilehomes, the  
14 potential for damage resulting therefrom, the  
15 requirements relating to the installation of mobilehomes,  
16 and the cost of landscaping or lot preparation, it is  
17 necessary that the owners of mobilehomes occupied  
18 within mobilehome parks be provided with the unique  
19 protection from actual or constructive eviction afforded  
20 by the provisions of this chapter.

21 (b) The management shall not terminate or refuse to  
22 renew a tenancy, except for a reason specified in this  
23 article and upon the giving of written notice to the  
24 homeowner in the manner prescribed by Section 1162 of  
25 the Code of Civil Procedure, to remove the mobilehome  
26 from the park within a period of not less than 60 days,  
27 which period shall be specified in the notice. A copy of  
28 this notice shall be sent to the legal owner, as defined in  
29 Section 18005.8 of the Health and Safety Code, each junior  
30 lienholder, as defined in Section 18005.3 of the Health and  
31 Safety Code, and the registered owner of the  
32 mobilehome, if other than the homeowner, by United  
33 States mail within 10 days after notice to the homeowner.  
34 The copy may be sent by regular mail or by certified or  
35 registered mail with return receipt requested, at the  
36 option of the management. If the homeowner has not  
37 paid the rent due within three days after notice to the  
38 homeowner, and if the first notice was not sent by  
39 certified or registered mail with return receipt  
40 requested, a copy of the notice shall again be sent to the



1 legal owner, each junior lienholder, and the registered  
2 owner, if other than the homeowner, by certified or  
3 registered mail with return receipt requested within 10  
4 days after notice to the homeowner. Copies of the notice  
5 shall be addressed to the legal owner, each junior  
6 lienholder, and the registered owner at their addresses,  
7 as set forth in the registration card specified in Section  
8 18091.5 of the Health and Safety Code.

9 *(c) The homeowner of a mobilehome that remains in*  
10 *the mobilehome park after service of the notice to*  
11 *remove the mobilehome shall continue to be subject to*  
12 *this chapter and the rules and regulations of the park,*  
13 *including rules regarding maintenance of the space.*

14 *(d) No lawful act by the management to enforce this*  
15 *chapter or the rules and regulations of the park may be*  
16 *deemed or construed to waive or otherwise affect the*  
17 *notice to remove the mobilehome.*

18 SEC. 4. Section 798.56a of the Civil Code is amended  
19 to read:

20 798.56a. (a) Within 60 days after receipt of, or no  
21 later than 65 days after the mailing of, the notice of  
22 termination of tenancy pursuant to any reason provided  
23 in Section 798.56, the legal owner, *if any*, and each junior  
24 lienholder, *if any*, shall notify the management in writing  
25 of at least one of the following:

26 (1) Its offer to sell the obligation secured by the  
27 mobilehome to the management for the amount  
28 specified in its written offer. In that event, the  
29 management shall have 15 days following receipt of the  
30 offer to accept or reject the offer in writing. If the offer  
31 is rejected, the person or entity that made the offer shall  
32 have 10 days in which to exercise one of the other options  
33 contained in this section and shall notify management in  
34 writing of its choice.

35 (2) Its intention to foreclose on its security interest in  
36 the mobilehome.

37 (3) Its request that the management pursue the  
38 termination of tenancy against the homeowner and its  
39 offer to reimburse management for the reasonable  
40 attorney's fees and court costs incurred by the



1 management in that action. If this request and offer are  
2 made, the legal owner, *if any*, or junior lienholder, *if any*,  
3 shall reimburse the management the amount of  
4 reasonable attorney's fees and court costs, as agreed upon  
5 by the management and the legal owner or junior  
6 lienholder, incurred by the management in an action to  
7 terminate the homeowner's tenancy, on or before the  
8 earlier of (A) the 60th calendar day following receipt of  
9 written notice from the management of the aggregate  
10 amount of those reasonable attorney's fees and costs or  
11 (B) the date the mobilehome is resold.

12 (b) A legal owner, *if any*, or junior lienholder, *if any*,  
13 may sell the mobilehome within the park to a third party  
14 and keep the mobilehome on the site within the  
15 mobilehome park until it is resold only if all of the  
16 following requirements are met:

17 (1) The legal owner, *if any*, or junior lienholder, *if any*,  
18 notifies management in writing of the intention to  
19 exercise either option described in paragraph (2) or (3)  
20 of subdivision (a) within 60 days following receipt of, or  
21 no later than 65 days after the mailing of, the notice of  
22 termination of tenancy and satisfies all of the  
23 responsibilities and liabilities of the homeowner owing to  
24 the management for the 90 days preceding the mailing of  
25 the notice of termination of tenancy and then continues  
26 to satisfy these responsibilities and liabilities as they  
27 accrue from the date of the mailing of that notice until the  
28 date the mobilehome is resold.

29 (2) Within 60 days following receipt of, or no later than  
30 65 days after the mailing of, the notice of termination of  
31 tenancy, the legal owner or junior lienholder commences  
32 all repairs and necessary corrective actions so that the  
33 mobilehome complies with park rules and regulations in  
34 existence at the time the notice of termination of tenancy  
35 was given as well as the health and safety standards  
36 specified in Sections 18550, 18552, and 18605 of the Health  
37 and Safety Code, and completes these repairs and  
38 corrective actions within 90 calendar days of that notice,  
39 or before the date that the mobilehome is sold, whichever  
40 is earlier.



1 (3) The legal owner, *if any*, or junior lienholder, *if any*,  
2 complies with the requirements of Article 7  
3 (commencing with Section 798.70) as it relates to the  
4 transfer of the mobilehome to a third party.

5 (c) For purposes of subdivision (a), the “homeowner’s  
6 responsibilities and liabilities” means all rents, utilities,  
7 reasonable maintenance charges of the mobilehome and  
8 its premises, and reasonable maintenance of the  
9 mobilehome and its premises pursuant to existing park  
10 rules and regulations.

11 (d) In the event the homeowner files for bankruptcy,  
12 the periods set forth in this section are tolled until the  
13 mobilehome is released from bankruptcy.

14 (e) Notwithstanding any other provision of law,  
15 including, but not limited to, Section 18099.5 of the Health  
16 and Safety Code, in the event neither the legal owner, *if*  
17 *any*, nor a junior lienholder, *if any*, notifies the  
18 management of its decision pursuant to subdivision (a)  
19 within the period allowed, or performs as agreed within  
20 30 days, the management may either remove the  
21 mobilehome from the premises and place it in storage or  
22 store it on its site. In this case, notwithstanding any other  
23 provision of law, the management shall have a  
24 warehouseman’s lien in accordance with Section 7209 of  
25 the Commercial Code against the mobilehome for the  
26 costs of dismantling and moving, if appropriate, as well as  
27 storage, which shall be superior to all other liens, except  
28 the lien provided for in Section 18116.1 of the Health and  
29 Safety Code, and may enforce the lien pursuant to Section  
30 7210 of the Commercial Code. *Upon completion of any*  
31 *sale to enforce the warehouseman’s lien in accordance*  
32 *with Section 7210 of the Commercial Code, the*  
33 *management shall provide the purchaser at the sale with*  
34 *evidence of the sale, as shall be specified by the*  
35 *Department of Housing and Community Development,*  
36 *which shall, upon proper request by the purchaser of the*  
37 *mobilehome, register title to the mobilehome to this*  
38 *purchaser, whether or not there existed a legal owner or*  
39 *junior lienholder on this title to the mobilehome.*



1 (f) All written notices required by this section shall be  
2 sent to the other party by certified or registered mail with  
3 return receipt requested.

4 (g) Satisfaction, pursuant to this section, of the  
5 homeowner's accrued or accruing responsibilities and  
6 liabilities shall not cure the default of the homeowner.

7 SEC. 5. Section 11353.1 of the Health and Safety Code  
8 is amended to read:

9 11353.1. (a) Notwithstanding any other provision of  
10 law, any person 18 years of age or over who is convicted  
11 of a violation of Section 11353, in addition to the  
12 punishment imposed for that conviction, shall receive an  
13 additional punishment as follows:

14 (1) If the offense involved heroin, cocaine, cocaine  
15 base, or any analog of these substances and occurred upon  
16 the grounds of, or within, a church or synagogue, a  
17 playground, a public or private youth center, a child day  
18 care facility, *a mobilehome park*, or a public swimming  
19 pool, during hours in which the facility is open for  
20 business, classes, or school-related programs, or at any  
21 time when minors are using the facility, the defendant  
22 shall, as a full and separately served enhancement to any  
23 other enhancement provided in paragraph (3), be  
24 punished by imprisonment in the state prison for one  
25 year.

26 (2) If the offense involved heroin, cocaine, cocaine  
27 base, or any analog of these substances and occurred  
28 upon, or within 1,000 feet of, the grounds of any public or  
29 private elementary, vocational, junior high, or high  
30 school, during hours that the school is open for classes or  
31 school-related programs, or at any time when minors are  
32 using the facility where the offense occurs, the defendant  
33 shall, as a full and separately served enhancement to any  
34 other enhancement provided in paragraph (3), be  
35 punished by imprisonment in the state prison for two  
36 years.

37 (3) If the offense involved a minor who is at least four  
38 years younger than the defendant, the defendant shall, as  
39 a full and separately served enhancement to any other  
40 enhancement provided in this subdivision, be punished



1 by imprisonment in the state prison for one, two, or three  
2 years, at the discretion of the court.

3 (b) The additional punishment provided in this  
4 section shall not be imposed unless the allegation is  
5 charged in the accusatory pleading and admitted by the  
6 defendant or found to be true by the trier of fact.

7 (c) The additional punishment provided in this  
8 section shall be in addition to any other punishment  
9 provided by law and shall not be limited by any other  
10 provision of law.

11 (d) Notwithstanding any other provision of law, the  
12 court may strike the additional punishment provided for  
13 in this section if it determines that there are  
14 circumstances in mitigation of the additional punishment  
15 and states on the record its reasons for striking the  
16 additional punishment.

17 (e) As used in this section the following definitions  
18 shall apply:

19 (1) "Playground" means any park or recreational area  
20 specifically designed to be used by children which has  
21 play equipment installed, including public grounds  
22 designed for athletic activities such as baseball, football,  
23 soccer, or basketball, or any similar facility located on  
24 public or private school grounds, or on city, county, or  
25 state parks.

26 (2) "Youth center" means any public or private facility  
27 that is primarily used to host recreational or social  
28 activities for minors, including, but not limited to, private  
29 youth membership organizations or clubs, social service  
30 teenage club facilities, video arcades, or similar  
31 amusement park facilities.

32 (3) "Video arcade" means any premises where 10 or  
33 more video game machines or devices are operated, and  
34 where minors are legally permitted to conduct business.

35 (4) "Video game machine" means any mechanical  
36 amusement device, which is characterized by the use of  
37 a cathode ray tube display and which, upon the insertion  
38 of a coin, slug, or token in any slot or receptacle attached  
39 to, or connected to, the machine, may be operated for use  
40 as a game, contest, or amusement.



1 (5) “Within 1,000 feet of the grounds of any public or  
 2 private elementary, vocational, junior high, or high  
 3 school” means any public area or business establishment  
 4 where minors are legally permitted to conduct business  
 5 which is located within 1,000 feet of any public or private  
 6 elementary, vocational, junior high, or high school.

7 (6) “Child day care facility” has the meaning specified  
 8 in Section 1596.750.

9 (7) *“Mobilehome park” means an area of land where*  
 10 *two or more mobilehome sites are rented, or held out for*  
 11 *rent, to accommodate mobilehomes used for habitation.*

12 (f) This section does not require either that notice be  
 13 posted regarding the proscribed conduct or that the  
 14 applicable 1,000-foot boundary limit be marked.

15 SEC. 5. No reimbursement is required by this act  
 16 pursuant to Section 6 of Article XIII B of the California  
 17 Constitution because the only costs that may be incurred  
 18 by a local agency or school district will be incurred  
 19 because this act creates a new crime or infraction,  
 20 eliminates a crime or infraction, or changes the penalty  
 21 for a crime or infraction, within the meaning of Section  
 22 17556 of the Government Code, or changes the definition  
 23 of a crime within the meaning of Section 6 of Article  
 24 XIII B of the California Constitution.

25 Notwithstanding Section 17580 of the Government  
 26 Code, unless otherwise specified, the provisions of this act  
 27 shall become operative on the same date that the act  
 28 takes effect pursuant to the California Constitution.

