

AN ACT relating to the rental and occupancy of lots in manufactured home communities.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

*For the purposes of Sections 1 to 13 of this Act, unless expressly stated otherwise:*

- (1) "Common area or facility" means any communal area or recreation hall or center, or any building, equipment, road, or structure, including improvements thereto or open space provided by the community operator for the benefit of residents and their guests;*
- (2) "Community operator" means a person who owns, operates, or manages a manufactured home community;*
- (3) "Manufactured home" means either a manufactured home or a mobile home as those terms are defined in KRS 219.320;*
- (4) "Manufactured home community" means a parcel of land, under single or multiple ownership and developed specifically for the purpose of leasing two (2) or more residential spaces for the location of manufactured homes, and which contains common facilities and utilities located on the premises as licensed by the Cabinet for Health and Family Services pursuant to KRS 219.310 to 219.410;*
- (5) "Manufactured home lot" means a parcel of land in a manufactured home community for the placement of a single manufactured home;*
- (6) "Rent" means payments made to the community operator for the use and occupancy of a manufactured home lot, use of common areas or facilities, and use of other services provided by the community operator pursuant to a rental agreement;*
- (7) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or other provisions regarding*

the placement, use, and occupancy of a manufactured home upon a rented or leased manufactured home lot for the purpose of residential use;

(8) "Resident" means an individual who owns or is purchasing a manufactured home that occupies a manufactured home lot pursuant to a rental agreement, and in whom is vested all or part of the title to the manufactured home; and

(9) "Utility" or "utility service" means any electric, fuel oil, natural or propane gas, sewer, waste disposal, water, telecommunications, cable television, or Internet service furnished by the community operator.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

(1) A community operator may terminate a rental agreement by providing written notice to the resident by hand delivery or registered or certified mail to the resident's last known address no less than sixty (60) days prior to:

(a) The ending date specified in a rental agreement; or

(b) The day of the yearly anniversary of the beginning of occupancy under a rental agreement for which no ending date has been agreed, including occupancy that follows the ending date of a previous rental agreement.

(2) The notice shall contain a statement informing the resident that the community operator intends to commence an eviction proceeding if the resident does not cease placement, use, and occupancy of the manufactured home upon the manufactured home lot by the day identified under subsection (1) of this section.

(3) Regardless of the duration of occupancy specified in a rental agreement, in no event shall a community operator terminate a rental agreement with less than sixty (60) days' notice.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

(1) A community operator may evict a resident from a lot in a manufactured home

community only for good cause. Good cause for eviction is:

- (a) Failure to make required payments owed to the community operator for rent, utility charges, late charges, or other fees, as set forth in Section 4 of this Act;
- (b) Material noncompliance with a rental agreement provision or community rule, as set forth in Section 5 of this Act;
- (c) The resident's refusal to renew a rental agreement;
- (d) The resident's failure to end placement, use, and occupancy of the manufactured home on a manufactured home lot following notice of termination of the rental agreement as set forth in Section 2 of this Act; or
- (e) Conversion or sale of all or any part of the manufactured home community by the community operator for use other than as a manufactured home community, as set forth in Section 8 of this Act.

(2) A community operator who wishes to evict a resident for good cause shall comply with the procedures set forth in Section 9 of this Act.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

(1) Failure to make required payments owed to the community operator for rent, utility charges, late charges, or other fees shall constitute good cause for eviction under Section 3 of this Act when:

- (a) 1. Any amount of rent is delinquent; or
- 2. The amount delinquent for utility charges, late charges, or other fees equals or exceeds the amount for one (1) month's rent; and
- (b) The resident fails to pay the full delinquent amount under subparagraph 1. or 2. of paragraph (a) of this subsection following notice according to subsection (2) of this section.

(2) A community operator may institute eviction procedures as set forth in Section 9

of this Act for nonpayment of rent, utility charges, late charges, or other fees after fourteen (14) days have elapsed from the date written notice was hand-delivered or sent by registered or certified mail to the resident's last known address, and the resident has failed to tender the delinquent payment in full during the fourteen (14) day period. The notice shall include:

(a) The date the payment was due;

(b) An itemized statement of the types and amounts of payments due;

(c) The total amount due; and

(d) A statement informing the resident that the community operator intends to commence an eviction proceeding unless the resident makes the delinquent payment in full within fourteen (14) days of the date the notice was delivered or sent.

(3) Unless otherwise specified by the resident, any payment made to a community operator pursuant to a rental agreement shall be attributed first to the current rent payment, second to delinquent rent payments, third to utility charges, fourth to late charges, and last to other fees.

(4) The community operator's refusal to accept payment in full when offered by or on behalf of a resident is not nonpayment and shall not be grounds for eviction.

(5) A community operator may accept or reject an offer of an amount less than payment in full, but this acceptance constitutes a waiver of the community operator's right to terminate the rental agreement for that delinquency.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

(1) Material noncompliance with a rental agreement provision or community rule shall constitute good cause for eviction under Section 3 of this Act when:

(a) The rental agreement provision or community rule bears a reasonable relationship to the protection of the health, safety, or property of residents

or the community operator;

(b) The community operator gave the resident written notice of the rental agreement provision or community rule at the time the rental agreement was entered into by the community operator and the resident or, for changes in community rules, by hand-delivery or registered or certified mail to the resident's last known address at least fourteen (14) days before the violation occurred;

(c) The community operator gave the resident written notice of the violation, by hand delivery or registered or certified mail to the resident's last known address, which included:

1. The names of the persons involved, if known, and the date, approximate time, and the nature of the violation; and

2. A statement informing the resident that the community operator intends to commence an eviction proceeding unless the resident ceases or corrects the violation within fourteen (14) days of the date the notice was delivered or sent; and

(d) The violation of the rental agreement provision or community rule continued or recurred after fourteen (14) days from the date the notice was delivered.

(2) If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six (6) months, the community operator may terminate the rental agreement upon at least fourteen (14) days' written notice specifying the noncompliance and the date of termination of the rental agreement.

(3) Violation of a community rule shall constitute good cause for eviction only when the community rule was promulgated in compliance with the requirements set forth in Section 6 of this Act.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

- (1) The community operator may promulgate rules governing the rental occupancy of a lot in a manufactured home community and the use of community's common areas and facilities, but these rules shall not be unreasonable, unfair, or unconscionable.
- (2) Any rule or change in an existing rule that does not apply uniformly to all residents of a similar class shall raise a rebuttable presumption that the rule or change in existing rule is unfair.
- (3) All rules shall be enforced uniformly by the community operator as to all residents to whom they apply.
- (4) Except in a bona fide emergency, no change in a rule shall be effective until at least fourteen (14) days after the residents receive notice of the change.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

- (1) If the community operator provides utility service to residents, the community operator's utility service charge shall not exceed the actual rate the community operator is paying for the utility service and shall be periodically invoiced in writing, specifying the charge, the rate, and the amount of the utility service used.
- (2) The community operator shall post in a conspicuous place in the manufactured home community the prevailing residential utilities rate schedule as published by the serving utility.
- (3) If the community operator provides utility service to residents, any suspension or termination of that utility service shall comply with the procedures that the applicable utility service provider is required to follow.
- (4) If the community operator provides utility service that is not individually metered, the cost of that utility service shall be included in the rent stated in the rental

agreement and charged on a uniform basis to all residents.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

(1) If the community operator converts or sells all or any part of the manufactured home community for use other than as a manufactured home community under Section 3 of this Act, the community operator shall give each resident written notice by certified mail, return receipt requested, or by hand-delivery. If the community operator hand-delivers the notice, the resident shall complete a receipt showing the notice was delivered. The notice shall inform the resident of the conversion or sale of the manufactured home community and the date by which the resident shall vacate.

(2) The date by which the resident shall vacate shall be at least one hundred twenty (120) days after receipt of the written notification. The one hundred twenty (120) day notice requirement shall not be waived; however, a period of less than one hundred twenty (120) days may be agreed upon by both the community operator and resident in a written agreement separate from the rental agreement executed after the one hundred twenty (120) day notice is given and applicable only to the one hundred twenty (120) day notice period.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

(1) A resident may be evicted from a lot in a manufactured home community only through the judicial process set forth in KRS 383.200 to 383.285, except that any conflicting provisions of Sections 1 to 13 of this Act shall control over the provisions of KRS 383.200 to 383.285.

(2) The complaint seeking a resident's eviction from a lot in a manufactured home community shall state the good cause basis for the eviction as follows:

(a) If the good cause basis is failure to make required rent payments or

payments for other fees or charges, the complaint shall contain a statement that itemizes all debits and credits since the last zero balance;

(b) If the good cause basis is violation of a rental agreement provision or community rule, the complaint shall state the provision violated; the date, time, and nature of the violation; and the names of the violators, if known; and

(c) If the basis is the termination of the rental agreement as provided under Section 2 of this Act, the complaint shall state the ending date of any rental agreement with a specific duration or the anniversary date of the occupancy, the date on which written notice was delivered to the resident, the date by which the resident was required to vacate, and that the resident has failed to vacate as required.

(3) The court shall enter an eviction order only if the good cause violation set out in the complaint is proven, except that no eviction shall be ordered if the court determines that the eviction proceeding is in retaliation for the resident's conduct in violation of Section 11 of this Act.

(4) (a) In an eviction action for failure to pay required rent payments or other fees or charges, the resident shall be entitled to raise, by defense or counterclaim, any claim against the community operator relating to or arising out of the tenancy, including breach of the rental agreement or violation of any law affecting the community or the tenancy. The amounts that the resident may claim by defense or counterclaim shall include, but 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.

(b) The court, after hearing the case, may require the resident stating a claim under this subsection to deposit with the clerk of the court the fair value of the use and occupancy of the premises less the amount awarded the resident



for any claim under this subsection, or such installments thereof from time to time as the court may direct, for the use and occupancy of the premises. The funds may be expended for the repair of the premises by persons the court 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, 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 awarded to the resident, no eviction shall be ordered.

(5) Notwithstanding KRS 383.245, any court order for eviction under this section shall specify that the sheriff or constable shall not execute upon the resident the eviction order for at least twenty-one (21) days after the court order or the conclusion of any appeal therefrom, whichever is later.

(6) Notwithstanding KRS 355.9-609, if a community operator and secured party of a manufactured home have in common one (1) or more owners, immediate family members, officers, or directors, the community operator shall proceed through judicial process in taking possession of a manufactured home.

(7) This section provides the exclusive procedure and grounds for removing, ejecting, or evicting a resident of a manufactured home, regardless of any purported termination of the rental agreement and regardless of whether the resident's original rental agreement has expired or been renewed.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

Notwithstanding subsection (7) of Section 9 of this Act, the provisions of the Uniform Residential Landlord and Tenant Act, as set forth in KRS 383.505 to 383.715, shall apply, insofar as they are not inconsistent with Sections 1 to 13 of this Act, to residents and community operators of manufactured home communities that lie within a jurisdiction that has adopted the Uniform Residential Landlord and Tenant Act.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

(1) A community operator shall not increase a resident's rent, decrease services, alter or refuse to renew an existing rental agreement, impose a fee, change community rules, enforce community rules in an unreasonable or nonuniform manner, bring or threaten to bring an action for eviction or other civil action, or take any other action in retaliation after the resident has:

(a) Expressed an intention to complain or has complained to a governmental agency about conditions in the manufactured home community;

(b) Made any complaint in good faith to the community operator;

(c) Filed or expressed an intention to file a lawsuit or administrative action against the community operator;

(d) Joined with other residents for the purpose of negotiating, resolving, or dealing collectively with the community operator regarding matters relating to living conditions or other concerns in the manufactured home community; or

(e) Performed or expressed an intention 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.

(2) If the community operator acts in violation of subsection (1) of this section, the resident has a defense in any retaliatory action, and the resident may terminate the rental agreement and, in either case, recover an amount not more than three (3) months' periodic rent and a reasonable attorney's fee. If the rental agreement is terminated, the community operator shall return all prepaid rent.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, a community operator may proceed with eviction in accordance with Section 9 of this Act if the resident is in default in rent and fourteen (14) days have passed

following notice under Section 4 of this Act.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

(1) A rental agreement shall not contain any provisions contrary to Sections 1 to 13 of this Act, including but not limited to any agreement that requires the resident to:

(a) Modify or waive any rights or remedies under Sections 1 to 13 of this Act;

(b) Confess judgment on a claim arising out of the rental agreement;

(c) Pay the community operator's attorney's fees; or

(d) Agree to the exculpation or limitation of any liability of the community operator arising under law or to indemnify the community operator for that liability or its related costs.

(2) A provision prohibited by subsection (1) of this section included in a rental agreement is unenforceable.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 13 of this Act shall be known and may be cited as the "Manufactured Home Lot Rental Act."