



EXECUTIVE SUMMARY

June 13, 2005

TO: Georgia Community Loan Fund, Inc.
FROM: Sutherland Asbill & Brennan LLP
RE: **State Statutes Creating Mobile Home Tenants' Rights**

Many states have enacted legislation creating various types of tenants' rights for mobile home owners. Due to the unique vulnerabilities of mobile home owners who rent lots in mobile home parks and the high expense of relocating their homes, many of these statutes have been specifically designed to protect mobile home owners if mobile home parks are sold, closed, or converted for other uses.

A. Statutes Creating Rights of First Refusal for Mobile Home Tenants

Several states have created rights of first refusal for mobile home tenants if the park owner intends to sell a park or has received a bona fide offer the park owner intends to accept, regardless of the purpose of the sale.

- New Hampshire – N.H. REV. STAT. ANN. § 205.A:21 (2004)
- Vermont – VT. STAT. ANN. tit. 10, § 6242 (2004)
- New Jersey – N.J. STAT. ANN. §§ 46:8C-11 to -12, 46:8C-15 (2005)
- Florida – FLA. STAT. ANN. §§ 723.071, 723.075 (2005)

Additionally, there are several states that have created rights of first refusal for mobile home tenants only if the park is closed or converted for other uses.

- Massachusetts – MASS. GEN. LAWS ANN. ch. 140, § 32R (2005)
- Minnesota – MINN. STAT. § 327C.095 (2004)
- Rhode Island – R.I. GEN. LAWS § 31-44-3.1 (2004)
- Connecticut – CONN. GEN. STAT. § 21-70 (2005)
- Delaware – DEL. CODE ANN. tit. 25, § 7108 (2005)

B. Statutes Creating Obligations to Pay Relocation Expenses If Parks Are Closed or Converted for Other Uses

Several states have enacted legislation requiring mobile home park owners to pay home relocation expenses if they close a park or convert it for another use.

- Connecticut – CONN. GEN. STAT. § 21-70a (2005)
- Nevada – NEV. REV. STAT. 118B.183 (2004)
- Massachusetts – MASS. GEN. LAWS ANN. ch. 140, § 32L (2005)
- Minnesota – MINN. STAT. § 327C.095 (2004)

Delaware has created perhaps the most innovative legislation to assist mobile home owners with relocation expenses. The state requires landlords to provide relocation plans for tenants, and the state also has a state trust fund composed of \$3 monthly assessments shared between park and home owners that is used to pay home owner relocation expenses as well as landlord expenses for the removal or disposal of abandoned homes. DEL. CODE ANN. tit. 25, §§ 7010 – 7014 (2005).

C. Statutes Creating Obligations to Provide Notice of Sale of Mobile Home Parks

Many states have also enacted legislation requiring park owners and landlords to provide notification of changes affecting mobile home tenants, such as intentions to sell, lease, close, or convert a park for other uses.

- Massachusetts - MASS. GEN. LAWS ANN. ch. 140, § 32R (2005)
- Colorado – COLO. REV. STAT. ANN. § 38-12-217 (2005)
- Delaware – DEL. CODE ANN. tit. 25, § 7026 (2005)
- Maine – ME. REV. STAT. ANN. tit. 10, § 9094-A (2004)
- Minnesota – MINN. STAT. § 327C.096 (2004)
- Nevada – NEV. REV. STAT. 118B.173 (2004)
- Ohio – OHIO REV. CODE ANN. § 3733.11 (2005)
- Montana – MONT. CODE ANN. § 70-24-436(2) (2005)

D. Court Responses to Mobile Home Tenants' Rights Legislation

There has been little litigation regarding statutes providing mobile home tenants with rights of first refusal or relocation expenses in the event a park is sold, closed, or converted for other uses, although the Washington Supreme Court has struck down this type of legislation as unconstitutional. *See Manufactured Housing Communities v. State*, 13 P.3d 183, 195-96 (Wash. 2000); *Guimont v. Clarke*, 854 P.2d 1,16 (Wash. 1993). These opinions, however, were decided either upon a narrow interpretation of Washington constitutional law or an analysis of substantive due process not required by the United States Supreme Court, and have not been followed by other states. *Id.*; *see also Arcadia Dev. Corp. v. City of Bloomington*, 552 N.W.2d, 281, 289 (Minn. Ct. App. 1996) (citing *Concrete Pipes and Products v. Construction Laborers Pension Trust*, 508 U.S. 602, 640 (1993)).