

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2243
(Senators Dever, Larson, Paulson)
(Representatives Karls, Kempenich, Louser)

AN ACT to amend and reenact sections 23-10-06.2, 23-10-12, 27-08.1-01, and 47-10-28 of the North Dakota Century Code, relating to the transferability, revocation, and suspension of licenses for a mobile home park, small claims court jurisdiction, and required disclosures to tenants residing in a mobile home park; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-10-06.2 of the North Dakota Century Code is amended and reenacted as follows:

23-10-06.2. License transferability.

The department shall transfer a license without charge if the proposed new owner applies in writing for a transfer of the license and certifies that the mobile home park, recreational vehicle park, or campground will be operated in accordance with this chapter. A new owner applying for a transfer under this section and a person holding a license issued under section 23-10-03, shall provide the name, address, and telephone number for the mobile home park managers and any individual possessing more than a twenty percent ownership interest in the entity subject to the license to the department once per calendar year. The department may assess a civil penalty not exceeding five thousand dollars for each violation of this section thirty days after issuing a notice of noncompliance. The civil penalty may be assessed without notice and a hearing. The civil penalty must be awarded to the department and deposited into the department's general operating fund for use in regulating compliance with this chapter. A person subject to a civil penalty pursuant to an order issued under this section may request a hearing before the department if a written request is made within ten days after the receipt of the order. Upon receipt of a proper and timely request for a hearing, the department shall conduct an adjudicative proceeding under this section in accordance with chapter 28-32, unless otherwise provided for by law. If the department prevails in an adjudicative proceeding under this section, the department may assess the nonprevailing party for all adjudicative proceeding and hearing costs, including reasonable attorney's fees, investigation fees, and costs and expenses of the action.

SECTION 2. AMENDMENT. Section 23-10-12 of the North Dakota Century Code is amended and reenacted as follows:

23-10-12. Revocation or suspension of license - Penalty for operating without license.

1. The department may deny an application or take disciplinary action, up to and including suspension of a license for a mobile home park, recreational vehicle park, or campground, and revocation of a license for a recreational vehicle park or campground, against any applicant or licensee upon the failure of the applicant or licensee to comply with this chapter or with any of the rules adopted by the health council and regulations promulgated by the department.
2. Before the department takes disciplinary action against a license, the department shall notify the licensee in writing of the reason disciplinary action is being considered and shall provide a reasonable amount of time for correction to be made. Action taken under the authority granted in this section must comply with chapter 28-32. Any person who maintains or operates a mobile home park, recreational vehicle park, or campground without first obtaining a license, or who operates the same ~~after revocation~~during suspension of the license, is guilty of an infraction.

SECTION 3. AMENDMENT. Section 27-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

27-08.1-01. Small claims court - Jurisdictional limits - Venue.

1. All judges of the district courts may exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of that jurisdiction must be known and referred to as the "small claims court". The jurisdiction of this court is confined to cases for recovery of money, a tenant's claim for civil damages under subsection 9 of section 47-10-28, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, when the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed fifteen thousand dollars.
2. The proceedings in this court must be commenced:
 - a. If the defendant is a corporation, limited liability company, or a partnership, in any county in which the defendant has a place of business or in any county in which the subject matter of the claim occurred.
 - b. If the claim is for collection of a check written without sufficient funds or without an account, in the county where the check was passed, or in the county of the defendant's residence or place of business.
 - c. If the defendant is an individual and the claim is for collection of an open account on which credit has been extended:
 - (1) In the county of the defendant's residence or place of business; or
 - (2) If the amount of the claim is less than one thousand dollars and is not from a telephone or mail order transaction, in the county where the transaction occurred or in the county of the defendant's residence or place of business.
 - d. If the defendant is an individual and the claim is not made under subdivision b or c, in the county of the defendant's residence.
 - e. If the defendant is an individual and the claim arose as the result of the defendant's lease of real property or as the result of a dispute over disposition of earnest money or other money deposit arising from a contract to purchase real property, in the county where the real property is located unless the plaintiff and the defendant consent in writing to a proceeding in a different county.
 - f. If the plaintiff is a political subdivision and the claim is for a public utility debt, in the county in which the political subdivision is located.
 - g. If the claim is for civil damages under subsection 9 of section 47-10-28, in the county in which the mobile home park is located.
3. Except for an action under subdivision c, e, ~~or f~~, or g of subsection 2, the defendant may elect to remove the action to a small claims court in the defendant's county of residence. A claim may not be filed by an assignee of that claim. A garnishment or attachment may not issue from this court until after judgment is entered.

SECTION 4. AMENDMENT. Section 47-10-28 of the North Dakota Century Code is amended and reenacted as follows:

47-10-28. Mobile home park - Ownership - Transfer of ownership - Tenant rights - Penalty.

1. A person that owns or purchases an existing mobile home park shall:

- a. Obtain an annual license under section 23-10-03;
 - b. Designate an official local office, except if the mobile home park contains fewer than twenty-six lots, which must be operational on the fifth business day after the change of ownership;
 - c. The mobile home park shall:
 - (1) Have a designated telephone number manned on weekdays between the hours of eight a.m. and five p.m.;
 - (2) Have an operational emergency contact number manned at all times;
 - (3) Designate at least one individual for the property who has the authority to make decisions on behalf of and perform, or direct the performance of, duties imposed on the owner; and
 - (4) Provide a tenant with the contact information of the individual under paragraph 3;
 - d. Provide written notice to a tenant of the mobile home park regarding the change of ownership within five business days after the change of ownership becomes effective. The written notice must include the information required under subdivision c; ~~and~~
 - e. Acknowledge receipt of tenant inquiries or complaints regarding the park, pursuant to section 23-10-10.1, within two business days of receiving the inquiry or complaint;
 - f. Provide to each tenant, upon a written request by the tenant or the tenant's agent, a copy of the existing lease terms along with any modifications or amendments, within ten business days of receipt of a written request;
 - g. Provide each tenant with the name, address, and telephone number of the legal entity that owns the mobile home park; and
 - h. Provide the telephone number of any existing property manager or designated site agent.
2. A person that owns or purchases an existing mobile home park may not require a tenant who owns a mobile home located on the property to sell or transfer ownership of the home to the owner of the mobile home park, except as otherwise provided by law.
 3. A person that owns or purchases an existing mobile home park shall provide a tenant advance written notice of any modifications to park rules or regulations at least thirty days before the date the modifications take effect. Except for the rules and regulations under subsections 4 and 5, upon the effective date of modifications to park rules and regulations, an owner shall provide a tenant who owns a dwelling unit that fails to comply with the park rules and regulations written notice of the failure to comply and provide the tenant three months to remedy the failure or vacate the premises before initiating an action for eviction against the tenant. During the three-month period the tenant shall comply with the park rules and regulations that were in effect before the modifications became effective, including the payment of rent and any other financial obligations under the terms of the lease. During the three-month period, if the tenant provides the owner a signed document from a person in the business of relocating mobile homes declaring it is not possible to relocate the tenant's dwelling unit within the three-month period, the three-month period must be extended to a date when the dwelling unit can be relocated or the date that is two months after the end of the three-month period, whichever date occurs first.
 4. A person that owns or purchases an existing mobile home park shall provide a tenant advance written notice of any modifications to park rules and regulations addressing sanitation and safety concerns at least thirty days before the date the modifications take effect.

5. A person that owns or purchases an existing mobile home park shall provide a tenant advance written notice at least thirty days before implementing a rule or regulation regarding the removal of a tongue hitch, or any other modification to the dwelling unit to comply with state or federal housing or financing requirements.
6. Mobile home park rules in effect on the date advance written notice regarding modifications is provided to a tenant remain in effect until the date the modified rules or regulations take effect.
7. A person that purchases an existing mobile home park may not increase the monthly tenant rental obligation for six months if the rental amount was increased within the sixty-day period before the date the new owner acquired ownership of the park. Any month-to-month tenancy agreement must provide a minimum of ninety days' notice to the tenant before any rent increase is effective.
8. A person that owns or purchases an existing mobile home park may purchase utility services, including water and sewer services on behalf of a tenant, and include the amount in the monthly rental obligation or bill the tenant as a separate charge based on actual usage. An owner may not charge a tenant more than the actual cost per unit amount paid by the landlord to the utility service provider, except for a reasonable administrative fee that may not exceed three dollars. An owner may not charge or back charge for the utility services of a tenant paying for the services as a portion of the tenant's monthly rental obligation, unless the cost of providing the services increases. If the cost of providing utility services increases, an owner of a mobile home park may charge a tenant a reasonable amount to cover the increased cost of providing the service. The owner shall provide the tenant access to the records of meter readings taken at the mobile home lot of the tenant.
9. A person that violates a provision of this section is subject to a civil penalty not exceeding ~~oneless than two thousand five hundred dollars but not exceeding the greater of ten thousand dollars or actual damages, whichever is less,~~ plus ~~reasonable~~actual attorney's fees and costs.
10. A mobile home park license, issued under chapter 23-10, may be suspended by the district court of the county where the mobile home park is situated for a violation of this section. The holder of the mobile home park license must be assessed a civil penalty for each day the holder's license remains suspended. The amount of the daily penalty is equal to half of the total rent listed on the rent roll for the mobile home park divided by the number of days in that month. The license holder must prove each violation has been remedied and has satisfied all civil penalties assessed before the license holder's license may be reinstated. The district court has discretion over the terms to be satisfied before a license is reinstated. If a license holder fails to comply with the terms of the district court's order, the district court may revoke the holder's license. All park tenants must be allowed to continue to reside in the mobile home park through the duration of the license suspension, unless the department of health and human services takes further disciplinary action against the license under chapter 23-10. During the period of suspension, the license holder or the license holder's agent may not modify the park rules or regulations, modify any tenant's rental arrangement, increase any tenant's rental rate, or terminate any tenant's lease without cause.
11. In a dispute between a landlord and a tenant under this section, the district court of the county in which the dispute arose has original jurisdiction over the dispute relating to the suspension of a license. For the recovery of civil damages under subsection 9, the tenant may elect to commence the action in small claims court or district court. If an action between a landlord and tenant is commenced, the tenant shall continue paying rent and comply with all park rules and regulations in effect at the time the action was commenced. During a pending action under this section, the license holder or the license holder's agent may not modify the park rules or regulations, modify the tenant's rental arrangement, increase a tenant's monthly rental rate, or terminate a tenant's lease without cause.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2243.

Senate Vote: Yeas 44 Nays 1 Absent 2

House Vote: Yeas 92 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State