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HOUSE BILL 159

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Joni Marie Gutierrez

AN ACT

RELATING TO PROPERTY; PROVIDING MOBILE HOME PARK RESIDENTS WITH
PROTECTION AGAINST EXCESSIVE RENT INCREASES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Mobile Home Park Act is
enacted to read:

"[NEW MATERIAL] RENT INCREASE--NOTICE.--

A. When a landlord proposes to increase rent more
than one time in a six-month period, more than two times in a
two-year period or more than five percent above the immediately
previous rent, the landlord shall provide written notification
of a rent increase to the affected residents no later than
sixty days before the effective date of the increase. The
notice shall include:

- (1) the amount of the rent increase, including

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1 any portion of the increase that is attributable to capital
2 improvements of the mobile home park;

3 (2) the effective date of the rent increase;

4 (3) the specific reasons for the rent
5 increase;

6 (4) the names and addresses of all affected
7 residents; and

8 (5) a copy of the resident's rights pursuant
9 to this section and Section 2 of this 2011 act.

10 B. If the landlord fails to notify the residents of
11 a rent increase as required by this section, the rent increase
12 shall be unenforceable."

13 SECTION 2. A new section of the Mobile Home Park Act is
14 enacted to read:

15 "[NEW MATERIAL] RENT INCREASE DISPUTE--MEDIATION--CIVIL
16 ACTION.--

17 A. If a majority of the residents affected by a
18 rent increase dispute the increase, the residents may submit
19 the dispute for mediation if, no later than thirty days before
20 the effective date of the rent increase, the residents provide
21 the landlord with the name of the residents' representative and
22 a written statement that they dispute the rent increase and are
23 requesting mediation.

24 B. The mediation shall be performed by a
25 professionally certified mediator approved by the landlord and

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1 the residents' representative. The cost of the mediation
2 services shall be divided equally between the landlord and the
3 residents.

4 C. No later than two business days before the
5 initial mediation session, the landlord shall provide to the
6 mediator and the residents' representative all documents and
7 information that the landlord considers relevant to support the
8 rent increase. The landlord shall have the burden of providing
9 information to show that the rent increase is reasonable.

10 D. Any resolution of the dispute shall include an
11 agreement regarding the amount and effective date of the rent
12 increase. If the dispute is resolved, the landlord shall not
13 be required to provide any additional notice in order for the
14 rent increase to take effect pursuant to the resolution.

15 E. If the landlord and residents are unable to
16 resolve a dispute over a rent increase, an action for abatement
17 of some or all of the rent increase based on a claim that the
18 increase is clearly excessive may be initiated by a majority of
19 the affected residents by filing a complaint in district court
20 in the judicial district in which the mobile home park is
21 located no later than two business days before the effective
22 date of the rent increase.

23 F. The residents shall pay the rent, including the
24 rent increase, to the landlord on or before the date the rental
25 payment is due. The landlord shall deposit the disputed

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1 portion of the rent increase with the clerk of the court
2 pending an order by the court.

3 G. For the purposes of this section, a clearly
4 excessive rent increase is an increase that is unreasonable
5 based upon the landlord's total reasonable or documented
6 expenses, including consideration of debt service, and a
7 reasonable return to the landlord on investment with
8 consideration being given to comparable investments.

9 H. If the court finds that the rent increase is
10 clearly excessive, the court may order abatement of the
11 proposed rent increase in full or in part."

12 SECTION 3. Section 47-10-19 NMSA 1978 (being Laws 1993,
13 Chapter 147, Section 5) is amended to read:

14 "47-10-19. RENT [INCREASE] DISCLOSURE REQUIREMENT.--

15 ~~[A. A landlord shall fully and accurately disclose~~
16 ~~in writing to a resident an increase in rent. The disclosure~~
17 ~~shall be provided to a resident at least sixty days prior to~~
18 ~~implementation of an increase in rent.~~

19 B.] Upon receiving a written request from a
20 resident or prospective resident, a landlord shall fully and
21 accurately disclose in writing a current schedule of the range
22 of rental rates in the mobile home park. The landlord shall
23 include the date of preparation on the face of the schedule of
24 rental rates."