

STATE OF NEW YORK

5247

2019-2020 Regular Sessions

IN ASSEMBLY

February 7, 2019

Introduced by M. of A. THIELE, JAFFEE, PALUMBO, WEPRIN -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to providing recourse for manufactured homeowners in manufactured home parks, who are confronted with unjustifiable rent increases

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The legislature finds and declares
2 that:

3 (a) Manufactured homes are a critical source of affordable housing for
4 residents in New York state, particularly for senior citizens seeking to
5 remain in their communities.

6 (b) Factors unique to home ownership in manufactured home parks in New
7 York state require that the owners of such manufactured homes be
8 protected from involuntary forfeiture of their homes due to unreasonable
9 increases in lot rent.

10 (c) Homeownership in such manufactured home parks differs from other
11 forms of homeownership as well as from the traditional landlord-tenant
12 relationship. Unlike other homeowners, because the manufactured homeown-
13 ers do not control the land on which their manufactured homes exist,
14 they have no control over this substantial portion of their housing
15 costs.

16 (d) Vacancies in existing manufactured home parks are extremely rare
17 in New York state, and the cost of relocating a manufactured home, even
18 if such a vacancy exists, is prohibitively high and threatens the struc-
19 tural integrity of many manufactured homes.

20 (e) The manufactured homeowners' total lack of bargaining power
21 disrupts the normal operation of market forces and renders such manufac-
22 tured homeowners captive to whatever terms a manufactured home park
23 owner may choose to impose. Although many manufactured home park owners
24 choose not to take advantage of their superior bargaining power, many

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 do. This often results in manufactured homeowners being evicted because
2 of manufactured home park rents they can no longer afford, and as a
3 result, losing their manufactured home altogether because there is no
4 alternative site on which to place such home.

5 (f) Under current law, manufactured homeowners who rent lots in manu-
6 factured home parks have no legal remedy for an unjustifiable and unrea-
7 sonable rent increase.

8 (g) It is the purpose of this legislation to provide manufactured
9 homeowners with a judicial remedy when they are confronted with an
10 unjustifiable rent increase.

11 § 2. Subdivision e of section 233 of the real property law is amended
12 by adding a new paragraph 4 to read as follows:

13 4. All rent increases, including all fees, rents, charges, assessments
14 and utilities, shall be subject to judicial challenge pursuant to
15 section two hundred thirty-three-b of this article for manufactured
16 homeowners.

17 § 3. Paragraph 2 of subdivision g of section 233 of the real property
18 law, as amended by chapter 566 of the laws of 1996, is amended to read
19 as follows:

20 2. A manufactured home park owner or operator shall be required to
21 fully disclose in writing all fees, charges, assessments, including
22 rental fees, rules and regulations prior to [~~a manufactured home tenant~~
23 ~~assuming occupancy~~] entering into a rental agreement with a prospective
24 tenant in the manufactured home park.

25 § 4. The real property law is amended by adding a new section 233-b to
26 read as follows:

27 § 233-b. Unjustified rent increases in manufactured home parks. 1.
28 Local option. The provisions of this section shall apply in any county
29 in which the governing board of such county has passed a local law
30 adopting the provisions of this section.

31 2. Scope. To be eligible for this remedy, the owners of at least five
32 percent (5%) of the manufactured homes affected by the increase in rent
33 within the manufactured home park shall be petitioners. The manufactured
34 home shall be the primary residence of each petitioner.

35 3. Prima facie case. An increase in rent which exceeds the percentage
36 increase in the consumer price index since the current lot rent became
37 effective may be challenged by an aggrieved manufactured homeowner as
38 unjustified. The term "consumer price index" means the index published
39 monthly by the United States Department of Labor, Bureau of Labor
40 Statistics, for the applicable New York region. In this section,
41 "increase in lot rent" includes all cost increases, including all
42 increased rent, fees, charges, assessments and utilities.

43 4. Joinder. Multiple aggrieved manufactured homeowners may join in the
44 same action where there is a common question of law or fact.

45 5. Venue and statute of limitation. Within ninety days of the notice
46 of the proposed increase, an aggrieved manufactured homeowner may chal-
47 lenge such increase by filing an action in the county where the real
48 property is located seeking a declaratory judgment that the rent
49 increase is unjustifiable.

50 6. Presumption. In any proceedings under this section there shall be
51 an irrebuttable presumption that a rent increase is justifiable when the
52 amount of such increase does not exceed the tenant's pro-rata share in
53 operating costs and property taxes for the manufactured home park in
54 which the tenant resides.

55 7. Standard for judicial review. In determining whether the proposed
56 rent increase is unjustifiable, the court shall consider:

1 (a) Increases in the manufactured home park owner's operating
2 expenses.

3 (b) Increases in the manufactured home park owner's property taxes on
4 such park.

5 (c) Increases in the cost of debt service which is directly related to
6 acquisition or capital improvements in the manufactured home park.

7 (d) The return on the manufactured home park owner's equity investment
8 over the past three years, and the reasons offered by the owner for
9 seeking an increase in the return on his or her investment.

10 (e) A sampling of current lot rents in the region in which the park is
11 located.

12 (f) Any other costs asserted by the manufactured home park owner which
13 are relevant and probative of the need for an increase.

14 8. Conditional approval. The court may condition its approval of any
15 justified increase upon the redress of conditions in the manufactured
16 home park which threaten the health and safety of the manufactured home
17 park tenants.

18 9. Escrow. While a challenge to a rent increase pursuant to this
19 section is pending, manufactured home park tenants shall pay the amount
20 of the rent increase to the manufactured home park owner, who shall hold
21 such amounts in escrow pending a mediated agreement between the parties
22 or a final decision from the court, provided, however, that no manufac-
23 tured home park tenant shall be evicted for non-payment of the rent
24 increase prior to a final disposition of the matter by the court in the
25 county where the manufactured home park is located. Failure by the manu-
26 factured home park owner to place such challenged rent increase in
27 escrow shall be punishable by a civil penalty of not more than five
28 hundred dollars. If the petitioners appeal, the manufactured home park
29 owner may remove the rent increase funds from escrow, mingle such funds
30 with any other funds, and evict a tenant who has not paid the increase
31 for non-payment of rent. If the court enters a final judgment declaring
32 the rent increases or any part thereof unjustifiable, the manufactured
33 home park owner shall refund the amount of unjustifiable increase to
34 each tenant household.

35 § 5. This act shall take effect on the thirtieth day after it shall
36 have become a law.