

# STATE OF NEW YORK

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5436

2019-2020 Regular Sessions

## IN SENATE

May 1, 2019

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Introduced by Sens. MAY, LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

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 homeowners  
13 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 structural  
19 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 manufactured  
22 homeowners captive to whatever terms a manufactured home park  
23 owner may choose to impose. Although many manufactured home park owners

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

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1 choose not to take advantage of their superior bargaining power, many  
2 do. This often results in manufactured homeowners being evicted because  
3 of manufactured home park rents they can no longer afford, and as a  
4 result, losing their manufactured home altogether because there is no  
5 alternative site on which to place such home.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3     (a) Increases in the manufactured home park owner's operating  
4 expenses.

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

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

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

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

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

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

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

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