*** § 233-b. Manufactured home parks; rent increases.** 1. The provisions of this section shall apply to all manufactured homes located in a manufactured home park as defined in section two hundred thirty-three of this article, however manufactured homes located in manufactured home parks that are subject to a regulatory agreement with a governmental entity to preserve affordable housing or that otherwise limits rent increases are exempt from the provisions of this section.

2. Increases in rent shall not exceed a three percent increase above the rent since the current rent became effective. In this section, rent shall mean all costs, including all rent, fees, charges, assessments, and utilities. Notwithstanding the above, a manufactured home park owner is permitted to increase the rent in excess of three percent above the rent since the current rent became effective, due to:

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

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

(c) Increases in costs which are directly related to capital improvements in the park.

3. An increase above three percent may be challenged by an aggrieved manufactured homeowner as unjustified. Multiple aggrieved manufactured homeowners may join in the same action where there is a common question of law and fact.

4. Within ninety days of the proposed increase, an aggrieved manufactured homeowner may challenge such increase by filing an action in the court of appropriate subject matter jurisdiction where the real property is located seeking a declaratory judgment that the rent increase is unjustifiable.

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

6. (a) In determining whether a rent increase is permissible, the court shall consider the provisions of paragraphs (a), (b) and (c) of subdivision two of this section. Notwithstanding the above, rent increases shall not exceed six percent above the rent since the current rent became effective, except upon the approval of a temporary hardship application by the court. In addition to the provisions of this paragraph and paragraphs (b) and (c) of this subdivision the court shall take into account the following factors when determining whether to grant a temporary hardship application:

(i) The amount of increase being sought by the park owners;

(ii) The ability of the manufactured home owner to pay such increase including whether the increase would have an unreasonable adverse impact on the manufactured home owner;

(iii) The amount of time and notice the manufactured home owner may need in order to pay a temporary rent increase;

(iv) The duration the park owners intend for the temporary rent increase to last;

(v) The cause of the hardship the rent increase is being requested to alleviate, including whether the hardship was due to owner negligence and malfeasance;

(vi) The ability of the park owners to utilize other means besides a rent increase to alleviate said hardship;

(vii) The likelihood that the property the manufactured home park is located on will go into foreclosure if a temporary rent increase above six percent is not granted;

(viii) Any other factor that will jeopardize the ability of the park to legally operate.

(b) A court order approving a temporary hardship application shall state for each manufactured home owner:

(i) The amount of the rent increase;

(ii) The date the rent increase is to take effect;

(iii) The date the increase is to end;

(iv) The amount the rent will return to; and

(v) The court's findings as to the factors necessitating a temporary increase.

(c) Upon a finding by the court that the manufactured home park should

be granted a hardship exemption, the amount of any rent increase shall be the minimum amount to alleviate the hardship. An order granting a temporary rent increase shall not exceed six months. The order must be served on the manufactured home owners and all known legal tenants pursuant to the rules of civil procedure within thirty days of the court order, the cost of which shall be on the manufactured home park owner.

7. The court may condition its approval of any rent increase upon the redress of conditions in the manufactured home park which threaten the health and safety of the manufactured home tenant.

8. While a challenge to a rent increase pursuant to this section is pending, manufactured home park tenants shall pay the amount of the rent increase to the manufactured home park owner who shall hold such amounts in escrow pending a mediated agreement between the parties or a final decision from the courts, provided, however, that no manufactured home park tenant shall be evicted for non-payment of the rent increase prior to the final disposition of the matter by the court in the county where the manufactured home park is located. Failure by the manufactured home park owner to place such challenged rent increase in escrow shall be punishable by a civil penalty of not more than five hundred dollars. If the petitioners appeal, the manufactured home park owner may remove the rent increase funds from escrow, mingle such funds with any other funds, and commence a nonpayment proceeding in the court of appropriate jurisdiction against a tenant who has not paid the increase of rent. If the court enters a final judgment declaring the rent increases or any part thereof unjustifiable and impermissible, the manufactured home park owner shall refund the amount of the impermissible increase to each tenant household.

* NB There are 2 § 233-b's