

this Act are severable.

Sec. 41. This Act is effective January 1, 1979.

Approved June 27, 1978

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## CHAPTER 1173

### MOBILE HOME PARKS RESIDENTIAL LANDLORD AND TENANT LAW

H. F. 2135

AN ACT to establish a mobile home parks residential landlord and tenant Act and providing civil penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I

##### GENERAL PROVISIONS

Section 1. NEW SECTION. SHORT TITLE. This chapter shall be known and may be cited as the mobile home parks residential landlord and tenant Act.

Sec. 2. NEW SECTION. PURPOSES. Underlying purposes and policies of this chapter are:

1. To simplify, clarify and establish the law governing the rental of mobile home spaces and rights and obligations of landlord and tenant.
2. To encourage landlord and tenant to maintain and improve the quality of mobile home living.

Sec. 3. NEW SECTION. SUPPLEMENTARY PRINCIPLES OF LAW APPLICABLE. Unless displaced by the provisions of this Act, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy or other validating or invalidating cause supplement its provisions.

Sec. 4. NEW SECTION. ADMINISTRATION OF REMEDIES; ENFORCEMENT.

1. The remedies provided by this Act shall be so administered that the aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

2. Any right or obligation declared by this Act is enforceable by action unless the provision declaring it specifies a different and limited effect.

Sec. 5. NEW SECTION. EXCLUSIONS FROM APPLICATION OF CHAPTER. The provisions of this Act shall not apply to an occupancy in or operation of public housing as authorized, provided or conducted pursuant to chapter four hundred three A (403A) of the Code, or pursuant to any federal law or regulation with which it might conflict.

Sec. 6. NEW SECTION. JURISDICTION AND SERVICE OF PROCESS.

1. The appropriate district court of this state may exercise jurisdiction over a landlord or tenant with respect to conduct in this state governed by this Act or with respect to any claim arising from a transaction subject to this Act. An action under this Act may be brought as a small claim pursuant to the provisions of chapter six hundred thirty-one (631) of the Code. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord or tenant may be acquired in a civil action or proceeding instituted in the appropriate district court by the service of process in the manner provided by this section.

2. If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in conduct in this state governed by this Act, or engages in a transaction subject to this Act, the landlord shall designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the secretary of state. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the secretary of state, but the plaintiff or petitioner shall forthwith mail a copy of this process and pleading by certified mail, return receipt requested, to the defendant or respondent at that person's last reasonably ascertained address. If there is no last reasonably ascertainable address and if the defendant or respondent has not complied with section fourteen (14), subsections one (1) and two (2) of this Act, then service upon the secretary of state shall be sufficient service of process without the mailing of copies to the defendant or respondent. Service of process shall be deemed complete and the time shall begin to run for the purposes of this section at the time of service upon the secretary of state. The defendant shall appear and answer within thirty days after completion thereof in the manner and under the same penalty as if defendant had been personally served with the summons.

An affidavit of compliance with this section shall be filed with the clerk of the district court on or before the return day of the process, or within any further time the court allows.

Sec. 7. NEW SECTION. GENERAL DEFINITIONS. Subject to additional definitions contained in subsequent sections of this Act which apply to specific sections thereof, and unless the context otherwise requires, in this chapter:

1. "Building and housing codes" include any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any mobile home park, dwelling unit or mobile home space.

2. "Dwelling unit" excludes real property used to accommodate a mobile home.

3. "Landlord" means the owner, lessor or sublessor of a mobile home park and it also means a manager of the mobile home park who fails to disclose as required by section fourteen (14) of this Act.

4. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa.

5. "Mobile home space" means a parcel of land for rent which has been designed to accommodate a mobile home and provide the required sewer and utility connections.

6. "Business" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest and any other legal or commercial entity which is a landlord, owner, manager or constructive agent pursuant to section fourteen (14) of this Act.

7. "Owner" means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the mobile home park. The term includes a mortgagee in possession.

8. "Mobile home park" shall mean any site, lot, field or tract of land upon which two or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or

enclosure used or intended for use as part of the equipment of such mobile home park.

9. "Rent" means a payment to be made to the landlord under the rental agreement.

10. "Rental agreement" means agreements, written or those implied by law, and valid rules and regulations adopted under section nineteen (19) of this Act embodying the terms and conditions concerning the use and occupancy of a mobile home space.

11. "Rental deposit" means a deposit of money to secure performance of a mobile home space rental agreement under this chapter other than a deposit which is exclusively in advance payment of rent.

12. "Tenant" means a person entitled under a rental agreement to occupy a mobile home space to the exclusion of others.

Sec. 8. NEW SECTION. UNCONSCIONABILITY.

1. If the court, as a matter of law, finds that:

a. A rental agreement or any provision thereof was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.

b. A settlement in which a party waives or agrees to forego a claim or right under this chapter or under a rental agreement was unconscionable at the time it was made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid any unconscionable result.

2. If unconscionability is put into issue by a party or by the court upon its own motion the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose and effect of the rental agreement or settlement to aid the court in making the determination.

Sec. 9. NEW SECTION. NOTICE.

1. A person has notice of a fact if that person has actual knowledge of it, has received a notice or notification of it or, from all the facts and circumstances known to that person at the time in question, has reason to know that it exists. A person "knows" or "has knowledge" of a fact if that person has actual knowledge of it.

2. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform

the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when it comes to that person's attention, or in the case of the landlord, it is delivered in hand or mailed by registered mail to the place of business of the landlord through which the rental agreement was made or at any place held out by the landlord as the place for receipt of the communication or delivered to any individual who is designated as an agent by section fourteen (14) of this Act or, in the case of the tenant, it is delivered in hand to the tenant or mailed by registered mail return receipt requested to the tenant at the place held out by the tenant as the place for receipt of the communication or, in the absence of such designation, to the tenant's last known place of residence other than the landlord's mobile home or space.

3. "Notice", knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting the transaction and in any event from the time it would have been brought to that person's attention if the organization had exercised reasonable diligence, but such knowledge shall be subject to proof.

Sec. 10. NEW SECTION. TERMS AND CONDITIONS OF RENTAL AGREEMENT.

1. The landlord and tenant may include in a rental agreement terms and conditions not prohibited by this Act or other rule of law including rent, term of the agreement and other provisions governing the rights and obligations of the parties.

2. The tenant shall pay as rent the amount stated in the rental agreement. In the absence of a rental agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the mobile home space.

3. Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed periodic rent is payable at the beginning of any term and thereafter in equal monthly installments. Rent shall be uniformly apportionable from day to day.

4. Rental agreements shall be for a term of one year unless otherwise specified in the rental agreement. Rental agreements shall be canceled by at least sixty days written notice given by either party. A landlord shall not cancel a rental agreement solely for the purpose of making the tenant's mobile home space available for another mobile home.

5. If a tenant should die, the surviving joint tenant or tenant in common in the mobile home shall continue as tenant with all rights, privileges and liabilities as the original tenant.

6. If a tenant who was sole owner of a mobile home dies during the term of a rental agreement then that person's heirs or legal representative or the landlord shall have the right to cancel the tenant's lease by giving sixty days written notice to the person's heirs or legal representative or to the landlord, whichever is appropriate, and the heirs or the legal representative shall have the same rights, privileges and liabilities of the original tenant.

7. Improvements, except a natural lawn, purchased and installed by a tenant on a mobile home space shall remain the property of the tenant even though affixed to or in the ground and may be removed or disposed of by the tenant prior to the termination of the tenancy, provided that a tenant shall leave the mobile home space in substantially the same or better condition than upon taking possession.

Sec. 11. NEW SECTION. PROHIBITED PROVISIONS IN RENTAL AGREEMENTS.

1. A rental agreement shall not provide that the tenant or landlord does any of the following:

a. Agrees to waive or to forego rights or remedies under this chapter.

b. Agrees to pay the other party's attorney fees.

c. Agrees to the exculpation or limitation of any liability of the other party arising under law or to indemnify the other party for that liability or the costs connected therewith.

d. Agrees to a designated agent for the sale of tenant's mobile home.

2. A provision prohibited by subsection one (1) of this section included in a rental agreement is unenforceable.

If a landlord or tenant knowingly uses a rental agreement containing provisions known to be prohibited by this Act, the other party may recover actual damages sustained.

Nothing in this Act shall prohibit a rental agreement from requiring a tenant to maintain liability insurance which names the landlord as an insured as relates to the mobile home space rented by the tenant.

Sec. 12. NEW SECTION. SEPARATION OF RENTS AND OBLIGATIONS TO MAINTAIN PROPERTY FORBIDDEN. A rental agreement, assignment, conveyance, trust deed or security instrument shall not permit the receipt of rent, unless the landlord

has agreed to comply with section sixteen (16), subsection one (1) of this Act.

DIVISION II

LANDLORD OBLIGATIONS

Sec. 13. NEW SECTION. RENTAL DEPOSITS.

1. A landlord shall not demand or receive as rental deposit an amount or value in excess of two months' rent.

2. All rental deposits shall be held by the landlord for the tenant, who is a party to the agreement, in a bank, credit union or savings and loan association which is insured by an agency of the federal government. Rental deposits shall not be commingled with the personal funds of the landlord. All rental deposits may be held in a trust account, which may be a common trust account and which may be an interest bearing account. Any interest earned on a rental deposit shall be the property of the landlord.

3. A landlord shall, within thirty days from the date of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, return the rental deposit to the tenant or furnish to the tenant a written statement showing the specific reason for withholding of the rental deposit or any portion thereof. If the rental deposit or any portion of the rental deposit is withheld for the restoration of the mobile home space, the statement shall specify the nature of the damages. The landlord may withhold from the rental deposit only such amounts as are reasonably necessary for the following reasons:

a. To remedy a tenant's default in the payment of rent or of other funds due to the landlord pursuant to the rental agreement.

b. To restore the mobile home space to its condition at the commencement of the tenancy, ordinary wear and tear excepted.

4. In an action concerning the rental deposit, the burden of proving, by a preponderance of the evidence, the reason for withholding all or any portion of the rental deposit shall be on the landlord.

5. A landlord who fails to provide a written statement within thirty days of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions shall forfeit all rights to withhold any portion of the rental deposit. If no mailing address or instructions are provided to the landlord within one year from the termination of the tenancy the rental deposit shall revert to the landlord and

the tenant will be deemed to have forfeited all rights to the rental deposit.

6. Upon termination of a landlord's interest in the mobile home park, the landlord or his or her agent shall, within a reasonable time, transfer the rental deposit, or any remainder after any lawful deductions to the landlord's successor in interest and notify the tenant of the transfer and of the transferee's name and address or return the deposit, or any remainder after any lawful deductions to the tenant.

Upon the termination of the landlord's interest in the mobile home park and compliance with the provisions of this subsection, the landlord shall be relieved of any further liability with respect to the rental deposit.

7. Upon termination of the landlord's interest in the mobile home park, the landlord's successor in interest shall have all the rights and obligations of the landlord with respect to the rental deposits, except that if the tenant does not object to the stated amount within twenty days after written notice to the tenant of the amount of rental deposit being transferred or assumed, the obligations of the landlord's successor to return the deposit shall be limited to the amount contained in the notice. The notice shall contain a stamped envelope addressed to the landlord's successor and may be given by mail or by personal service.

8. The bad faith retention of a deposit by a landlord, or any portion of the rental deposit, in violation of this section shall subject the landlord to punitive damages not to exceed two hundred dollars in addition to actual damages.

Sec. 14. NEW SECTION. DISCLOSURE AND TENDER OF WRITTEN RENTAL AGREEMENT.

1. The landlord shall offer the tenant the opportunity to sign a written agreement for a mobile home space.

2. The landlord or any person authorized to enter into a rental agreement on his or her behalf shall disclose to the tenant in writing at or before entering into the rental agreement the name and address of:

- a. The person authorized to manage the mobile home park.
- b. The owner of the mobile home park or a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for notices and demands.

3. The information required to be furnished by this section shall be kept current and refurnished to the tenant upon the tenant's request. When there is a new owner or operator this

section extends to and is enforceable against any successor landlord, owner or manager.

4. A person who fails to comply with subsections one (1) and two (2) becomes an agent of each person who is a landlord for the following purposes:

a. Service of process and receiving and receipting for notices and demands.

b. Performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the mobile home park.

5. If there is a written rental agreement, the landlord must tender and deliver a signed copy of the rental agreement to the tenant and the tenant must sign and deliver to the landlord one fully executed copy of such rental agreement within ten days after the agreement is executed. Noncompliance with this subsection shall be deemed a material noncompliance by the landlord or the tenant, as the case may be, of the rental agreement.

6. The landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall provide a written explanation of utility rates, charges and services to the prospective tenant before the rental agreement is signed unless the utility charges are paid by the tenant directly to the utility company.

7. Each tenant shall be notified, in writing, of any rent increase at least sixty days before the effective date. Such effective date shall not be sooner than the expiration date of the original rental agreement or any renewal or extension thereof.

Sec. 15. NEW SECTION. LANDLORD TO DELIVER POSSESSION OF MOBILE HOME SPACE. At the commencement of the term the landlord shall deliver possession of the mobile home space to the tenant in compliance with the rental agreement and section sixteen (16) of this Act. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in section thirty-one (31) of this Act.

Sec. 16. NEW SECTION. LANDLORD TO MAINTAIN FIT PREMISES.

1. The landlord shall:

a. Comply with the requirements of all applicable city, county and state codes materially affecting health and safety which are primarily imposed upon the landlord.

b. Make all repairs and do whatever is necessary to put

and keep the mobile home space in a fit and habitable condition.

c. Keep all common areas of the mobile home park in a clean and safe condition.

d. Maintain in good and safe working order and condition all facilities supplied or required to be supplied by the landlord.

e. Provide for removal of garbage, rubbish, and other waste from the mobile home park.

f. Furnish outlets for electric, water and sewer services.

2. A landlord shall not impose any conditions of rental or occupancy which restrict the tenant in the choice of a seller of fuel, furnishings, goods, services or mobile homes connected with the rental or occupancy of a mobile home space unless such condition is necessary to protect the health, safety, aesthetic value or welfare of mobile home tenants in the park. The landlord may impose reasonable requirements designed to standardize methods of utility connection and hookup. If any such conditions are imposed which result in charges for such goods or services, the charges shall not exceed the actual cost incurred in providing the tenant with such goods or services.

Sec. 17. NEW SECTION. LIMITATION OF LIABILITY.

1. A landlord who conveys a mobile home park in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this Act as to events occurring subsequent to written notice to the tenant of the conveyance.

2. A manager of a mobile home park is relieved of liability under the rental agreement and this Act as to events occurring after written notice to the tenant of the termination of his management, except such notice shall not terminate any agreement or legal liability arising prior to the notice.

DIVISION III

TENANT OBLIGATIONS

Sec. 18. NEW SECTION. TENANT TO MAINTAIN MOBILE HOME SPACE--NOTICE OF VACATING. A tenant shall maintain his or her mobile home space in as good a condition as when the tenant took possession and shall:

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of city, county and state codes materially affecting health and safety.

2. Keep that part of the mobile home park that the tenant occupies and uses reasonably clean and safe.

3. Dispose from the tenant's mobile home space all rubbish,

garbage and other waste in a clean and safe manner.

4. Not deliberately or negligently destroy, deface, damage, impair or remove any part of the mobile home park or knowingly permit any person to do so.

5. Conduct himself or herself and require other persons in the mobile home park with his or her consent to conduct themselves in a manner that will not disturb the tenant's neighbors' peaceful enjoyment of the mobile home park.

Sec. 19. NEW SECTION. RULES AND REGULATIONS.

1. A landlord may adopt rules or regulations, however described, concerning the tenant's use and occupancy of the mobile home park. Such rules or regulations are enforceable against the tenant only if they are written and if:

a. Their purpose is to promote the convenience, safety or welfare of the tenants in the mobile home park, to preserve the landlord's property from abuse, to make a fair distribution of services and facilities held out for the tenants generally, or to facilitate mobile home park management.

b. They are reasonably related to the purpose for which adopted.

c. They apply to all tenants in the mobile home park in a fair manner.

d. They are sufficiently explicit in prohibition, direction or limitation of the tenant's conduct to fairly inform that person of what must or must not be done to comply.

e. They are not for the purpose of evading the obligations of the landlord.

f. The prospective tenant is given a copy of them before the rental agreement is entered into.

2. Notice of all such additions, changes, deletions or amendments shall be given to all mobile home tenants thirty days before they become effective. Any rule or condition of occupancy which is unfair and deceptive or which does not conform to the requirements of this chapter shall be unenforceable. A rule or regulation adopted after the tenant enters into the rental agreement is enforceable against the tenant only if it does not work a substantial modification of that person's rental agreement.

3. A landlord shall not:

a. Deny rental unless the tenant or prospective tenant cannot conform to park rules and regulations.

b. Require any person as a precondition to renting, leasing or otherwise occupying or removing from a mobile home space in a mobile home park to pay an entrance or exit fee of any

kind unless for services actually rendered or pursuant to a written agreement.

c. Deny any resident of a mobile home park the right to sell that person's mobile home at a price of his or her own choosing, but may reserve the right to approve the purchaser of such mobile home as a tenant but such permission may not be unreasonably withheld, provided however, that the landlord may, in the event of a sale to a third party, in order to upgrade the quality of the mobile home park, require that any mobile home in a rundown condition or in disrepair be removed from the park within sixty days.

d. Exact a commission or fee with respect to the price realized by the tenant selling the tenant's mobile home, unless the park owner or operator has acted as agent for the mobile home owner pursuant to a written agreement.

e. Require tenant to furnish permanent improvements which cannot be removed without damage thereto or to the mobile home space by tenant at expiration of the rental agreement.

f. Prohibit meetings between tenants in the mobile home park relating to mobile home living and affairs in the park community or recreational hall if such meetings are held at reasonable hours and when the facility is not otherwise in use.

Sec. 20. NEW SECTION. ACCESS.

1. A landlord shall not have the right of access to a mobile home owned by a tenant unless such access is necessary to prevent damage to the mobile home space or is in response to an emergency situation.

2. The landlord may enter onto the mobile home space in order to inspect the mobile home space, make necessary or agreed repairs or improvements, supply necessary or agreed services or exhibit the mobile home space to prospective or actual purchasers, mortgagees, tenants, workers or contractors.

Sec. 21. NEW SECTION. TENANT TO OCCUPY AS A DWELLING UNIT--AUTHORITY TO SUBLET. The tenant shall occupy the tenant's mobile home only as a dwelling unit and may rent the mobile home to another, only upon written agreement with the park management.

DIVISION IV

REMEDIES

Sec. 22. NEW SECTION. NONCOMPLIANCE BY THE LANDLORD.

1. Except as provided in this chapter, if there is a material noncompliance by the landlord with the rental agreement, the tenant may deliver a written notice to the landlord

specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. If there is a noncompliance by the landlord with section sixteen (16) of this Act materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. The rental agreement shall terminate and the mobile home space shall be vacated as provided in the notice subject to the following:

a. If the breach is remediable by repairs or the payment of damages or otherwise and the landlord adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate.

b. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family or other person in the mobile home park with the tenant's consent.

2. Except as provided in this chapter, the tenant may recover damages, and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or with section sixteen (16) of this Act.

3. The remedy provided in subsection two (2) of this section is in addition to any right of the tenant arising under subsection one (1) of this section.

Sec. 23. NEW SECTION. FAILURE TO DELIVER POSSESSION.

1. If the landlord fails to deliver physical possession of the mobile home space to the tenant as provided in section fifteen (15) of this Act, rent abates until possession is delivered and the tenant may do either of the following:

a. Upon written notice to the landlord, terminate the rental agreement and at that time the landlord shall return all deposits.

b. Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the mobile home space against the landlord and recover the damages sustained by the tenant plus reasonable attorney's fees and court costs.

2. If the landlord delivers physical possession to the tenant but fails to comply with section sixteen (16) of this Act at the time of delivery, rent shall not abate. The tenant

may also proceed with the remedies provided for in section twenty-two (22) of this Act.

Sec. 24. NEW SECTION. TENANT'S REMEDIES FOR LANDLORD'S UNLAWFUL OUSTER, EXCLUSION OR DIMINUTION OF SERVICES. If the landlord unlawfully removes or excludes the tenant from the mobile home park or willfully diminishes services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service to the tenant, the tenant may recover possession, require the restoration of essential services or terminate the rental agreement and, in either case, recover an amount not to exceed two months' periodic rent and twice the actual damages sustained by the tenant.

Sec. 25. NEW SECTION. NONCOMPLIANCE WITH RENTAL AGREEMENT BY TENANT--FAILURE TO PAY RENT.

1. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. If there is a noncompliance by the tenant with section eighteen (18) of this Act materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. However, if the breach is remediable by repair or the payment of damages or otherwise, and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate.

2. If rent is unpaid when due and the tenant fails to pay rent within three days after written notice by the landlord of nonpayment and of the landlord's intention to terminate the rental agreement if the rent is not paid within that period of time, the landlord may terminate the rental agreement.

3. Except as otherwise provided in this chapter, the landlord may recover damages, obtain injunctive relief or recover possession of the mobile home space pursuant to an action in forcible detainer for any material noncompliance by the tenant with the rental agreement or with section eighteen (18) of this Act.

4. The remedy provided in subsection three (3) of this section is in addition to any right of the landlord arising under subsection one (1) of this section.

Sec. 26. NEW SECTION. FAILURE TO MAINTAIN BY TENANT. If there is noncompliance by the tenant with section eighteen (18) of this Act materially affecting health and safety that can be remedied by repair, replacement of a damaged item or cleaning and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the mobile home space, and cause the work to be done in a workmanlike manner and submit an itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as additional rent on the next date when periodic rent is due, or if the rental agreement was terminated, for immediate payment.

Sec. 27. NEW SECTION. REMEDIES FOR ABANDONMENT--REQUIRED REGISTRATION.

1. If a tenant abandons a mobile home on a mobile home space, the landlord shall notify the legal owner or lienholder of the mobile home within a reasonable time and communicate to that person his or her liability for any costs incurred for the mobile home space for such mobile home, including rent and utilities due and owing. Any and all costs shall then become the responsibility of the legal owner or lienholder of the mobile home. The mobile home may not be removed from the mobile home space without a signed written agreement from the landlord showing clearance for removal, showing all moneys due and owing paid in full, or an agreement reached with the legal owner and the landlord.

2. A required standardized registration form shall be filled out by each tenant, upon the rental of a mobile home space, showing the mobile home make, year, serial number and license number and also showing if the mobile home is paid for, if there is a lien on the mobile home, and if so the lienholder, and who is the legal owner of the mobile home. The registration cards or forms shall be kept on file with the landlord as long as the mobile home is on the mobile home space within the mobile home park. The tenant shall give notice to the landlord within ten days of any new lien, changes of existing lien or settlement of lien.

Sec. 28. NEW SECTION. WAIVER OF LANDLORD'S RIGHT TO TERMINATE. Acceptance of performance by the tenant that varied

from the terms of the rental agreement or rules subsequently adopted by the landlord constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

Sec. 29. NEW SECTION. LANDLORD LIENS. A lien on behalf of the landlord on the tenant's personal property is not enforceable unless perfected before the effective date of this Act.

Sec. 30. NEW SECTION. PERIODIC TENANCY--HOLDOVER REMEDIES.

1. The landlord may terminate a tenancy only as provided in this chapter.

2. Notwithstanding section six hundred forty-eight point nineteen (648.19) of the Code, if the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and recover actual damages. If the tenant's holdover is willful and not in good faith the landlord in addition may recover an amount not to exceed two months' periodic rent and twice the actual damages sustained by the landlord. In any event, the landlord may recover reasonable attorney's fees and court costs.

Sec. 31. NEW SECTION. LANDLORD AND TENANT REMEDIES FOR ABUSE OF ACCESS TO MOBILE HOME SPACE.

1. If the tenant refuses to allow lawful access to the mobile home space, the landlord may terminate the rental agreement and may recover actual damages.

2. If the landlord makes an unlawful entry or a lawful entry to the mobile home space in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement. In either case, the tenant may recover actual damages not less than an amount equal to one month's rent plus attorney's fees.

Sec. 32. NEW SECTION. RETALIATORY CONDUCT PROHIBITED.

1. Except as provided in this section, a landlord shall not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession or by failing to renew a rental agreement after any of the following:

a. The tenant has complained to a governmental agency charged with responsibility for enforcement of a building

or housing code of a violation applicable to the mobile home park materially affecting health and safety. For this subsection to apply, a complaint filed with a governmental body must be in good faith.

b. The tenant has complained to the landlord of a violation under section sixteen (16) of this Act.

c. The tenant has organized or become a member of a tenant's union or similar organization.

d. For exercising any of the rights and remedies pursuant to this Act.

2. If the landlord acts in violation of subsection one (1) of this section, the tenant is entitled to the remedies provided in section twenty-five (25) of this Act and has a defense in an action for possession. In an action by or against the tenant, evidence of a complaint within six months prior to the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of termination of the rental agreement. For the purpose of this subsection, "presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

3. Notwithstanding subsections one (1) and two (2) of this section, a landlord may bring an action for possession if either of the following occurs:

a. The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in the household or upon the premises with the tenant's consent.

b. The tenant is in default of rent three days after rent is due. The maintenance of the action does not release the landlord from liability under section twenty-two (22), subsection two (2) of this Act.

Sec. 33. Section one hundred thirty-five D point one (135D.1), Code 1977, is amended by adding the following new subsection:

**NEW SUBSECTION.** "Modular home" means a factory-built structure which is manufactured or constructed to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles.

Sec. 34. Section one hundred thirty-five D point one (135D.1), subsection two (2), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. A mobile home park must be classified as to whether it is a residential mobile home park or a recreational mobile park or both. Sections one hundred thirty-five D point fourteen (135D.14) and one hundred thirty-five D point fifteen (135D.15) of the Code shall apply only to recreational mobile home parks. The mobile home park residential landlord tenant Act shall only apply to residential mobile home parks.

Sec. 35. Section one hundred thirty-five D point fourteen (135D.14), Code 1977, is amended to read as follows:

135D.14 PARKS OWNED BY PUBLIC. Any mobile home park owned and operated by any municipality shall meet all provisions of this chapter. Any recreational mobile home park owned or operated by any agency or department of the state, county, city or any nonprofit corporation within which the length of stay is limited to not more than fourteen consecutive days shall not be affected by any provision of this chapter except that such parks shall be subject to routine inspection by the state health department or a designee thereof. Upon routine inspections by the state health department or its designee, the inspecting officer shall make a report of his findings and recommendations in writing and submit such report to the agency or department of the state responsible for operation of the park.

Sec. 36. Section one hundred thirty-five D point twenty-four (135D.24), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. A modular home as defined by this chapter shall not be subject to or assessed the semiannual tax pursuant to this section, but shall be assessed and taxed as real estate pursuant to chapter four hundred twenty-seven (427) of the Code.

Sec. 37. Chapter one hundred thirty-five D (135D), Code 1977, is amended by adding the following new section:

NEW SECTION. MODULAR HOME EXEMPTION. For the purposes of this chapter a modular home shall not be construed to be a mobile home and shall be exempt from the provisions of this chapter. This section shall not prohibit the location of a modular home within a mobile home park.

Sec. 38. This Act is effective January 1, 1979.

Approved June 26, 1978