

1 SB177
2 156302-5
3 By Senator Allen
4 RFD: Judiciary
5 First Read: 14-JAN-14

1 SB177

2
3
4 ENROLLED, An Act,

5 To amend Sections 35-12A-1, 35-12A-2, 35-12A-3,
6 35-12A-4, 35-12A-5, 35-12A-6, 35-12A-7, 35-12A-8, 35-12A-10,
7 35-12A-11, 35-12A-12, 35-12A-13, and 35-12A-14, Code of
8 Alabama 1975, relating to abandoned manufactured dwellings, to
9 further provide for the sale of an abandoned manufactured
10 dwelling, storage for the dwelling and personal property of
11 the tenant, and the required notice to tenants and
12 lienholders; to specify when a manufactured dwelling is deemed
13 abandoned; to require additional information to be included in
14 the notice; to reduce the time frame in which a tenant must
15 contact the manufactured dwelling community owner after
16 receipt of notice; to require a manufactured dwelling
17 community owner to provide a copy of the notice to any
18 lienholder by certified or registered mail, return receipt
19 requested, within a specified time frame prior to the sale; to
20 specify the unpaid rental fees that may be deducted from the
21 proceeds of the sale; to allow a manufactured dwelling
22 community owner to condition approval for occupancy of any
23 purchaser of the manufactured dwelling upon verification that
24 the new tenant qualifies for the rental; and to repeal Section

1 35-12A-9, Code of Alabama 1975, relating to the sale or
2 disposal of an abandoned manufactured dwelling.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 35-12A-1, 35-12A-2, 35-12A-3,
5 35-12A-4, 35-12A-5, 35-12A-6, 35-12A-7, 35-12A-8, 35-12A-10,
6 35-12A-11, 35-12A-12, 35-12A-13, and 35-12A-14, Code of
7 Alabama 1975, are amended to read as follows:

8 "§35-12A-1.

9 "As used in this chapter, the following terms shall
10 have the following meanings:

11 "(1) ABANDONED MANUFACTURED DWELLING. A manufactured
12 dwelling that satisfies either of the following circumstances:

13 "a. A tenant is absent from the premises of the
14 manufactured dwelling following expiration of 30 days after
15 default, termination, or expiration of the lease agreement.

16 "b. A tenant is absent from the premises of the
17 manufactured dwelling continuously for 30 days after service
18 of a court order requiring the tenant to vacate the premises
19 due to failure of the tenant to perform obligations of the
20 lease.

21 "~~(1)~~ (2) MANUFACTURED DWELLING COMMUNITY OWNER. Any
22 individual or business entity that, for consideration, allows
23 another individual to place a residential trailer, mobile
24 home, or manufactured ~~home~~ dwelling on land owned or leased by
25 that individual or business entity.

1 "~~(2)~~(3) MANUFACTURED DWELLING. A residential
2 trailer, mobile home, or manufactured home.

3 "(4) RENTAL FEE. The actual rent charged to the
4 tenant including utilities, maintenance charges, and any other
5 fee charged incidental to the rent as provided for by the
6 agreement between the manufactured dwelling community owner
7 and tenant.

8 "~~(3)~~(5) TENANT. An individual or business entity
9 that enters into a rental agreement with a manufactured
10 dwelling community owner for placement of a manufactured home
11 on the property of the manufactured dwelling community owner
12 and that leases or owns the manufactured home.

13 "§35-12A-2.

14 "A manufactured dwelling community owner may ~~dispose~~
15 ~~of~~ sell a manufactured dwelling on ~~space~~ property owned or
16 leased by the manufactured dwelling community owner only in
17 the manner provided by this chapter. ~~and in the following~~
18 ~~circumstances:~~

19 "~~(1) Sixty days have elapsed since the tenancy ended~~
20 ~~by termination or expiration of a rental agreement.~~

21 "~~(2) The tenant has been absent from the premises~~
22 ~~continuously for 30 days after termination of a tenancy by a~~
23 ~~court order that has not been executed.~~

24 "§35-12A-3.

1 "~~Prior to disposing of~~ selling the tenant's
2 manufactured dwelling pursuant to this chapter, the
3 manufactured dwelling community owner shall provide a written
4 notice to the tenant by one of the following methods:

5 "~~(1) Personally delivered~~ Personal delivery to the
6 tenant of the manufactured dwelling.

7 "(2) Certified mail addressed and mailed to the
8 tenant at the last known mailing address known to the
9 manufactured dwelling community owner.

10 "(3) Affixing a notice on the doors of the dwelling.

11 "~~§35-12A-4.~~

12 "A manufactured dwelling community owner shall also
13 give a copy of the notice described in Section ~~35-12A-3~~
14 35-12A-5 by certified or registered mail verified by return
15 receipt to ~~the following:~~

16 "~~(1) Any~~ any lienholder of the manufactured
17 dwelling. ~~It is the obligation of the manufactured dwelling~~
18 ~~community owner to determine the name and address of all~~
19 ~~lienholders which have a lien on the manufactured dwelling~~
20 ~~properly filed with~~ as shown on the records of the office of
21 the judge of probate in the county in which the manufactured
22 dwelling is located, the Alabama Department of Revenue, or the
23 Secretary of State. For purposes of this chapter, "lienholder"
24 includes the holder of a security interest, mortgage, or other

1 lien on the manufactured dwelling and "lien" includes a
2 security interest, mortgage, or other lien.

3 ~~"(2) The tax collector of the county in which the~~
4 ~~manufactured dwelling is located.~~

5 "§35-12A-5.

6 "The notice required by ~~Section~~ Sections 35-12A-3
7 and 35-12A-4 shall state all of the following:

8 "(1) The manufactured dwelling, with a reasonably
9 certain description of the dwelling, is left upon the premises
10 and is considered abandoned and the tenant is indebted to the
11 manufactured dwelling community owner for rental fees.

12 "(2) The tenant or lienholder shall contact the
13 manufactured dwelling community owner within ~~45~~ 30 days of
14 receipt of the notice, as provided in Section 35-12A-6, to
15 arrange for the removal of the abandoned manufactured
16 dwelling.

17 "(3) The manufactured dwelling is stored on the
18 rented space and applicable storage fees are being assessed.

19 "(4) The tenant or any lienholder may arrange for
20 removal of the manufactured dwelling by contacting the
21 manufactured dwelling community owner at a described telephone
22 number or address on or before the specified date provided in
23 the notice.

1 "(5) The manufactured dwelling community owner shall
2 make the manufactured dwelling available for removal by the
3 tenant or any lienholder by appointment at reasonable times.

4 "(6) If the tenant or owner fails to contact the
5 manufactured dwelling community owner in writing by the date
6 specified in the notice to remove the manufactured dwelling
7 and the dwelling is not subject to a lien that has priority
8 over any lien of the manufactured dwelling community owner,
9 then the manufactured dwelling community owner may ~~dispose of~~
10 sell the manufactured dwelling as provided for in Section
11 35-12A-9. If the manufactured dwelling is subject to a lien
12 that has priority over any lien of the manufactured dwelling
13 community owner, then the provisions contained in Section
14 35-12A-13 are the manufactured dwelling community owner's sole
15 remedy as to the lienholder.

16 "§35-12A-6.

17 "(a) After notifying the tenant and lienholder as
18 required by Sections 35-12A-3 and 35-12A-4, the manufactured
19 dwelling community owner shall do all of the following:

20 "(1) Store any abandoned manufactured dwelling on
21 the rented space ~~and exercise reasonable care for the~~
22 ~~manufactured dwelling.~~

23 "(2) Store all other abandoned personal property of
24 the tenant, including goods left inside a manufactured
25 dwelling or left upon the rented space outside a manufactured

1 dwelling, in a place of safekeeping and exercise reasonable
2 care for the personal property. For purposes of this chapter,
3 "personal property" does not include a manufactured dwelling.

4 "(b) The manufactured dwelling community owner shall
5 be entitled to reasonable or actual storage charges and costs
6 incidental to storage or disposal, including any cost of
7 removal to a place of storage occurring after the expiration
8 of the date by which a tenant, lienholder, or owner is to
9 contact the manufactured dwelling community owner as set forth
10 in Section 35-12A-5. ~~The storage charge shall be no greater
11 than the monthly space rent last payable by the tenant.~~

12 "§35-12A-7.

13 "If a tenant, ~~upon the receipt of the notice,~~
14 responds by written notice to the manufactured dwelling
15 community owner on or before the specified date in the
16 manufactured dwelling community owner's notice that the tenant
17 intends to remove the manufactured dwelling from the premises,
18 the manufactured dwelling community owner must make the
19 manufactured dwelling available for removal by appointment at
20 reasonable times during the next 45 days, provided that the
21 tenant has paid all applicable charges and costs as provided
22 herein. If the manufactured dwelling is not removed, the
23 manufactured community dwelling owner may proceed with the
24 sale of the manufactured dwelling pursuant to Section
25 35-12A-8.

1 "§35-12A-8.

2 "(a) If the tenant does not respond within the time
3 provided by the manufactured dwelling community owner's
4 notice, or the tenant does not remove the manufactured
5 dwelling or personal property within 45 days after responding
6 to the manufactured dwelling community owner or by any other
7 date agreed to with the manufactured dwelling community owner,
8 whichever is later, the manufactured dwelling ~~or personal~~
9 property, as applicable, shall be conclusively presumed to be
10 abandoned community owner may sell the abandoned manufactured
11 dwelling and personal property as provided in this section.

12 "(b) With regard to the manufactured dwelling, prior
13 to sale, the manufactured dwelling community owner shall do
14 all of the following:

15 "(1) Place a notice to be run once per week for two
16 consecutive weeks in a newspaper of general circulation in the
17 county in which the manufactured dwelling is located. The
18 notice shall state all of the following:

19 "a. That the manufactured dwelling is abandoned and
20 will be sold in the manner provided in the notice. The
21 manufactured dwelling shall be described with reasonable
22 certainty.

23 "b. The tenant's and owner's name if of record or
24 actually known to the manufactured dwelling community owner.

1 "c. The address and any space number where the
2 manufactured dwelling is located, and if actually known to the
3 manufactured dwelling community owner, the plate,
4 registration, or other identification number as noted on the
5 certificate of title.

6 "d. Whether the sale is by private bidding or public
7 auction and that the manufactured dwelling community owner is
8 authorized to purchase the manufactured dwelling pursuant to
9 the method of sale described in the notice. In the case of a
10 public auction, the date, place, and time of the auction shall
11 be included in the notice.

12 "e. Whether the manufactured dwelling community
13 owner is accepting sealed bids and, if so, the last date on
14 which bids will be accepted. The date, time, and place where
15 the winning bid will be awarded shall also be included in the
16 notice.

17 "f. The name and telephone number of the person to
18 contact to inspect the manufactured dwelling.

19 "(2) No later than 30 days prior to the sale date,
20 provide a copy of the notice required by subdivision (1) to
21 any lienholder by certified or registered mail, verified by
22 return receipt.

23 "(c) With regard to personal property, including the
24 contents of the manufactured dwelling and any personal
25 property left on the rented space outside a manufactured

1 dwelling, the manufactured dwelling community owner shall
2 store the abandoned personal property as provided for in
3 Section 35-12A-6. Prior to selling the personal property, the
4 manufactured dwelling community owner must hold the personal
5 property for 45 days after mailing notice to the tenant or the
6 tenant's designated agent at the last known address of the
7 tenant or the tenant's agent or by delivering a copy of the
8 notice to the last known address of the tenant or the tenant's
9 agent. The manufactured dwelling community owner is entitled
10 to reasonable storage charges as provided in Section 35-12A-6
11 prior to surrendering the property to the tenant or the
12 tenant's agent.

13 "§35-12A-10.

14 "A public or private sale authorized by this chapter
15 shall be conducted consistent with the terms listed in Section
16 ~~35-12A-9~~ 35-12A-8 and every aspect of the sale including the
17 method, manner, time, place, and terms must be commercially
18 reasonable.

19 "§35-12A-11.

20 "(a) The manufactured dwelling community owner may
21 deduct from the proceeds of the sale any of the following:

22 "(1) The reasonable or actual cost of notice,
23 storage, and sale as provided in this chapter.

24 "(2) Unpaid ~~rent only from the sale of the~~
25 ~~manufactured dwelling~~ rental fees, but only to the extent that

1 the manufactured dwelling community owner's lien has priority
2 over the lien of any applicable lienholder.

3 "(3) Reasonable attorneys' fees and costs.

4 "(b) After deducting the amounts listed in
5 subsection (a), the manufactured dwelling community owner
6 shall remit to the county tax collecting official any property
7 taxes and/or other fees due and shall then remit the remaining
8 proceeds, if any, to the lienholders, if any, to the extent of
9 any unpaid balance owed on any liens on the manufactured
10 dwelling.

11 "(c) After deducting the amounts listed in
12 subsections (a) and (b), as applicable, the manufactured
13 dwelling community owner shall remit to the tenant or owner
14 the remaining proceeds, if any, together with an itemized
15 accounting. If the tenant or owner cannot be found, after due
16 diligence, the remaining proceeds ~~shall be~~ may be interpleaded
17 in any court with jurisdiction or be held and deposited in
18 accordance with Section ~~35-12-29~~ 35-12-70, et seq.

19 "§35-12A-12.

20 "Compliance in good faith with this chapter by the
21 manufactured dwelling community owner shall constitute a
22 complete defense in any action brought by a tenant or
23 lienholder against a manufactured dwelling community owner for
24 loss or damage to such manufactured dwelling or personal

1 property, as applicable, ~~disposed of~~ sold pursuant to this
2 chapter.

3 "§35-12A-13.

4 "If a lienholder makes a timely response to a notice
5 of abandoned manufactured dwelling, as provided for in Section
6 35-12A-4, and so requests, a manufactured dwelling community
7 owner shall not sell ~~or dispose~~ of the manufactured dwelling
8 for a period of 12 months. During this period, or until the
9 manufactured dwelling is removed from the manufactured
10 dwelling community owner's premises, the lienholder must make
11 timely periodic payments of all reasonable and actual storage
12 or rental ~~charges~~ fees which accrue after the expiration of
13 the ~~45-day~~ 30-day notice period and which shall be no greater
14 than the monthly space rent last payable by the tenant. The
15 lienholder shall have the right to remove or sell the
16 manufactured dwelling, pursuant to the provisions of any
17 agreement with the owner of the dwelling or as otherwise
18 allowed by law. The manufactured dwelling community owner may
19 condition approval for occupancy of any purchaser of the
20 manufactured dwelling upon payment of all storage charges and
21 maintenance costs which accrued after the expiration of the
22 ~~45-day~~ 30-day notice period or verification that the new
23 tenant qualifies for rental consistent with the rental
24 criteria in existence at the time of execution of the
25 manufactured dwelling community owner's rental agreement. If

1 the lienholder fails to respond to the notice of abandoned
2 manufactured dwelling within 45 days of receipt, or after
3 making a response, fails after 10 days' written notice from
4 the manufactured dwelling community owner, to make timely
5 payments, the manufactured dwelling community owner may
6 proceed to sell the manufactured dwelling pursuant to Section
7 ~~35-12A-9~~ 35-12A-8. If the lienholder responds to the ~~45-day~~
8 30-day notice, and requests that the manufactured dwelling
9 community owner not sell or dispose of the manufactured
10 dwelling, the lienholder shall be obligated to pay the
11 manufactured dwelling community owner the storage or rental
12 ~~charges~~ fees which accrue beginning after the expiration of
13 the ~~45-day~~ 30-day notice period until the expiration of the
14 12-month period or the date the manufactured dwelling is
15 removed from the premises or sold pursuant to Section ~~35-12A-9~~
16 35-12A-8, whichever is earlier, plus the manufactured dwelling
17 community owner's reasonable attorneys' fees and costs
18 incurred in enforcing this obligation of the lienholder. The
19 provisions of this section may be changed by agreement signed
20 by the manufactured dwelling community owner and lienholder.

21 "§35-12A-14.

22 "If the manufactured dwelling or personal property
23 is considered abandoned as a result of the death of the only
24 tenant, Sections 35-12A-1 to 35-12A-13, inclusive, and this
25 section shall apply, except as follows:

1 "(1) The provisions of this chapter regarding the
2 rights and responsibilities of a tenant to the abandoned
3 manufactured dwelling and personal property shall apply to any
4 personal representative named in a will or appointed by a
5 court to act for the deceased tenant or any person designated
6 in writing by the tenant to be contacted by the manufactured
7 dwelling community owner in the event of the tenant's death.

8 "(2) The notice required by Section 35-12A-3 shall
9 be personally delivered or sent by first class mail to any
10 personal representative named in a will or appointed by a
11 court to act for the deceased tenant.

12 "(3) The notice described in Section 35-12A-5 shall
13 refer to any personal representative or designated person,
14 instead of the deceased tenant, and shall incorporate the
15 provisions of this section.

16 "(4) If a personal representative, designated
17 person, or other person entitled to possession of the
18 property, such as an heir or devisee, responds by actual
19 notice to a manufactured dwelling community owner within the
20 ~~45-day~~ 30-day period provided by Section 35-12A-5, and so
21 requests, the manufactured dwelling community owner shall
22 enter into a written agreement with the representative or
23 person providing that the manufactured dwelling shall not be
24 sold or disposed of by the manufactured dwelling community
25 owner until conclusion of any probate proceedings, so long as

1 the representative or person makes timely periodic payment of
2 all storage charges and maintains the property and the rented
3 space on which it is stored. During the agreement, the
4 representative or person shall have the right to remove or
5 sell the property, including a sale to a purchaser or a
6 transfer to an heir or devisee where the purchaser, heir, or
7 devisee wishes to leave the property on the rented space and
8 become a tenant. The manufactured dwelling community owner
9 also may condition approval for occupancy of any purchaser,
10 heir, or devisee of the property upon payment of all storage
11 charges and maintenance costs. If the representative or person
12 violates the agreement, the manufactured dwelling community
13 owner may terminate it upon 30 days' written notice stating
14 facts sufficient to notify the representative or person of the
15 reason for the termination. Unless the representative or
16 person corrects the violation within the notice period, the
17 agreement shall terminate as provided and the manufactured
18 dwelling community owner may sell ~~or dispose of~~ the property
19 as provided for in this chapter."

20 Section 2. Section 35-12A-9, Code of Alabama 1975,
21 relating to the sale or disposal of an abandoned manufactured
22 dwelling, is repealed.

23 Section 3. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

President and Presiding Officer of
the Senate

Speaker of the House of Representa-
tives

SB177

Senate 30-JAN-14

I hereby certify that the within Act originated in
and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 05-MAR-14

By: Senator Allen