

1 HB227  
2 156302-2  
3 By Representative Millican  
4 RFD: Commerce and Small Business  
5 First Read: 14-JAN-14

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8 SYNOPSIS: Under existing law, a manufactured dwelling  
9 community owner may dispose of a manufactured  
10 dwelling, including its contents, placed on  
11 property owned or leased by the manufactured  
12 dwelling community owner under certain conditions,  
13 including notice to the tenant and all lienholders.

14 This bill would further provide for the sale  
15 of an abandoned manufactured dwelling, storage for  
16 the dwelling and personal property of the tenant,  
17 and the required notice to tenants and lienholders.

18 This bill would specify that a manufactured  
19 dwelling is deemed abandoned when the tenant has  
20 been absent from the dwelling 30 days following  
21 default, termination, or expiration of the lease  
22 agreement or service of a court order requiring the  
23 tenant to vacate the premises due to failure to  
24 perform the obligations of the lease.

25 This bill would provide that notice of the  
26 sale of the abandoned dwelling may be made by  
27 affixing notice on the doors of the dwelling, would

1 require additional information to be included in  
2 the notice, and would reduce the time frame in  
3 which a tenant must contact the manufactured  
4 dwelling community owner after receipt of notice  
5 from 45 days to 30 days.

6 This bill would require a manufactured  
7 dwelling community owner to provide a copy of the  
8 notice to any lienholder by certified or registered  
9 mail, return receipt requested, no later than 14  
10 days prior to the sale.

11 This bill would specify the unpaid rental  
12 fees that may be deducted from the proceeds of the  
13 sale.

14 This bill would also allow a manufactured  
15 dwelling community owner to condition approval for  
16 occupancy of any purchaser of the manufactured  
17 dwelling upon verification that the new tenant  
18 qualifies for rental using rental criteria in  
19 existence at the time of execution of the original  
20 rental agreement.

21  
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25  
26 To amend Sections 35-12A-1, 35-12A-2, 35-12A-3,  
27 35-12A-5, 35-12A-6, 35-12A-7, 35-12A-8, 35-12A-10, 35-12A-11,

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

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 35-12A-1, 35-12A-2, 35-12A-3,  
23 35-12A-5, 35-12A-6, 35-12A-7, 35-12A-8, 35-12A-10, 35-12A-11,  
24 35-12A-12, 35-12A-13, and 35-12A-14, Code of Alabama 1975, are  
25 amended to read as follows:

26 "§35-12A-1.

1 "As used in this chapter, the following terms shall  
2 have the following meanings:

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

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

8 "b. A tenant is absent from the premises of the  
9 manufactured dwelling continuously for 30 days after service  
10 of a court order requiring the tenant to vacate the premises  
11 due to failure of the tenant to perform obligations of the  
12 lease.

13 "~~(1)~~ (2) MANUFACTURED DWELLING COMMUNITY OWNER. Any  
14 individual or business entity that, for consideration, allows  
15 another individual to place a residential trailer, mobile  
16 home, or manufactured ~~home~~ dwelling on land owned or leased by  
17 that individual or business entity.

18 "~~(2)~~ (3) MANUFACTURED DWELLING. A residential  
19 trailer, mobile home, or manufactured home.

20 "(4) RENTAL FEE. The actual rent charged to the  
21 tenant including utilities, maintenance charges, and any other  
22 fee charged incidental to the rent as provided for by the  
23 agreement between the manufactured dwelling community owner  
24 and tenant.

25 "~~(3)~~ (5) TENANT. An individual or business entity  
26 that enters into a rental agreement with a manufactured  
27 dwelling community owner for placement of a manufactured home

1 on the property of the manufactured dwelling community owner  
2 and that leases or owns the manufactured home.

3 "§35-12A-2.

4 "A manufactured dwelling community owner may ~~dispose~~  
5 ~~of~~ sell a manufactured dwelling on ~~space~~ property owned or  
6 leased by the manufactured dwelling community owner only in  
7 the manner provided by this chapter, ~~and in the following~~  
8 ~~circumstances:~~

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

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

14 "§35-12A-3.

15 "Prior to ~~disposing of~~ selling the tenant's  
16 manufactured dwelling pursuant to this chapter, the  
17 manufactured dwelling community owner shall provide a written  
18 notice to the tenant by one of the following methods:

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

21 "(2) ~~Certified mail addressed and mailed~~ Mailing to  
22 the tenant at the last known mailing address known to the  
23 manufactured dwelling community owner.

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

25 "§35-12A-4.

26 "A manufactured dwelling community owner shall also  
27 give a copy of the notice described in Section ~~35-12A-3~~

1 35-12A-5 by certified or registered mail verified by return  
2 receipt to ~~the following:~~

3 ~~"(1) Any any lienholder of the manufactured~~  
4 ~~dwelling. It is the obligation of the manufactured dwelling~~  
5 ~~community owner to determine the name and address of all~~  
6 ~~lienholders which have a lien on the manufactured dwelling~~  
7 ~~properly filed with as shown on the records of the office of~~  
8 ~~the judge of probate in the county in which the manufactured~~  
9 ~~dwelling is located, the Alabama Department of Revenue, or the~~  
10 ~~Secretary of State. For purposes of this chapter, "lienholder"~~  
11 ~~includes the holder of a security interest, mortgage, or other~~  
12 ~~lien on the manufactured dwelling and "lien" includes a~~  
13 ~~security interest, mortgage, or other lien.~~

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

16 "§35-12A-5.

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

19 "(1) The manufactured dwelling, with a reasonably  
20 certain description of the dwelling, is left upon the premises  
21 and is considered abandoned and the tenant is indebted to the  
22 manufactured dwelling community owner for rental fees.

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

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

3           "(4) The tenant or any lienholder may arrange for  
4 removal of the manufactured dwelling by contacting the  
5 manufactured dwelling community owner at a described telephone  
6 number or address on or before the specified date provided in  
7 the notice.

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

11           "(6) If the tenant or owner fails to contact the  
12 manufactured dwelling community owner in writing by the date  
13 specified in the notice to remove the manufactured dwelling  
14 and the dwelling is not subject to a lien that has priority  
15 over any lien of the manufactured dwelling community owner,  
16 then the manufactured dwelling community owner may ~~dispose of~~  
17 sell the manufactured dwelling as provided for in Section  
18 35-12A-9. If the manufactured dwelling is subject to a lien  
19 that has priority over any lien of the manufactured dwelling  
20 community owner, then the provisions contained in Section  
21 35-12A-13 are the manufactured dwelling community owner's sole  
22 remedy as to the lienholder.

23           "§35-12A-6.

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

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

4           "(2) Store all other abandoned personal property of  
5 the tenant, including goods left inside a manufactured  
6 dwelling or left upon the rented space outside a manufactured  
7 dwelling, in a place of safekeeping and exercise reasonable  
8 care for the personal property. For purposes of this chapter,  
9 "personal property" does not include a manufactured dwelling.

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

18           "§35-12A-7.

19           "If a tenant, ~~upon the receipt of the notice,~~  
20 responds by written notice to the manufactured dwelling  
21 community owner on or before the specified date in the  
22 manufactured dwelling community owner's notice that the tenant  
23 intends to remove the manufactured dwelling from the premises,  
24 the manufactured dwelling community owner must make the  
25 manufactured dwelling available for removal by appointment at  
26 reasonable times during the next 45 days, provided that the  
27 tenant has paid all applicable charges and costs as provided

1        herein. If the manufactured dwelling is not removed, the  
2        manufactured community dwelling owner may proceed with the  
3        sale of the manufactured dwelling pursuant to Section  
4        35-12A-8.

5                "§35-12A-8.

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

16                "(b) With regard to the manufactured dwelling, prior  
17        to sale, the manufactured dwelling community owner shall do  
18        all of the following:

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

23                "a. That the manufactured dwelling is abandoned and  
24        will be sold in the manner provided in the notice. The  
25        manufactured dwelling shall be described with reasonable  
26        certainty.

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

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

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

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

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

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

25           "(c) With regard to personal property, including the  
26 contents of the manufactured dwelling and any personal  
27 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  
26 the manufactured dwelling community owner's lien has priority  
27 over the lien of any applicable lienholder.

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

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

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

17           "§35-12A-12.

18           "Compliance in good faith with this chapter by the  
19 manufactured dwelling community owner shall constitute a  
20 complete defense in any action brought by a tenant or  
21 lienholder against a manufactured dwelling community owner for  
22 loss or damage to such manufactured dwelling or personal  
23 property, as applicable, ~~disposed of~~ sold pursuant to this  
24 chapter.

25           "§35-12A-13.

26           "If a lienholder makes a timely response to a notice  
27 of abandoned manufactured dwelling, as provided for in Section

1        35-12A-4, and so requests, a manufactured dwelling community  
2        owner shall not sell ~~or dispose~~ of the manufactured dwelling  
3        for a period of 12 months. During this period, or until the  
4        manufactured dwelling is removed from the manufactured  
5        dwelling community owner's premises, the lienholder must make  
6        timely periodic payments of all reasonable and actual storage  
7        or rental ~~charges~~ fees which accrue after the expiration of  
8        the ~~45-day~~ 30-day notice period and which shall be no greater  
9        than the monthly space rent last payable by the tenant. The  
10        lienholder shall have the right to remove or sell the  
11        manufactured dwelling, pursuant to the provisions of any  
12        agreement with the owner of the dwelling or as otherwise  
13        allowed by law. The manufactured dwelling community owner may  
14        condition approval for occupancy of any purchaser of the  
15        manufactured dwelling upon payment of all storage charges and  
16        maintenance costs which accrued after the expiration of the  
17        ~~45-day~~ 30-day notice period or verification that the new  
18        tenant qualifies for rental consistent with the rental  
19        criteria in existence at the time of execution of the  
20        manufactured dwelling community owner's rental agreement. If  
21        the lienholder fails to respond to the notice of abandoned  
22        manufactured dwelling within 45 days of receipt, or after  
23        making a response, fails after 10 days' written notice from  
24        the manufactured dwelling community owner, to make timely  
25        payments, the manufactured dwelling community owner may  
26        proceed to sell the manufactured dwelling pursuant to Section  
27        ~~35-12A-9~~ 35-12A-8. If the lienholder responds to the ~~45-day~~

1     30-day notice, and requests that the manufactured dwelling  
2     community owner not sell or dispose of the manufactured  
3     dwelling, the lienholder shall be obligated to pay the  
4     manufactured dwelling community owner the storage or rental  
5     ~~charges~~ fees which accrue beginning after the expiration of  
6     the ~~45-day~~ 30-day notice period until the expiration of the  
7     12-month period or the date the manufactured dwelling is  
8     removed from the premises or sold pursuant to Section ~~35-12A-9~~  
9     35-12A-8, whichever is earlier, plus the manufactured dwelling  
10    community owner's reasonable attorneys' fees and costs  
11    incurred in enforcing this obligation of the lienholder. The  
12    provisions of this section may be changed by agreement signed  
13    by the manufactured dwelling community owner and lienholder.

14             "§35-12A-14.

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

19             "(1) The provisions of this chapter regarding the  
20    rights and responsibilities of a tenant to the abandoned  
21    manufactured dwelling and personal property shall apply to any  
22    personal representative named in a will or appointed by a  
23    court to act for the deceased tenant or any person designated  
24    in writing by the tenant to be contacted by the manufactured  
25    dwelling community owner in the event of the tenant's death.

26             "(2) The notice required by Section 35-12A-3 shall  
27    be personally delivered or sent by first class mail to any

1 personal representative named in a will or appointed by a  
2 court to act for the deceased tenant.

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

7 "(4) If a personal representative, designated  
8 person, or other person entitled to possession of the  
9 property, such as an heir or devisee, responds by actual  
10 notice to a manufactured dwelling community owner within the  
11 ~~45-day~~ 30-day period provided by Section 35-12A-5, and so  
12 requests, the manufactured dwelling community owner shall  
13 enter into a written agreement with the representative or  
14 person providing that the manufactured dwelling shall not be  
15 sold or disposed of by the manufactured dwelling community  
16 owner until conclusion of any probate proceedings, so long as  
17 the representative or person makes timely periodic payment of  
18 all storage charges and maintains the property and the rented  
19 space on which it is stored. During the agreement, the  
20 representative or person shall have the right to remove or  
21 sell the property, including a sale to a purchaser or a  
22 transfer to an heir or devisee where the purchaser, heir, or  
23 devisee wishes to leave the property on the rented space and  
24 become a tenant. The manufactured dwelling community owner  
25 also may condition approval for occupancy of any purchaser,  
26 heir, or devisee of the property upon payment of all storage  
27 charges and maintenance costs. If the representative or person

1 violates the agreement, the manufactured dwelling community  
2 owner may terminate it upon 30 days' written notice stating  
3 facts sufficient to notify the representative or person of the  
4 reason for the termination. Unless the representative or  
5 person corrects the violation within the notice period, the  
6 agreement shall terminate as provided and the manufactured  
7 dwelling community owner may sell ~~or dispose of~~ the property  
8 as provided for in this chapter."

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

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