

COUNTY OF ERIE

LOCAL LAW NO. 1-1990

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ERIE COUNTY  
LEGISLATURE

LOCAL LAW INTRO. NO. 1989

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A LOCAL LAW to restrict mobile home evictions and protect the right of sale.

BE IT ENACTED BY THE ERIE COUNTY LEGISLATURE AS FOLLOWS:

Section 1. Legislative Intent

This Legislature hereby finds and declares that mobile home parks are an integral part of our communities, providing residences for many of our citizens. Mobile home parks are unique in that the tenants own their own homes while renting the land from the owner.

This Legislature finds and determines that mobile homes are generally more affordable than conventional built homes and that the Legislature wants to protect expectation of such homeowners that the equity in their homes will grow over time as long as they maintain their homes in good condition.

This Legislature determines that Section 233 of the NEW YORK REAL PROPERTY LAW, is inadequate to protect the rights of Erie County mobile homeowners.

Section 2. Definition

(a) "Eviction" shall mean, in addition to its ordinary meaning, the cessation of nonrenewal of a lease or of the occupancy of a mobile home as a result of an act of an owner of a mobile home park.

(b) "Mobile Home Owner" means one who holds title to a mobile home.

(c) "Mobile Home Park" means a contiguous parcel of privately owned land which is used for accommodation of three or more mobile homes occupied for year-round living.

(d) "Mobile Home Park Owner or Operator" means the person in charge of a mobile home park. This term shall include, but not be limited to, the owner of the land, the manager, assistant manager or any other person in charge of the operations or activities of a mobile home park.

### Section 3. Grounds for Eviction

A.) An owner of a mobile home park may not evict a mobile home owner or tenant other than for the following reasons:

1.) The mobile home owner or tenant has defaulted in the payment of rent and a proper demand has been made for such delinquent rent. Upon tender of payment of such delinquent rent together with allowable costs, any action instituted for nonpayment of rent shall be terminated. Any person succeeding to the mobile home park owner or operator's interest in the premises may proceed under this subdivision for rent due his predecessor in interest if he has a right thereto.

2.) The mobile home owner is persistently late in the payment of rent. It shall be presumed that a mobile home owner is persistently late in the payment of rent if, within any twelve month period, the mobile

home owner has tendered the rent more than ten days beyond the due date more than four times and the mobile home park owner or operator has given the mobile home owner written notice by certified mail warning that mobile home owner that further late payment of rent will cause the mobile home park owner or operator to institute an eviction proceeding.

- 3.) The mobile home or rented space are used for any illegal trade or business.
- 4.) The mobile home owner or tenant is in violation of a federal, state or local law or ordinance which may be deemed detrimental to the safety and welfare of the other persons residing in the mobile home park.
- 5.) The mobile home owner or tenant or anyone occupying the mobile home is in violation of any lease term or lawful rule or regulation established by the owner of a mobile home park and has continued in violation, without attempt to cure, for more than ten days after the owner of the mobile home park has given written notice of such violation to the mobile home owner or tenant directing that the mobile home owner or tenant correct the violation within ten (10) days of the receipt of said notice. Upon the expiration of such period should the violation continue or should the mobile home owner or anyone occupying the mobile home be deemed a persistent

violator of the lease term or rules and regulations, the mobile home park owner or operator may serve written notice upon the mobile home owner directing that he vacate the premises within thirty days of the receipt of said notice. If the violation so specified shall be of such a nature that the same cannot be reasonably cured or remedied within such ten day period, and if the mobile home owner shall have, in good faith, commenced the curing or remedying of such default within such ten day period and shall thereafter diligently proceed to completion, the, such action shall be an affirmative defense in any proceeding for eviction.

6.) The owner of the mobile home park proposes a change in the use of the land comprising the mobile home park, or portion thereof, on which a mobil home is located, from mobile home lot rentals to some other use, provided that the mobile home owner and tenant is given the following written notice:

(a) within twenty (20) days of filing an application with the appropriate municipality, for a change in use; notice of said application; and

(b) at least six (6) months written notice or longer if a longer term remains in a rental agreement prior to the commencement of proceedings for the removal of the mobile home

by or on behalf of an Owner of Mobile Home Park, which six (6) months shall commence after the effective date or such change of use, notice of the change of use and its effective date. Said notices shall be serviced personally or by certified or registered mail, return receipt requested, and shall also specifically refer to this Section of the law.

- B.) No mobile home owner or tenant shall be denied a continuance or renewal of a lease so long as he or she has, during his or her period of occupancy, complied with the terms of his or her lease and the lawful rules and regulations of the mobile home park then in effect.
- C.) The proceedings to evict shall be governed by the proceedings set forth in subdivision d of section two hundred thirty-three of the New York real property law.

Section 4. Right to sell

- (a) No mobile home park owner or operator shall require the removal of or increased rental for a mobile home occupying a lot in a mobile home park solely on the ground of the age, size and/or model of such mobile home.
- (b) No mobile home park owner or operator shall deny any mobile home owner the right to sell his mobile home within the mobile home park or require the mobile home owner or subsequent purchaser to remove the mobile home from the mobile home park based on the sale thereof, provided the mobile home owner shall give the mobile home

park owner or operator twenty day's written notice of his intention to sell. The mobile home park owner or operator may reserve the right to approve the purchaser of said mobile home as a tenant in the park, but such approval shall not be unreasonably withheld. The mobile home park owner or operator may obtain credit information regarding the purchaser. Approval of a purchaser must be granted or denied within twenty days from the date the mobile home park owner or operator is notified of the name, address and information as to the credit worthiness of the purchaser. If the mobile home park owner or operator rejects a purchaser as a prospective tenant, he or she shall notify the prospective seller of the reasons therefor in writing.

- (c) If the mobile home park owner or operator fails to act within the twenty day period, the purchaser shall have been deemed approved.
- (d) If the mobile home park owner or operator unreasonably withholds permission, the mobile home owner may commence an action for any damages resulting therefrom. If it is found by the court that the mobile home park owner or operator unreasonably withheld such approval, the mobile home owner may recover his or her attorney's fees in addition to any other available remedy at law or in equity. In addition, if the mobile home owner or operator is found by the court to have acted in bad faith in withholding such approval, then he or she shall be

liable for treble damages.

- (e) No mobile home park owner or operator shall withhold approval of a sale of a mobile home by refusal to sign an agreement with the lending institution for the prospective purchaser, or charge a fee for signing such agreement, that permits the mobile home to remain in the park in case of a default by the purchaser in the payment of the loan for the mobile home so long as the lending institution guarantees payment of the rent and other legal fees to the mobile home park owner or operator and upkeep of the mobile home and the lot during such time as the lending institution procures a subsequent purchaser for the mobile home who meets the reasonable approval of the owner or operator.

#### Section 5. Penalties

Any mobile home park owner or operator who violated this law shall be subject to a civil penalty of not more than one thousand (\$1,000.00) dollars for each violation. Each day or a part of a day on which a violation continues or occurs shall constitute a separate violation.

#### Section 6. Enforcement

(a) This law shall be enforced by the Erie County Attorney or by any other governmental agency or department authorized to secure compliance of the law by an action in any court of competent jurisdiction for an injunction to prevent the violation or threatened violation thereof.

(b) A civil action in the name of the governmental agency may

be commenced to recover a civil penalty in the amounts prescribed by this law.

- (c) A violation or failure to comply with any provision of this local law may be raised as a complete defense, or as counterclaim, by a mobile home owner and/or tenant in any action brought by an owner of a mobile home park in a court proceeding in Erie County.

#### Section 7. Severability

If any clause, sentence, paragraph or subdivision or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance, directly involved in the controversy in which such judgement shall be rendered.

#### Section 8. Applicability

This law shall apply to evictions commenced on or after the effective date of this law.

#### Section 9. Conflict with other laws

This local law is intended to supercede those provisions of section 233 of the New York real property law with which it directly conflicts.



**Section 10. Effective Date**

This law shall take effect immediately upon filing in the office of the Secretary of State.

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**KARL A. HENRY**

**12th District Legislator**

**RALPH M. MOHR**

**17th District Legislator**