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Civil Code § 798.61 – Compiled April, 2011

Our review of the annotated history of this statute reveals the following legislative history (every “c.” below represents a separate legislative bill):

Added: 1986, c. 1153

Amended: 1988, c. 301; 1991, c. 564; 1995, c. 446; 1998, c. 931; 2003, c. 449

As originally enacted in 1986, section 798.61 stated:

798.61. (a) As used in this section, “abandoned mobilehome” means a mobilehome (1) less than 12 feet in width, (2) located in a mobilehome park on a site for which no rent has been paid to the management for the preceding 60 days, (3) that is unoccupied, and (4) which the management reasonably believes to be abandoned.

(b) After determining a mobilehome in a mobilehome park to be an abandoned mobilehome, the management shall post a notice to that effect on the mobilehome for not less than 30 days, and shall deposit copies of the notice in the United States mail, postage prepaid, addressed to the homeowner at the last known address and to any known registered owner, if different from the homeowner, and to any known holder of a security interest in the mobilehome. This notice shall be mailed by registered mail with a return receipt requested.

(c) Thirty or more days following posting pursuant to subdivision (a), the management may file a petition in the municipal or justice court for the judicial district in which the mobilehome park is located for a judicial declaration of abandonment of the mobilehome. Copies of the petition shall be served upon the homeowner, any known registered owner, and any known person having a lien or security interest of record in the mobilehome. This service may be by publication under the conditions and in the manner specified in Section 415.50 of the Code of Civil Procedure.

(d) Hearing on the petition shall be given precedence over other matters on the court’s calendar. In no event shall the hearing be scheduled more than 60 days following initial posting under subdivision (b). If, upon the hearing, the petitioner shows by a preponderance of the evidence that the mobilehome meets the criteria for an abandoned mobilehome and no party establishes an interest therein at the hearing, the court shall enter a judgment of abandonment, determine the amount of charges to which the petitioner is entitled, and award costs to the petitioner. However, at any time prior to sale under this section, any person having a right to possession of the mobilehome may recover it upon payment to the

management of all rent or other charges due, including reasonable costs of storage and other costs awarded by the court.

(e) Within 10 days following a judgment of abandonment, the management shall enter the abandoned mobilehome and complete an inventory of the contents and submit the inventory to the court. During this period the management shall post and mail notice of intent to sell the abandoned mobilehome and its contents under this section, and announcing the date of sale, in the same manner as provided for the notice of determination of abandonment under subdivision (b), and by publication in a newspaper of general circulation published in the city in which the park is located or, if located in an unincorporated area, in the county where the park is located.

(f) Prior to the sale, the abandoned mobilehome and its contents shall not be moved from its site, but the management shall be entitled to storage costs in the same amount as the contract rent and other charges that would be applicable if the mobilehome had not been abandoned.

(g) Not less than 30 days following the judgment of abandonment, the management may conduct a public sale of the abandoned mobilehome and its contents. The management may bid at the sale and shall have the right to offset its bids to the extent of the total amount due it under this section. The proceeds of the sale shall be retained by the management, but any unclaimed amount thus retained over and above the amount to which the management is entitled under this section shall be deemed abandoned property and shall be paid into the treasury of the county in which the sale took place within 30 days of the date of the sale. The former homeowner or any other owner may claim any or all of that unclaimed amount within one year from the date of payment to the county by making application to the county treasurer or other official designated by the county. If the county pays any or all of that unclaimed amount to a claimant, neither the county nor any officer or employee of the county is liable to any other claimant as to the amount paid.

(h) Within 30 days of the date of the sale, the management shall submit to the court an accounting of the moneys received from the sale and the disposition of the money and the items contained in the inventory submitted to the court pursuant to subdivision (e).

(i) The management shall provide the purchaser at the sale with a copy of the judgment of abandonment and evidence of title, as shall be specified by the State Department of Housing and Community Development, which shall register title in the mobilehome to the purchaser upon presentation thereof. The sale shall pass title to the mobilehome to the purchaser free of any prior interest, including any security interest or lien, in the mobilehome.

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