

Senate Bill 487

By: Senators Haines of the 46th, Tate of the 38th, Polak of the 42nd, Butler of the 55th,
Brown of the 26th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to
2 specialized land transactions, so as to provide for a right of first refusal for tenants of a
3 mobile home park upon the sale of the park; to define certain terms; to provide that the owner
4 of a mobile home park shall give notice to all tenants of such park prior to selling or leasing
5 such park; to provide for the timing and contents of such notice; to provide that any mobile
6 home tenant association shall have a right to purchase such property; to provide for the terms
7 of exercising such right; to provide for the effect of a failure to exercise such right; to provide
8 for penalties; to provide for exceptions; to provide for related matters; to repeal conflicting
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to specialized land
13 transactions, is amended by inserting at the end thereof a new article to read as follows:

14 style="text-align:center">"ARTICLE 7

15 44-3-250.

16 As used in this article, the term:

17 (1) 'Discontinuance' means any change in operation, ownership, or use of a mobile home
18 park which would change the primary purpose of the park.

19 (2) 'Mobile home' means a structure, transportable in one or more sections, which is eight
20 body feet or more in width or 40 body feet or more in length, or, when erected on site, is
21 320 or more square feet and which is built on a permanent chassis and designed to be
22 used as a dwelling with or without a permanent foundation when connected to the
23 required utilities and includes the plumbing, heating, air-conditioning, and electrical
24 systems contained therein; except that such term shall include any structure which meets

1 all the requirements of this paragraph, except the size requirements, and with respect to
 2 which the manufacturer voluntarily files a certification required by the secretary of the
 3 federal Department of Housing and Urban Development and complies with the standards
 4 established under the National Mobile Home Construction and Safety Standards Act of
 5 1974, 42 U.S.C. Section 5401, et seq.

6 (3) 'Mobile home park' means a location at which ten or more lots or spaces are rented
 7 or leased for the placement of mobile homes and in which the primary use of the location
 8 is residential.

9 (4) 'Mobile home park tenant association' means any incorporated homeowners'
 10 organization, general partnership of tenants, or other association organized for purposes
 11 including, but not limited to negotiating for, acquiring, and operating the mobile home
 12 park on behalf of the member tenants, and which consists solely of tenants of such mobile
 13 home park.

14 (5) 'Third party offer' means any offer to purchase or to lease for any purpose that would
 15 result in a discontinuance, a mobile home park where the offer is not made by a tenant
 16 of the mobile home park, or a mobile home park tenant association consisting of tenants
 17 of the mobile home park.

18 44-3-251.

19 Before a mobile home park may be sold for any purpose to a third party and before a
 20 mobile home park may be leased for any purpose that would result in a discontinuance, the
 21 owner of a mobile home park shall notify each tenant and mobile home park tenant
 22 association of any bona fide third party offer to which the owner has communicated his or
 23 her intention to accept such third party offer to buy the mobile home park or to lease it for
 24 any purpose that would result in a discontinuance. Such notification shall be sent by
 25 certified mail, return receipt requested, within seven days of the date upon which the owner
 26 communicates such intention to accept such third party offer, and shall contain the
 27 following:

28 (1) An express identification that tenants may have a right of first refusal as specified
 29 under Code Section 44-3-252;

30 (2) The scheduled date upon which the third party sale or lease transaction is expected
 31 to be completed if the tenant mobile home park tenant association does not exercise its
 32 right to execute a purchase and sale agreement or lease agreement pursuant to subsection
 33 (b) of Code Section 44-3-252;

34 (3) An affidavit from the buyer or lessee stating the offered purchase price;

35 (4) The terms of seller financing, including the amount, the interest rate, and the
 36 amortization rate of the financing;

1 (5) The terms of any assumable financing, including the amount, the interest rate, and
2 the amortization rate of the financing;

3 (6) Proposed improvements to the property or any other economic concessions by the
4 owner in connection with the sale or lease;

5 (7) A statement that the owner will allow reasonable access to the property by parties
6 involved in the potential purchase or lease including, but not limited to, tenants, the
7 mobile home park tenant association, consultants, and lenders; and

8 (8) A statement that the owner will make available to any tenant, and will provide to any
9 mobile home park tenant association, within three days from the date a tenant or mobile
10 home park tenant association requests such information, the following:

11 (A) Copies of any permits or licenses related to the mobile home park or the property
12 on which it is located;

13 (B) Identification of any easement, prescriptive right or claim, easements, private right
14 of way, conditional limitation, or any other limitation or encumbrance to the future use
15 of the mobile home park;

16 (C) The legal description and a statement of the appraised or assessed value of the
17 property included in any land trade involved in the sale or lease of the mobile home
18 park;

19 (D) A survey and legal description of the mobile home park and an itemized list of
20 monthly operating expenses, utility consumption rates, taxes, insurance, and capital
21 expenditures for each of the three preceding calendar years;

22 (E) The most recent list of tenants, a list of vacant units, and a statement of the vacancy
23 rate at the mobile home park for each of the three preceding calendar years;

24 (F) Any available data or information relating to the past or present existence of
25 hazardous waste either on or in close proximity to the property;

26 (G) Any available data related to the water, sewer, electrical systems, or any other
27 system affixed or in direct service to the mobile home park;

28 (H) All statements of income and operating expenses relating to the mobile home park
29 for each of the three preceding calendar years; and

30 (I) Such other information as required of a lender considering or committed to
31 financing in part or in whole the sale or lease of the mobile home park.

32 44-3-252.

33 (a) Any tenant or mobile home park tenant association entitled to notice under Code
34 Section 44-3-251 has the right to purchase the mobile home park, in the event of a bona
35 fide third party offer to purchase or to lease the mobile home park, provided that the tenant
36 or mobile home park tenant association meets the same price, terms, and conditions of any

1 third party bona fide offer to which the owner has communicated his or her intention to
2 accept to the third party, as well as such additional conditions as are set forth in Code
3 Section 44-3-253, or such other price, terms, and conditions as are acceptable to the owner,
4 tenant, or mobile home park tenant association.

5 (b) Failure of the tenant or mobile home park tenant association to execute a purchase and
6 sale agreement or lease agreement with the owner within 45 days of receipt by the tenant
7 or mobile home park tenant association of the notice provided for in Code Section
8 44-3-251 shall terminate the right of the tenant or mobile home park tenant association to
9 purchase or lease the mobile home park.

10 (c) Failure of the tenant or mobile home park tenant association to obtain a binding
11 commitment for financing or any failure to secure any necessary guarantees within 135 days
12 of execution of a purchase and sale agreement or lease agreement shall terminate the right
13 of the tenant or mobile home park tenant association to purchase or lease the mobile home
14 park.

15 (d) The time periods herein provided may be extended by agreement of the tenant or
16 mobile home park tenant association and the owner.

17 44-3-253.

18 (a) A tenant or mobile home park tenant association shall have a total of 180 days from the
19 receipt of notice under Code Section 44-3-151 to complete a transaction pursuant to this
20 article. Each day of delay caused by the owner in supplying information requested by a
21 tenant or mobile home park tenant association pursuant to Code Section 44-3-151 and each
22 day of delay caused by litigation involving the sale or affecting the marketability of the title
23 of the mobile home park shall result in the addition of the same number of days to the time
24 periods set forth in subsections (b) or (c) of Code Section 44-3-152.

25 (b) An owner who has received a bona fide third party offer to purchase or lease a mobile
26 home park, may require, as part of the purchase or lease price and conditions available to
27 a tenant or mobile home park tenant association, that the tenant or mobile home park tenant
28 association pay interest on the purchase price of such third party offer, at the current prime
29 lending rate for every day after the date which the owner has identified under paragraph
30 (2) of Code Section 44-3-251 as the expected date for completion of a third party sale or
31 lease transaction and before the tenant or mobile home park tenant association completes
32 its transaction.

33 (c) An owner who has received a bona fide third party offer to purchase or lease a mobile
34 home park, may require, as part of the purchase or lease price and conditions available to
35 a tenant or mobile home park tenant association, that the tenant or mobile home park tenant
36 association deposit monies not to exceed 3 percent of the purchase price of the bona fide

1 third party offer, which deposit monies may be retained as liquidated damages in whole or
2 in part by the owner as the sole and exclusive remedy for a default by the tenant of a
3 mobile home park tenant association in the performance of its obligations as purchaser or
4 lessor under the terms of the purchase and sales agreement or lease agreement.

5 44-3-254.

6 The owner of the mobile home park who sells or leases for any purpose that would result
7 in a discontinuance and willfully fails to comply with the provisions of this article shall be
8 liable for a civil penalty of \$50,000.00. This civil penalty shall constitute the sole and
9 exclusive remedy for violation of this article, and the failure of a mobile home park owner
10 to comply with this article shall not affect the validity of any sale or the transfer of title, nor
11 shall such noncompliance constitute grounds to set aside a sale or transfer in any court
12 proceeding. Nothing in this article shall be deemed to permit a tenant to attach the real
13 estate of the penalty established by this Code section.

14
15 44-3-255.

16 The provisions of this article shall not apply if:

17 (1) A bank, mortgage company, or any other mortgagee has foreclosed on the mobile
18 home park and said mortgagee:

19 (A) Is selling such park at a foreclosure sale; or

20 (B) Is selling such park after having purchased the park at a foreclosure sale;

21 (2) The sale or transfer is by a partnership to one or more of its partners;

22 (3) The conveyance of an interest in the mobile home park is incidental to the financing
23 of such park;

24 (4) The sale or transfer is between joint tenants or tenants in common; or

25 (5) The sale is pursuant to eminent domain."

26 **SECTION 2.**

27 This Act shall become effective upon its approval by the Governor or upon its becoming law
28 without such approval.

29 **SECTION 3.**

30 All laws and parts of laws in conflict with this Act are repealed.