



Fee Disclosures for Manufactured Homes (Mobile Homes)

The rights of owners and occupants of manufactured homes – also known as mobile homes – are regulated by the Manufactured Home Community Rights Act (Act 261 of 1976; 68 P.S. § 398.1 *et.al.*). This Act was recently amended, with changes that became effective in March, 2011.

Q: What were the changes?

A: The most important changes for Realtors® involve new rules that require property sellers to provide prospective buyers with information about fees and costs for the park. These obligations are similar to those of sellers who live in a condominium or planned community.

Q: What information does the seller need to provide?

A: The seller must provide prospective buyers with a list of fees that are or may be charged by the operator of the manufactured home community owner, along with a disclosure page that informs the buyer of their rights.

Q: Where does the seller get the fee information?

A: The community owner is required to provide the information to the seller upon request. The format of the disclosure will be different depending on the types of leases used by those communities – those with yearly leases will provide a copy of a required lease addendum; those using monthly leases will provide a shorter disclosure. The Pennsylvania Manufactured Housing Association (PMHA) has created forms for community owners to use for this purpose.

Q: When does the seller need to get the information?

A: The Act requires that sellers obtain fee information from the owner “Prior to a lessee or occupant in a manufactured home community offering a manufactured home for sale...” (§ 398.11) This means that a seller should request the appropriate information prior to the home being listed in the MLS or marketed in other ways.

Q: When does this need to be provided to a buyer?

A: The Act does not mandate delivery at a specific time. Best practice will be to deliver this information as early in the process as possible to avoid any misunderstandings or delays. Best practice would be to include it with your regular seller disclosure form, and/or to upload it to the MLS with other similar disclosures (if permitted by theMLS).

Q: Are there rules about how the fee disclosure should be provide to prospective buyers?

A: Along with the form listing the community fees, the seller must provide an “attached sheet of paper” with the following language in bolded, 12-point type:

Be advised that this manufactured home offered for sale is subject to the Manufactured Home Communities Rights Act and a written lease required under that law. You are advised that the community

in which this home is now placed requires an approved application for lessees and occupants and a fully executed lease prior to your right to reside in the community.

You shall have a minimum of 5 calendar days after receiving this disclosure required under the Manufactured Home Communities Rights Act to void the transaction with the operator, if any, and, if terminated, you shall be returned any deposits and rents paid to the operator of the community.

Q: What happens if a seller doesn't provide the disclosure information?

A: A buyer may cancel an agreement of sale where the seller does not obtain a written acknowledgement from the buyer that the disclosures have been provided. This means that failure to give the disclosures makes the transaction voidable, as no acknowledgement could have been received. It also means that sellers who provide the forms but do not get a written acknowledgement are at risk of having the transaction cancelled.

Q: Can buyers cancel the agreement of sale if they don't like the terms/fees that have been disclosed?

No, unless that is stated as a contingency in the agreement. The buyer has 5 days from receipt of the disclosure to void the transaction with the community owner (e.g., the ground rental contract), but the Act does not give buyers the right to void the underlying sales agreement. Buyer agents are advised to request the fee disclosures before clients write an offer to ensure that the fees and other terms are acceptable to the buyer.

Q: What responsibilities does the community owner have?

A: The owner/operator of the community is required to disclose all fees to residents and prospective buyers. Where a home is being sold, the owner provides the fee disclosure to the seller, for the seller to pass on to the buyer. If this has been done, the owner does not need to provide a second copy of the document. The owner may, however, request that buyers sign an additional acknowledgement that the documents were received.

In a transaction where a buyer has not received the fee disclosure from the sellers, the community owner must provide the disclosure prior to the buyer signing any contracts with the owner (ground rent, etc.). Because buyers would then have 5 days to cancel any contract with the community, this lengthens the transaction by at least 5 days.

Q: Is this in place of the usual seller's property disclosure requirements?

A: No. The Real Estate Seller Disclosure Law still requires a disclosure form for all sales of 1-4 residential dwelling units. Although manufactured housing is technically personal property rather than real property, it still is considered to be a residential dwelling unit, so all seller disclosure requirements apply. As a matter of practice, it may be advisable to attach the fee disclosure documents to the seller disclosure form for a property to ensure that all relevant information is provided to prospective buyers as early as possible in the transaction.

Q: If these are all seller requirements, what liability is there for a Realtor®?

A: The Real Estate Licensing and Registration Act (RELRA) says that a transaction involving manufactured housing is considered to be "real estate" when there is a concurrent transfer of some right in real property (such as the signing of a lease for the ground on which the home is sited). As a listing agent for such a transaction, you owe the same fiduciary responsibility to your client as in any other real estate transaction. Though the disclosure requirement is on the seller, the licensee is generally responsible for assisting the seller with any legal requirements for the sale. Failure to advise your client of their responsibilities to provide the fee disclosure could delay or void a transaction, which exposes the broker and agent to significant risk.