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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO PROPERTY - LEASED LAND DWELLINGS

Introduced By: Senator Michael J. McCaffrey

Date Introduced: June 19, 2014

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-18.2-3 of the General Laws in Chapter 34-18.2 entitled "Leased
2 Land Dwellings" is hereby amended to read as follows:

3 **34-18.2-3. Transfer of leased land -- Right of first refusal.** -- (a) In any instance in
4 which a ~~land owner~~ [landowner](#) has been sent a certified letter from an incorporated ~~home owners'~~
5 [homeowners'](#) association indicating that the association has at least fifty-one percent (51%) of the
6 ~~home owners~~ [homeowners](#) owning residential dwellings on the landowners' land as members and
7 has articles of incorporation specifying all rights and powers, including the power to negotiate for
8 and acquire land on behalf of the member homeowners, then, before leased land may be sold for
9 any purpose and before it may be leased for any purpose that would result in a discontinuance, the
10 owner shall notify the association by certified mail of any bona fide offer that the owner intends
11 to accept, to buy the leased land or to lease it for a use that would result in a discontinuance. The
12 owner shall also give notice by certified mail to the incorporated ~~home owners'~~ [homeowners'](#)
13 association of any intention to sell or lease the land for a use which will result in a discontinuance
14 within fourteen (14) days of any advertisement or other public notice by the owner or his agent
15 that the land is for sale or the land upon which the residential dwelling is located is for lease.

16 (b) The notice to the ~~home owners'~~ [homeowners'](#) association shall include the price,
17 calculated as a single lump sum amount which reflects the present value of any installment
18 payments offered and of any promissory notes offered in lieu of cash payments or, in the case of
19 an offer to rent the capitalized value of the annual rent, and the terms and conditions of the offer.

1 Any incorporated ~~home-owners'~~ homeowners' association entitled to notice under this section
2 shall have the right to purchase, in the case of a third party bona fide offer to purchase, or to lease
3 in the case of a third party bona fide offer to lease, the land, provided it meets the same price and
4 the same terms and conditions of any offer of which it is entitled to notice under this section by
5 executing a contract or purchase and sale or lease agreement with the owner within one hundred
6 eighty (180) days of notice of the offer. No owner shall attempt to terminate the tenancy of any
7 member of the incorporated ~~home-owners'~~ homeowners' association except for nonpayment of
8 rent for a period of one hundred and eighty (180) days following a notice of sale or lease under
9 this section. No owner shall unreasonably refuse to enter into, or unreasonably delay the
10 execution of a purchase and sale or lease agreement with a ~~home-owners'~~ homeowners'
11 association that has made a bona fide offer to meet the same price and the same terms and
12 conditions of an offer for which notice is required to be given pursuant to this section. Failure of
13 the incorporated ~~home-owners'~~ homeowners' association to execute such a purchase and sale
14 agreement or lease within the first one hundred eighty (180) day period shall serve to terminate
15 the right of the association to purchase or lease the land. The time periods may be extended by
16 agreement of the association and the owner. Nothing herein shall be construed to require an
17 owner to provide financing to any association or to prohibit an owner from requiring an
18 association which is offering to lease land to have within its possession a sum equivalent to the
19 capitalized value of the proposed rent of the land and requiring that a portion of the sum, of an
20 amount necessary to pay the rent on the land for a period of no greater than two (2) years, be kept
21 in escrow for such purpose during the term of the lease. In the event that an incorporated ~~home~~
22 ~~owners'~~ homeowners' association accepts an offer under this section, the tenancy of the members
23 of the association shall be extended on a month to month basis until the time set in the offer for
24 closing on the offer.

25 (c) (1) When an owner has been properly notified under the terms of this section of the
26 existence of an incorporated ~~home-owners'~~ homeowners' association, the owner shall include in
27 any purchase and sale agreement or lease agreement which would be subject to this section, a
28 statement informing the purchaser or lessee of the ~~home-owners'~~ homeowners' association's right
29 of first refusal pursuant to this section.

30 (2) In addition, the ~~home-owners'~~ homeowners' association shall record in the land
31 evidence records of the city or town where the leased land is located, a copy of its articles of
32 incorporation together with a statement setting forth its statutory right of first refusal to purchase
33 or lease the land of the owner pursuant to this section.

34 (3) The right of first refusal created herein shall not be deemed to allow a homeowners'

1 association to vary the terms of any offer made to an owner and to make a counteroffer to said
2 owner. The homeowners' association shall have the right of first refusal only on the exact terms
3 and conditions as set forth in the offer received by the owner; provided, however, that the ~~home~~
4 ~~owners'~~ homeowners' association shall not be required to meet any terms or conditions that would
5 result in the removal of members of the association from the property which is the subject of the
6 offer.

7 (4) The right of first refusal created herein shall inure to a ~~home-owners'~~ homeowners'
8 association for the time periods provided in this section, beginning on the date of notice to the
9 ~~home-owners'~~ homeowners' association. The effective period of the right of first refusal shall
10 apply separately for each substantially different bona fide offer to purchase the land or to lease it
11 for a purpose that would result in a discontinuance, and for each offer the same as an offer made
12 more than three (3) months prior to the later offer; provided, however, that in the case of the same
13 offer made by a prospective buyer who has previously made an offer for which notice to a ~~home~~
14 ~~owners'~~ homeowners' association was required by this section, the right of first refusal shall apply
15 only if the subsequent offer is made more than six (6) months after the earlier offer. The right of
16 first refusal shall not apply with respect to any offer received by the owner for which notice to a
17 ~~home-owners'~~ homeowners' association is not required pursuant to this section.

18 (5) No right of first refusal shall apply to a government taking by eminent domain or
19 negotiated purchase, a forced sale pursuant to a foreclosure, transfer by gift, devise or operation
20 of law, or a sale to a person who would be included within the table of descent and distribution if
21 there were to be a death intestate of a ~~land-owner~~ landowner.

22 (d) In any instance in which the incorporated ~~home-owners'~~ homeowners' association of
23 leased land is not the successful purchaser or lessee of the land, the seller or lessor of the land
24 shall prove compliance with this section by filing an affidavit of compliance in the official land
25 evidence records of the city or town where the property is located within seven (7) days of the
26 sale or lease of the land.

27 (e) No ~~land-owner~~ landowner shall attempt to increase any rental amount due regarding
28 leased land from the time of his or her receipt of any bona fide offer to purchase or to lease for a
29 purpose which would result in a discontinuance, until the expiration of the time period during
30 which a ~~home-owners'~~ homeowners' association may exercise its right of first refusal or until the
31 time set in the offer for closing on the offer.

32 (f) In the event that an owner terminates the tenancies of all of the members of the
33 incorporated association, the right of first refusal created by this section shall inure to the benefit
34 of the former membership of the association for a period of one year after the termination of the

1 tenancies, or until the houses which they occupied are removed or destroyed, whichever first
2 occurs, with the former members having the same rights and obligations as existed prior to the
3 terminations.

4 (g) The landowner shall tender a written lease incorporating the terms and conditions of
5 the tenancy to all tenants and prospective tenants. The lease shall not be inconsistent with the
6 provisions of this chapter.

7 (h) A covenant of good faith and fair dealing shall be deemed to be incorporated into the
8 terms and conditions of all tenancies between a homeowner and landowner involving a residential
9 dwelling which is located on leased land, as well as the negotiation process associated therewith.

10 SECTION 2. Chapter 34-18.2 of the General Laws entitled "Leased Land Dwellings" is
11 hereby amended by adding thereto the following sections:

12 **34-18.2-4. Termination of lease.** -- (a) A landowner desiring to terminate a tenancy with
13 a homeowner based on the discontinuation of the use of the leased land as leased land (and not for
14 cause) shall provide the affected homeowner(s) with at least fifteen (15) months' notice thereof.

15 (b) In the event of a termination of a tenancy (or a failure to renew a tenancy) with a
16 homeowner without cause as provided in subsection (a) of this section, or in the event of a
17 termination (or a failure to renew a tenancy) for cause, the landowner shall take reasonable steps
18 to take control of any residential dwelling remaining on the leased land following said
19 termination, and shall, upon at least ninety (90) days of said advertising sell the dwelling pursuant
20 to commercially reasonable terms. The proceeds of such sale shall be applied as follows:

21 (1) First, to satisfy any federal, state or local liens on the dwelling;

22 (2) Second, to cover the fair and reasonable costs incurred by the landowner to secure the
23 dwelling and accomplish its sale;

24 (3) Third, to satisfy any arrearages for unpaid rent or other costs remaining due under the
25 tenancy;

26 (4) Fourth, to satisfy any mortgage or other liens on the property; then

27 (5) The balance shall be remitted to the homeowner.

28 (c) During the aforesaid ninety (90) day notice period, the homeowner may avert the
29 advertising and sale of the dwelling by the landowner as aforesaid, by satisfying any arrearages
30 for unpaid rent or other costs remaining due under the tenancy, and causing the dwelling to be
31 removed from the formerly leased land, by sale or otherwise.

32 **34-18.2-5. Rent increases for leased land.** – (a) A landowner, as defined in § 34-18.2-2,
33 shall give the homeowner sixty (60) days' written notice prior to any lot rent increase. The written
34 notice shall set forth the current rent, the proposed rent, and the date upon which the increase

1 shall take effect.

2 (b) If a homeowner or a homeowners' association, having, the power and authority to
3 negotiate rental terms on behalf of member homeowners, believes that the rent increase is
4 "excessive" as defined in this section, the homeowner or authorized homeowners' association may
5 submit the matter to binding arbitration pursuant to chapter 3 of title 10. In the event the parties
6 are unable to agree upon an arbitrator, an arbitrator shall be appointed in the manner set forth in
7 chapter 3, of title 10. The costs and expenses of the arbitrator shall be borne equally by the
8 landowner and the homeowner or authorized homeowners' association.

9 (c) An "excessive" rent increase, for purposes of this section, is an increase which
10 unreasonably exceeds the fair rental value of the property based on market conditions at the time.

11 (d) The arbitrator shall promptly hear the dispute and render a decision based on the
12 "excessive" rent increase standard as set forth in this section.

13 (e) No lot rent increase shall go into effect until the earlier of:

14 (1) Completion of the binding arbitration process; or

15 (2) Ninety (90) days after the written notice given under subsection (a) of this section.

16 (f) This section shall not apply to chapter 31 of title 44 of the Rhode Island general laws.

17 **34-18-2.6. Leased land exempt.** – The provisions of §§ 34-18-2.4 and 34-18-2.5 of this
18 chapter shall not apply to any landowner who holds a recreation facility license under chapter 21
19 of title 23, or a trailer park or campground license issued by the municipality in which it is
20 located on leased land which is leased to at least ninety percent (90%) of the homeowners on a
21 seasonal basis.

22 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PROPERTY - LEASED LAND DWELLINGS

1 This act would establish a procedure for compensation of a homeowner for removal or
2 destruction of their residential property on leased land, and an arbitration procedure for disputes
3 over compensation to be paid, and for excessive rent increases.

4 This act would take effect upon passage.

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