82A.14 UNFAIR PRACTICES.

No membership camping operator shall:

(1) sell or offer to sell any membership camping contract with respect to a campground located in this state which is subject to a blanket encumbrance unless:

(i) each person holding an interest in a blanket encumbrance shall have executed and delivered a nondisturbance agreement and recorded the agreement in the real estate records of the county in which the campground is located; or

(ii) a bond or irrevocable letter of credit has been issued, or cash or a certified check in an amount sufficient to cover payment of all amounts secured by the blanket encumbrance has been deposited, in the name of the state for the benefit and protection of purchasers of membership camping contracts and subject to terms as approved by the commissioner. Any interest accruing on amounts held in the account shall be payable, as and when earned, to the membership camping operator. Any bond shall be executed by an insurance company authorized to do business in this state, which has sufficient net worth to satisfy the indebtedness and which has given consent to be sued in this state. Any irrevocable letter of credit shall be issued by a bank or savings association which has sufficient net worth to satisfy the indebtedness and which has given its consent to be sued in this state. The bond, cash, certified check, or irrevocable letter of credit shall be in an amount which is not less than 110 percent of the remaining principal balance of every indebtedness or obligation secured by a blanket encumbrance affecting the campground. The bond or agreement accompanying the cash, certified check, or irrevocable bank letter of credit shall provide for the payment of all amounts secured by the blanket encumbrance, including costs, expenses, and legal fees of the lienholder, if for any reason the blanket encumbrance is enforced. The bond, cash, certified check, or letter of credit may be reduced periodically in proportion to the reductions in the amount secured by the blanket encumbrance; or

(iii) the lender providing the major hypothecation loan to the membership camping operator (the "hypothecation lender"), and having a lien on or security interest in the membership camping operator's interest in the campground, shall have executed and delivered a nondisturbance agreement and recorded the agreement in the real estate records of the county in which the campground is located in this state. Each person holding an interest in a blanket encumbrance superior to the interest held by the hypothecation lender shall have executed, delivered, and recorded an instrument stating that the person shall give the hypothecation lender notice of, and at least 30 days' opportunity to cure, any default under the blanket encumbrance which entitles the person to foreclose upon the campground. The instrument shall state that the notice and opportunity to cure shall be given before the person commences any foreclosure action affecting the campground and in accordance with the instrument. The hypothecation lender shall have guaranteed that it will cure or arrange for the cure of the default. Any holder of a blanket encumbrance inferior to the hypothecation lender who acquires the campground in foreclosure shall take the campground subject to the hypothecation lender's nondisturbance agreement. For purposes of this provision, a "hypothecation lender" is any lender extending a loan or line of credit to a membership camping operator secured by all or substantially all of the contract receivables arising from the membership camping operator's sale of membership camping contracts in this state. For purposes of this provision, "lender" means an insurance company or a federally or state chartered bank, savings association, any other lending institution, the deposits of which are guaranteed or insured, by a federal agency, or any other person which has sufficient net worth to pay the obligations pursuant to this section if there are no reasonable grounds to believe that the lender will not be able to pay these obligations in the future;

(2) sell any campground which is located in this state and available for use by purchasers, unless:

(i) the membership camping operator sells the campground to a person who takes the campground subject to all rights and interests of purchasers, and contractually agrees not to compromise the rights and interests of purchasers in regard to future conveyances of, or encumbrances placed on the campground;

(ii) the membership camping operator immediately substitutes for the use of purchasers another campground which is in the same general area and is at least as desirable for the purpose of camping and outdoor recreation as the previous campground. For purposes of this provision, "same general area" means a location within a 50-mile radius of the previous campground; or

(iii) the membership camping operator immediately substitutes for the use of purchasers another campground and the substitution is approved by two-thirds of all existing purchasers;

(3) substitute any campground located in this state and available for use by purchasers with a different campground, unless the substituted campground is in the same general area and is at least as desirable for the purpose of camping and outdoor recreation as the previous campground. For purposes of this provision, "same general area" means a location within a 50-mile radius of the previous campground;

(4) sell membership camping contracts with respect to any campground located in this state that is not owned by the membership camping operator or leased by the membership camping operator for a lease term at least equal to the term of the membership camping contract with respect to the campground;

(5) fail to disclose the circumstances, if any, under which any reciprocal program that has been offered as an inducement to purchasers may be terminated;

(6) materially modify any campground rules or regulations or modify purchasers' rights to or the scope and nature of an amenity in a manner which significantly degrades or diminishes the material rights of any purchaser without prior notice to purchasers resident in this state; or materially adversely modify any material campground rules or regulations or materially adversely modify purchaser's rights to or the scope and nature of an amenity in a manner which the purchaser proves:

(i) significantly degrades or diminishes any material rights of that purchaser; and

(ii) has no compensating benefit to any other purchaser or groups of purchasers;

(7) terminate or provide for termination of a membership camping contract, except for good cause. "Good cause" shall mean failure of the purchaser to substantially or consistently comply with reasonable requirements imposed by the membership camping contract and campground rules and regulations;

(8) terminate a membership camping contract without first giving written notice setting forth all reasons for the termination to the purchaser at least 30 days prior to the termination becoming effective;

(9) increase a purchaser's membership dues after the sale of a contract in such a manner as to result in an increase thereof greater than whichever of the following increases is higher:

(i) the actual increase in costs of services or improvements for which the membership dues are imposed; or

(ii) the increase in the United States city average Consumer Price Index for all urban consumers issued by the United States Bureau of Labor Statistics or such other federally prepared Consumer Price Index or Wage Earner Index as reasonably selected by the operator in its discretion;

(10) require purchaser to certify the absence of any misrepresentation or other violation of this chapter provided, however, that a purchaser's acknowledgment of receipt of a copy of the membership camping contract shall not be deemed to constitute such a certification;

(11) require the purchaser to waive the right to assert against the membership camping operator or any assignee any claim or defense the purchaser may have against the membership camping operator under the membership camping contract; or

(12) materially and repeatedly fail to maintain a campground in this state in the manner contractually agreed upon.

History: *1985 c 129 s 14; 1986 c 444; 1995 c 202 art 1 s 25; 2014 c 222 art 1 s 23*