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Additional Time to Move Is Not the Issue with (Im)Mobile Homes: Why North Carolina Needs Statutory Reform to Provide the Mobile Home Owner-Tenant with Adequate Security of Tenure and Security of Investment*

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INTRODUCTION

This is one of the biggest days of your life, North Carolina resident. Today you purchased your first home. It is pre-owned, and a mobile home, but it is yours—something you have invested in and sacrificed to acquire. It seems things are finally looking up for you. For one of the first times in your life, the American dream of upward mobility seems within your reach. However, there is one significant problem: you do not own the land beneath your mobile home. Welcome to the Mobile Home Owner-Tenant Scenario.¹

It is true that you own the mobile home you purchased, but do not mistake your ownership for security of tenure.² It would be wrong to assume that you are protected from eviction so long as you pay rent and act in accordance with the provisions of your rental agreement.³ In reality, the right for your mobile home to remain on its current lot is subject to the whims of the lot owner.⁴ In North Carolina, and many other states, so long as you are given proper notice, the lot owner can evict your mobile home without any reason at all.⁵ Now, this may seem unfair. After all, you made a substantial


³ See N.C. GEN. STAT. § 42-14 (2011 & Supp. 2012) (providing for eviction without good cause so long as the landlord provides the Mobile Home Owner-Tenant with sixty days of notice to quit the tenancy).


⁵ See § 42-14; see also Protecting Fundamental Freedoms in Communities, supra note 4, at 5 (labeling North Carolina as a state without “statutes addressing grounds for eviction from manufactured housing communities”).
investment when you purchased your mobile home,\(^6\) and you expected that your purchase would provide you with stability and security. However, in the Mobile Home Owner-Tenant Scenario, your investment does not buy you security of tenure or security of investment.\(^7\) To attain security of tenure and security of investment, you need legal rights and protections. As a Mobile Home Owner-Tenant in North Carolina, you currently have very few of either.

This Comment advocates for a change of law in North Carolina that provides the Mobile Home Owner-Tenant ("Owner-Tenant") with security of tenure and security of investment. Unlike many other jurisdictions, including every other state in the Fourth Circuit, North Carolina does not have a statute requiring good cause to evict an Owner-Tenant.\(^8\) Instead, North Carolina's statutory protection for the Owner-Tenant is limited to timely notice to quit the tenancy.\(^9\) The presumed adequacy of this statutory scheme is based on the premise that mobile homes are, in fact, mobile, and that granting time to move is sufficient protection for the Owner-Tenant. However, mobile homes are generally not mobile,\(^10\) and the possibility of eviction without cause exposes the Owner-Tenant to inadequate security of tenure and security of investment, which, in turn, results in significant financial and psychological costs for the Owner-Tenant and his family.\(^11\) Therefore, North Carolina needs a solution to the Mobile Home Owner-Tenant Scenario that does more than provide the Owner-Tenant with additional time to move. In order to provide sufficient security of tenure and security of investment to the Owner-Tenant, North Carolina needs a statute that prevents a mobile home


\(^7\) See Roisman, supra note 2, at 818-19; see also Protecting Fundamental Freedoms in Communities, supra note 4, at 1-2 (describing how the high cost of moving a mobile home and the precarious rights of the Mobile Home Owner-Tenant combine to deprive the Mobile Home Owner-Tenant of security of investment). Within the context of this Comment, "security of investment" describes the context in which the Owner-Tenant has sufficient financial security in the mobile home to create an incentive to invest in and maintain the mobile home.

\(^8\) See Protecting Fundamental Freedoms in Communities, supra note 4, at 4-5.

\(^9\) See N.C. GEN. STAT. § 42-14.

\(^10\) See, e.g., Protecting Fundamental Freedoms in Communities, supra note 4, at 1 ("Despite the epithet 'mobile home,' today's manufactured homes are not particularly mobile.").

community owner from evicting the Owner-Tenant or refusing to renew the Owner-Tenant's existing lease without good cause.\textsuperscript{12}

This Comment proceeds in seven parts. Part I examines the current state of the Mobile Home Owner-Tenant Scenario in North Carolina, concluding that further action is needed to protect Owner-Tenants in the state. Part II examines why security of tenure and security of investment are vital to the lives of Owner-Tenants, while Part III examines how North Carolina's current statutory scheme is failing to provide Owner-Tenants with these essential security interests. Part IV considers whether legislative or common-law solutions are more appropriate remedies within the Mobile Home Owner-Tenant Scenario, and Part V answers the question of what should constitute "good cause" to evict. Part VI looks to North Carolina's jurisdictional neighbors in the Fourth Circuit to determine whether any of these jurisdictions have adopted statutes that provide the appropriate balance of "good cause" protection. Finally, Part VII looks to national comparisons.

I. THE MOBILE HOME OWNER-TENANT SCENARIO IN NORTH CAROLINA

Mobile home ownership\textsuperscript{13} is pervasive in North Carolina. The state has the fifth highest percentage of mobile homes in the nation, with mobile homes constituting 14.3\% of the state's housing.\textsuperscript{14} Nearly half of those owning one of North Carolina's 577,000 manufactured homes live within one of North Carolina's 4,000 trailer parks.\textsuperscript{15} Therefore, a significant number of North Carolina residents find themselves in the quasi-owner, quasi-renter arrangement known as the Mobile Home Owner-Tenant Scenario—they own the mobile home but rent the lot on which the mobile home rests.\textsuperscript{16} Because these North Carolina residents do not own the land beneath their

\textsuperscript{12} See Protecting Fundamental Freedoms in Communities, supra note 4, at 5.

\textsuperscript{13} For a discussion of the conditions that determine whether a mobile home is considered personal or real property in North Carolina, see \textit{Manufactured Housing Resource Guide: Titling Homes as Real Property}, NAT'L CONSUMER LAW CTR., 14 (2009), http://www.nclc.org/images/pdf/manufactured_housing/cfed-titling-homes.pdf.


\textsuperscript{16} See Fichtner, supra note 1, at 182 & n.2.
mobile home, they are subject to the many maladies of the Mobile Home Owner-Tenant Scenario.

A primary problem for North Carolinians living in trailer parks is that the real estate world treats them as second-class citizens. Because they do not own the land beneath their mobile homes, they are not considered property owners. Instead, their mobile homes are likened to cars and depreciate in value over time. The fact that these residents possess hardly any of the legal rights associated with home ownership is exacerbated by the reality that purchasing a mobile home still requires a substantial investment, frequently costing tens of thousands of dollars. Therefore, those who frequently rely on mobile homes for affordable housing—working-class, low-income, and single-mother families—receive little legal protection or security in return for their investment.

An additional problem for North Carolinians living within the Mobile Home Owner-Tenant Scenario is that the few legal protections they do enjoy are based on the false premise that mobile homes are actually mobile. Despite the illusory name, "manufactured housing ... is in fact generally immobile, both because 'the homes are subject to damage during transportation' and because 'moving a home is a very expensive proposition and can easily cost $5,000 to $10,000.'" Given that the average price for a new mobile home in North Carolina is $58,600, the cost associated with moving a mobile home is a significant percentage of the mobile home's total worth. This fact is exacerbated in the case of pre-owned mobile homes, which cost less but are often even more difficult and risky to move due to their age. Therefore, the reward for those who are fortunate enough to have the money to move their mobile home

17. See Geary, supra note 15.
18. See id.
19. See id.
20. See North Carolina Housing Information, supra note 6.
21. See Fichtner, supra note 1, at 185 (noting that one study found that women headed forty-three percent of all mobile home households); Geary, supra note 15.
23. Roisman, supra note 2, at 822-23; Protecting Fundamental Freedoms in Communities, supra note 4, at 1 ("Moving a manufactured home typically costs between $5,000 and $10,000 ... and the move may cause structural damage to the home.").
24. See North Carolina Housing Information, supra note 6 (citing the average cost of a single wide in North Carolina as $33,400 and the average cost of a double wide as $67,500).
25. See Roger Colton & Michael Sheehan, The Problem of Mass Evictions in Mobile Home Parks Subject to Conversion, 8 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 231, 232 (1999) (arguing that if a mobile home is long established in its current location, moving it is more akin in process and cost to “moving a single family house than moving a pickup-drawn travel trailer”).
is that the cost of relocation "severely eats into any home equity the homeowner may have built up."\(^{26}\)

A more common scenario than a loss of equity is that the mobile home is simply abandoned.\(^{27}\) For example, in Raleigh, North Carolina, at the Stony Brook North Mobile Home Park, sits an abandoned mobile home where "vandals have splashed MS-13 gang graffiti on iridescent green walls and carpeted the floor with broken Budweiser bottles, crushed among dirty socks and feces."\(^ {28}\) This mobile home is among the estimated 40,000 abandoned mobile homes in North Carolina, a number that is expected to double by 2020.\(^ {29}\) The proliferation of abandoned mobile homes is a serious problem for the state. Homes like those described above pose significant public health, safety, and environmental concerns, and there is no easy solution to the problem, as disposal alone can cost $800 to $1,500.\(^ {30}\)

One reason that mobile homes are frequently abandoned following eviction is that mobile home owners often lack the resources to pay for relocation.\(^ {31}\) Because mobile homes are a relatively inexpensive form of home ownership, they are especially attractive to low-income families and the elderly.\(^ {32}\) Therefore, the demographic that is most likely to purchase a mobile home is the exact group that is least likely to be able to afford the cost of relocation.\(^ {33}\) The high cost of relocation may make moving a mobile home an imprudent investment for any owner to undertake; however, most Owner-Tenants lack the financial means to even weigh the merits of moving the structure. For most Owner-Tenants, the decision will be rather straightforward: no money, so no moving.

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26. See Protecting Fundamental Freedoms in Communities, supra note 4, at 1.
28. See Sorg, supra note 27.
29. See id.
30. See id.
31. See Fichtner, supra note 1, at 182 (noting that mobile home tenants are likely to be single parents or elderly individuals with incomes "below that of the average American family"); Protecting Fundamental Freedoms in Communities, supra note 4, at 1 ("[I]f the homeowner is required to leave the manufactured home community ... the only realistic option may be to abandon the home."); Sorg, supra note 27 ("Owners often abandon mobile homes in response to socioeconomic pressures . . . .").
32. See Fichtner, supra note 1, at 185.
33. See id.
Another reason Owner-Tenants abandon their mobile homes is because their mobile homes often cannot be moved due to their condition or because other lots are unavailable. Many older mobile homes, especially those fixed in the same location for long periods of time, cannot be moved because they are no longer roadworthy. Though these units are still a viable source of low-income housing, as a practical matter they cannot be transported. Furthermore, many units that are structurally capable of being moved cannot be relocated because “many, if not most, parks have strict age and/or condition restrictions for the units they will admit.” These mobile home parks can afford to be selective because demand often exceeds the supply of available trailer lot spaces. For example, in reaction to the closing of Homestead Village park in Raleigh, North Carolina, a resident of one of the 160 trailers in the park inquired into availability at nearby parks only to find that the “nearest park in Raleigh, six miles away, had two vacancies,” and a park “in Wake Forest had four.” Facing such steep odds—only six spots existed for the 160 trailers seeking to relocate from Homestead Village—it is easy to understand why the number of abandoned mobile homes in North Carolina is expected to double by 2020.

In addition to the issues of relocation cost, roadworthiness, and the unavailability of other lots, legal restrictions also encumber relocation efforts and contribute to the abandonment of mobile homes. By ordinance, many counties in North Carolina prohibit mobile homes manufactured prior to 1976 from being “located, placed, transported, or otherwise moved” into the respective county. Although these ordinances traditionally exempt manufactured homes

34. See Colton & Sheehan, supra note 25, at 232–33.
35. See id. at 232.
36. See id.
37. Id. at 233.
38. See Geary, supra note 15.
39. Id. According to Google Maps, Wake Forest is 18.2 miles from Raleigh. GOOGLE MAPS, https://www.google.com/#bav=on.2,or.r_qf.&fp=21c4e67242bd37c5&q=Raleigh+to+Wake+Forest+NC (last visited Jan. 4, 2014).
40. See Geary, supra note 15.
41. See Sorg, supra note 27.
42. See Colton & Sheehan, supra note 25, at 232 (“From a legal . . . point of view, they simply cannot be moved.”).
located in the county prior to June 15, 1976, they have the effect of narrowing the already slim options available to Owner-Tenants seeking to relocate. For Owner-Tenants in a county without vacancies, or even more likely, in a county without a park willing to accept the mobile home given its age, there may be little choice but to abandon.

North Carolina clearly has a critical problem arising from the Mobile Home Owner-Tenant Scenario: Owner-Tenants are being afforded the legal protection of second-class citizens and (im)mobile homes are being abandoned at a rapid pace. Though solving this problem will not be an easy task, an important step involves adopting statutory reform that focuses on providing the Owner-Tenant with security of tenure and security of investment.

II. THE MOBILE HOME OWNER-TENANT’S NEED FOR SECURITY OF TENURE AND SECURITY OF INVESTMENT

Security of tenure exists for the Owner-Tenant where “the landowner cannot terminate a tenancy absent a showing of good cause.” Good cause takes many forms, but the basic premise of the good cause requirement, and the related concept of security of tenure, is that the Owner-Tenant can expect to remain on the property so long as he meets his obligations under the rental agreement. Providing the Owner-Tenant with this sense of security and expectation is vital because security of tenure “is the basis upon which residents build their lives.” The expectation of the right to remain allows Owner-Tenants to “make financial, psychological, and emotional investments in their homes and neighborhoods.”

44. See, e.g., Alleghany County, N.C., Ordinance Establishing a Moratorium on the Location, Placement, or Transportation of Certain Mobile Homes into Alleghany County, North Carolina from Outside the County (Feb. 24, 2000), available at http://www.alleghanycounty-nc.gov/ordinances/1-153.pdf. This ordinance does not prohibit the owner of a manufactured home located within the county prior to June 15, 1976, from moving the manufacture home within the county. Id.

45. This, of course, assumes that the landlord will not permit the mobile home owner to sell the trailer in its current location. North Carolina is not among the thirty states that “have some statutory provision prohibiting community owners from arbitrarily denying a resident the right to sell the home on-site.” Protecting Fundamental Freedoms in Communities, supra note 4, at 6. Though it is not discussed in this Comment, protection from arbitrary denial of sale is a vitally important legal right that North Carolina law does not currently provide.

46. Roisman, supra note 2, at 819.

47. See id.; Protecting Fundamental Freedoms in Communities, supra note 4, at 5.

48. Roisman, supra note 2, at 820.

49. Id.
individual with security of tenure enjoys the accompanying benefits associated with the concept of traditional homeownership, including a sense of autonomy and stability.50 In other words, providing the Owner-Tenant with security of tenure is important, not only for the individual well-being of the Owner-Tenant, but also for society at large because the Owner-Tenant with security of tenure has the incentive to invest in his community and the infrastructure within it.51

Without security of tenure, the Owner-Tenant is subject to involuntary displacement.52 An individual who is subject to involuntary displacement does not have the incentive to invest emotionally, psychologically, or socially in his community because involuntary displacement constantly threatens to disrupt these connections.53 The negative externalities of this residential instability are far-reaching.54 With regard to education, involuntary displacement produces highly transient classrooms, which in turn result in school instability, as both transient students and their classmates are forced to deal with the “serious educational and social disruptions” associated with a high turnover educational environment.55 In the elderly population, which is one of the most prevalent demographics within the Mobile Home Owner-Tenant Scenario,56 the stress of involuntary displacement can result in illness and death.57 In the current housing context, where the waitlist for public housing and Section 8 vouchers can be years,58 the loss of a mobile home by poor individuals “may mean literal homelessness.”59 This in turn may “lead to [the] division of families, with children wrested from their parents’ custody to be institutionalized or placed into foster care.”60 Given the strong connection between resident and home, displacement from one’s home has been shown to trigger a grief response in line with that seen in reaction to the loss of a

50. See id. at 821.
51. See id. at 820.
52. See id. at 821.
53. See id.
54. See id. at 821–24.
55. See id. at 822 (quoting Todd Michael Franke & Chester Hartman, Student Mobility: How Some Children Get Left Behind, 72 J. NEGRO EDUC. 1, 1 (2003)).
56. See Fichtner, supra note 1, at 185.
57. See Roisman, supra note 2, at 822.
59. See Roisman, supra note 2, at 823.
60. See id.
person. In short, being subject to involuntary displacement creates a heavy emotional, social, and psychological burden that threatens the mental health of the Owner-Tenant.

Deriving from and existing within the concept of security of tenure is the concept of security of investment. For the purposes of this Comment, security of investment describes the condition where the Owner-Tenant’s investment in the mobile home is protected from significant economic loss due to involuntary displacement. In this context, the Owner-Tenant has an incentive to invest financially in maintaining his mobile home and community. Security of tenure provides security of financial investment because it allows the Owner-Tenant to be confident that improvements to, or investments in, the mobile home will not be wasted due to involuntary displacement. Without security of tenure, there is no security of investment because involuntary displacement poses the constant threat of significant economic loss in the form of mobile home relocation or abandonment.

Considering North Carolina’s current crisis with abandoned mobile homes, the state is in dire need of policy that provides the Owner-Tenant with an incentive to invest in, maintain, and not abandon his mobile home. Policies that provide security of tenure and security of investment should ameliorate the abandonment crisis because experience has shown that mobile home owners with increased security in the mobile home park are more likely to invest in and improve the park and their homes. Therefore, security of investment is an important concept because its attainment provides a

61. See id. at 824.
62. See id.
63. See id. at 820 (discussing how security of tenure enables individuals to make financial investments in their homes and communities).
64. See id.; Protecting Fundamental Freedoms in Communities, supra note 4, at 2. Though “security of financial investment” is clearly a byproduct of security of tenure, and is not discussed as a separate concept by Professor Roisman, given the high cost of relocation, the substantial purchase price of a mobile home, and North Carolina’s specific issue with abandoned mobile homes, the concept deserves its own name and a separate discussion.
65. See Roisman, supra note 2, at 822.
66. See id. at 822-23.
67. See discussion supra Part I.
68. See Protecting Fundamental Freedoms in Communities, supra note 4, at 2 ("[W]hen residents own a manufactured housing community, they invest in it. They repave the roads, fix the sewer system, repair and repaint outbuildings and add landscaping and amenities."). Though owning the community itself is a higher form of security of tenure than “good cause” protection, the concept demonstrates that people will invest in their homes when they have the security of benefiting from the investment.
potential remedy to North Carolina’s issue with mobile home abandonment. In addition, each of the negative externalities outlined above demonstrates the need for security of tenure. Because many of the problems associated with the Mobile Home Owner-Tenant Scenario derive from a lack of security of tenure and security of investment, any solution to the Mobile Home Owner-Tenant Scenario should be measured, at least in part, by the degree to which the solution provides these securities.

III. NORTH CAROLINA’S CURRENT STATUTORY SCHEME FOR THE MOBILE HOME OWNER-TENANT SCENARIO

Thirty-three states currently have statutory provisions limiting the grounds for eviction of residents from a mobile home community; North Carolina is not one of them. What constitutes a legitimate basis for eviction within these states varies widely. Some states have “full-fledged good cause statutes, prohibiting the community owner from terminating the lease or refusing to renew it except for good cause such as failure to pay rent or violation of community rules,” and others have statutes that are unclear or simply require “any legitimate business reason.” However, North Carolina does not fall anywhere within this spectrum of good cause. Instead, North Carolina is among the minority of states that do not have a statute that addresses the grounds for eviction from a mobile home community.

A. N.C. Gen. Stat. Section 42-14

Pursuant to section 42-14 of the North Carolina General Statutes, “where the tenancy involves only the rental of a space for a manufactured home . . . a notice to quit must be given at least 60 days before the end of the current rental period, regardless of the term of the tenancy.” Thus, once notice to quit is given, all that stands between the Owner-Tenant and forced relocation or abandonment is approximately two months. The landowner does not need cause to
evict, and the Owner-Tenant need not have violated the rental agreement; all that is needed is timely notice to quit.\textsuperscript{77}

In at least one way, the current version of section 42-14 is an improvement on its pre-2005 counterpart, which required only thirty days' notice to quit a tenancy involving only the rental of a space for a manufactured home.\textsuperscript{78} Providing the Owner-Tenant with an additional thirty days to move likely aided some individuals with the financial means and opportunity to relocate their mobile homes. However, given the high cost and limited opportunities for relocation,\textsuperscript{79} the time extension has likely provided very little real-world benefit to the majority of Owner-Tenants because it is based on the false premise that mobile homes are in fact mobile.\textsuperscript{80} In reality, additional time to move is not the issue with (im)mobile homes, as most Owner-Tenants are unable to relocate their homes regardless of the time given.\textsuperscript{81}

Though the 2005 amendment shows that the North Carolina legislature is willing to pursue solutions to the Mobile Home Owner-Tenant Scenario, the General Assembly chose an inadequate remedy. North Carolina residents living under the present version of section 42-14 have inadequate security of tenure and security of investment because the law provides landowners with the power to evict them and their mobile homes with no good cause requirement and only sixty days' notice as protection.\textsuperscript{82} Moreover, the constant threat of involuntary displacement created by the inadequacy of section 42-14 exposes the state to the negative consequences associated with a lack of security of tenure and security of investment.\textsuperscript{83} With this statutory scheme, there is very little reason for North Carolina Owner-Tenants to invest in, improve, or maintain their mobile homes because their investment can so easily be lost. The disincentives created by this dynamic likely contribute significantly to North Carolina's crisis with abandoned homes.\textsuperscript{84}

\textsuperscript{77} See id. Section 42-37.1 of the North Carolina General Statutes offers the Owner-Tenant some protection in the form of the defense of retaliatory eviction, but the fact remains that the landlord can evict without good cause. See N.C. GEN. STAT. § 42-37.1 (2011).


\textsuperscript{79} See discussion supra Part I.

\textsuperscript{80} See supra notes 23–26 and accompanying text.

\textsuperscript{81} See discussion supra Part I.


\textsuperscript{83} See discussion supra Part II.

\textsuperscript{84} See discussion supra Part I.
B. Other North Carolina Statutes Relevant to the Mobile Home Owner-Tenant Scenario

Section 42-14 is not the only North Carolina statute that affects legal rights within the Mobile Home Owner-Tenant Scenario. Therefore it is important to look to other relevant statutes in order to determine if they compensate for the inadequacies of N.C. Gen. Stat. section 42-14.


Though North Carolina does not provide affirmative protection in the form of a statute limiting the grounds for eviction, Owner-Tenants are protected broadly against retaliatory eviction. Section 42-37.1(a) of the North Carolina General Statutes provides a list of tenant activities that are protected by law. The basic idea of these protections is that the landlord should not be able to evict tenants for seeking to "exercise their right[] to decent, safe, and sanitary housing." Despite these protections, the tenant has the burden of proving that the landlord's eviction action was substantially in response to the occurrence of a protected act. Moreover, section 42-37.1(c) provides a list of situations in which the landlord may nonetheless prevail in a summary ejectment action despite the protection provided by subsections (a) and (b). For example, where there is a tenancy for a definite period of time, the tenant has no option to renew the lease, and the tenant holds over after the expiration of the term, the landlord will prevail even if the tenant

85. See Protecting Fundamental Freedoms in Communities, supra note 4, at 4.
87. Id. § 42-37.1(a). The following are acts protected by section 42-37.1:

(1) A good faith complaint or request for repairs to the landlord, his employee, or his agent about conditions or defects in the premises that the landlord is obligated to repair under G.S. 42-42; (2) A good faith complaint to a government agency about a landlord's alleged violation of any health or safety law, or any regulation, code, ordinance, or State or federal law that regulates premises used for dwelling purposes; (3) A government authority's issuance of a formal complaint to a landlord concerning premises rented by a tenant; (4) A good faith attempt to exercise, secure or enforce any rights existing under a valid lease or rental agreement or under State or federal law; or (5) A good faith attempt to organize, join, or become otherwise involved with, any organization promoting or enforcing tenants' rights.

88. Id.
89. See id. § 42-37.1(b).
90. See id. § 42-37.1(c).
proves the landlord's action was substantially in response to a protected act.\textsuperscript{91}

North Carolina's retaliatory eviction statute provides the Owner-Tenant with some much-needed protection. However, in addition to the statute's exceptions and its allocation of the burden of proof to the tenant, the protection from retaliatory eviction provided by section 42-37.1 does not adequately compensate for the inadequacies of section 42-14 because it fails to offer the tenant any protection from a landlord who wishes to evict the tenant on a whim or for reasons unrelated to the tenant's actions.\textsuperscript{92}

It may seem puzzling that a landlord would seek to evict a tenant who is complying with the terms of a rental agreement, but in fact community owners "often have a strong incentive to drive out low-income homeowners to free up lots."\textsuperscript{93} By freeing up lots, the landlord creates the opportunity to rent his lot to a new resident at a higher price.\textsuperscript{94} Or, in the case where the tenant is forced to abandon the mobile home, section 44A-2(e2) of the North Carolina General Statutes provides a mechanism for the landlord to acquire a lien on the manufactured home.\textsuperscript{95} With a lien acquired, the landlord can sell the manufactured home and recover an amount equal to

\begin{equation}
\text{the amount of any rents which were due the lessor at the time the tenant vacated the premises and for the time, up to 60 days, from the vacating of the premises to the date of sale; and for any sums necessary to repair damages to the premises caused by the tenant, normal wear and tear excepted; and for reasonable costs and expenses of the sale.}\textsuperscript{96}
\end{equation}

Because this statute provides the landlord with rent after the home is abandoned, and because many Owner-Tenants will not pay rent after the landlord provides notice to quit due to their need to save money to find new housing, it is very likely liens will constitute a sizable portion of the mobile home's value. Therefore, this statute minimizes the economic loss that the landlord would suffer from evicting the old tenant, thereby enabling the landlord to free up new lots with minimal risk.\textsuperscript{97}

\textsuperscript{91.} See id. § 42-37.1(c)(2).
\textsuperscript{92.} See id. § 42-37.1(c).
\textsuperscript{93.} Protecting Fundamental Freedoms in Communities, supra note 4, at 4.
\textsuperscript{94.} See id.
\textsuperscript{96.} Id.
\textsuperscript{97.} See id.; Protecting Fundamental Freedoms in Communities, supra note 4, at 4.
In addition to the economic incentives to evict an otherwise compliant tenant, retaliatory eviction protection as it stands is insufficient because the Owner-Tenant is nonetheless exposed to arbitrary eviction at the discretion of the landowner. For instance, if the landlord does not like the flowers that the Owner-Tenant plants, then the landowner can give notice to quit, and the protections afforded by the defense of retaliatory eviction will not protect the tenant. Although this hypothetical may seem extreme and unlikely, evictions like this do occur. For example, in Iowa, a judge presiding over allegations that a mobile home owner had been evicted for refusing coffee was able to say only, "I'm sorry. There's nothing I can do." These examples demonstrate that retaliatory eviction protection alone is insufficient. Without the addition of good cause protection, the Owner-Tenant's security of tenure and security of investment are so precarious that he is "likely to be fearful of taking any action that would bring [him] into disfavor with the community owner." Therefore, the economic incentives to evict a compliant tenant and the potential for arbitrary evictions strongly suggest that the retaliatory eviction protection afforded by section 42-37.1 does not adequately compensate for North Carolina's absence of a statute limiting the grounds for eviction from a mobile home community to good cause.


This Comment focuses on the situation where an individual Owner-Tenant is evicted. Therefore, a thorough treatment of mass evictions is beyond its scope; however, mass evictions frequently occur when manufactured home communities are converted to other uses. In such a situation, section 42-14.3 of the North Carolina General Statutes requires the owner of the manufactured home

98. See supra notes 92–96 and accompanying text.
99. See supra notes 88–92 and accompanying text.
100. While working at Pisgah Legal Services in Asheville, North Carolina, in 2012, the author received a call where this scenario was the landlord's basis for eviction. A plain reading of section 42-37.1 of the North Carolina General Statutes suggests that this scenario would not fall into any of the protected acts.
102. See id.
103. See Protecting Fundamental Freedoms in Communities, supra note 4, at 4.
104. See Geary, supra note 15.
community to give each manufactured home owner notice of the intended conversion at least 180 days before the home owner is required to vacate the lot and move the manufactured home.\textsuperscript{105} Though the Owner-Tenant is afforded more time to relocate in the case of conversion, mass evictions are only a larger-scale example of the familiar issues associated with the cost and difficulty of relocating a mobile home.\textsuperscript{106}

A solution which has emerged in response to this problem is resident purchase opportunity law.\textsuperscript{107} North Carolina is one of eighteen states that have enacted some form of resident purchase opportunity legislation.\textsuperscript{108} North Carolina law currently provides a tax benefit to community owners who sell the land within a manufactured home community “in a single purchase to a group composed of a majority of the manufactured home community leaseholders or to a nonprofit organization that represents such a group.”\textsuperscript{109} Though this is certainly a great first step, other states have achieved even better results by enacting further measures to promote the purchase of manufactured home communities by Owner-Tenants.\textsuperscript{110} For example, in New Hampshire, strong purchase opportunity law, combined with organized lending by community development organizations, has transformed twenty percent of the state’s manufactured home communities into resident-owned communities.\textsuperscript{111} In addition, studies suggest that forty percent of the mobile homes within these resident-owned communities are appreciating in value.\textsuperscript{112} Given the benefits seen in states like New Hampshire, North Carolina should examine and pursue additional purchase opportunity laws. Unlike extra time to relocate, purchase opportunity is capable of transforming a win-lose scenario into a win-win scenario. Without purchase opportunity

\begin{footnotesize}
\begin{enumerate}
\item[105.] See N.C. GEN. STAT. § 42-14.3(a) (2011).
\item[106.] See discussion supra Part I.
\item[107.] See Protecting Fundamental Freedoms in Communities, supra note 4, at 5.
\item[111.] See id.
\item[112.] See id.
\end{enumerate}
\end{footnotesize}
law, only the community owner receives a desirable result, and a large portion of mobile homes within a park during conversion will likely be abandoned to satisfy the interests of the landowner. However, with purchase opportunity law, the community owner’s right to sell may be slightly impaired, but he still receives a fair price while the Owner-Tenant receives the full security of tenure and investment associated with land ownership.

C. What Could Have Been: North Carolina’s Flirtation with Good-Cause Legislation

North Carolina’s consideration of the Mobile Home Owner-Tenant Scenario in 2005 ended with the extension of section 42-14 to sixty days’ notice of eviction, but the original version of the bill would have placed limits on the permissible grounds for eviction of a manufactured home owner. Under the original version of the bill, an Owner-Tenant’s lease could only be terminated for one of the following reasons: (1) failure to fulfill the stipulations of the lease; (2) failure to pay rent; (3) commission of certain criminal acts; or (4) condemnation or conversion of the land in compliance with section 42-14.3. Had the original version of the bill prevailed, North Carolinians living within the Mobile Home Owner-Tenant Scenario today would enjoy increased security of tenure and security of investment because their landlords would not be able to evict them on arbitrary grounds. This would have been a significant step toward improving the legal rights of Owner-Tenants. However, rather than implementing a statutory scheme that would have provided affirmative protection from arbitrary eviction, the North Carolina General Assembly settled for an extension of time to move. Rather than aiding the Owner-Tenant in staying put, North Carolina saw it best to make it easier for them to leave. Of course, leaving is not always an option and certainly is not easy when it involves the relocation of a mobile home.

Despite the legislature’s failure to pass the original bill in 2005, the silver lining is that good cause statutes are on North Carolina’s radar. Given the 2005 amendment’s failure to remedy the Owner-
Tenant’s lack of security of tenure, and North Carolina’s crisis with abandoned mobile homes,\textsuperscript{118} the time is right to find a new solution. In contrast to the current version of section 42-14, future solutions should seek to address the actual problem with the Mobile Home Owner-Tenant Scenario—a lack of security of tenure rather than a lack of time to move.\textsuperscript{119}

IV. WHAT IS THE APPROPRIATE APPROACH TO THE MOBILE HOME OWNER-TENANT SCENARIO: COMMON-LAW OR LEGISLATIVE REMEDIES?

A. Common-Law Solutions to the Mobile Home Owner-Tenant Scenario

Though many states have turned to statutory schemes to address the Mobile Home Owner-Tenant Scenario,\textsuperscript{120} Professor Florence Roisman, of the Robert H. McKinney School of Law at Indiana University, has argued that “common law doctrines provide ample basis for imposing a good-cause-for-termination requirement on those . . . who rent land on which owners of manufactured homes place their houses.”\textsuperscript{121} In making this argument for common-law solutions, Professor Roisman has outlined two common-law doctrines to provide security of tenure to the Owner-Tenant: the implied covenant of good faith and fair dealing and the implied covenant of security of tenure or good cause for termination.\textsuperscript{122}

1. The Implied Covenant of Good Faith and Fair Dealing

The implied covenant of good faith and fair dealing is grounded in the widely accepted principle that “[e]very contract imposes upon each party a duty of good faith and fair dealing in its performance and its enforcement.”\textsuperscript{123} Applied to the lease between a community owner and an Owner-Tenant, this doctrine “could provide substantial protection for tenants faced with termination”\textsuperscript{124} because it would prohibit the landlord from engaging in malicious, vindictive, or arbitrary evictions.\textsuperscript{125} For example, where a landowner fails to act

\textsuperscript{118} See discussion supra Part I.
\textsuperscript{119} See Roisman, supra note 2, at 820–22.
\textsuperscript{120} See Protecting Fundamental Freedoms in Communities, supra note 4, at 5.
\textsuperscript{121} Roisman, supra note 2, at 836.
\textsuperscript{122} See id. at 843, 849.
\textsuperscript{123} See id. at 843 (quoting RESTATEMENT (SECOND) OF CONTRACTS § 205 (1981)).
\textsuperscript{124} See id. at 849.
\textsuperscript{125} See id. at 848.
fairly, and in good faith, by taking undue advantage of an Owner-
Tenant, a judge could apply the implied covenant of good faith and
fair dealing so that the Owner-Tenant would be able to enjoy the
benefits of the rental agreement without being exposed to
opportunistic or vindictive landlord behavior.126

2. The Implied Covenant of Security of Tenure or Good Cause for
Termination

On similar grounds to those giving rise to common-law
development of the implied covenant of good faith and fair dealing,
Professor Roisman argues that "courts should recognize and apply an
implied-in-law covenant of secure tenure absent good cause for
termination."127 In support of this doctrine is Shell Oil Co. v.
Marinello,128 where the New Jersey Supreme Court voided a
commercial lease provision giving Shell Oil the absolute right to
terminate a lease with only ten days of notice.129 Due to "the uneven
bargaining power between" Shell Oil and the opposing party, the
New Jersey Supreme Court "read into" the commercial lease "the
restriction that Shell not have the unilateral right to terminate, cancel
or fail to renew . . . the lease, in absence of a showing that [the other
party] has failed to substantially perform [its] obligations under the
lease."130 Though the New Jersey Supreme Court acted in the context
of a commercial lease, the disparity of bargaining power that formed
the basis for the court's application of the implied doctrine of good
cause for termination is even more compelling in the Mobile Home
Owner-Tenant Scenario.131

Within the context of the Mobile Home Owner-Tenant Scenario,
judicial adoption of the implied covenant of good cause for
termination would prevent the landowner from unilaterally
terminating, canceling, or failing to renew the Owner-Tenant's
lease.132 Application of the implied covenant of good cause for
termination within this context would provide security of tenure to
the Owner-Tenant because it would effectively provide the Owner-

126. See id. at 847–48. For example, Roisman cites to situations where the implied
covenant of good faith and fair dealing has been applied to require the landowner to
provide replacement housing and to prohibit displacement until the end of the school year
or "during notably hot or cold weather." Id. at 847.

127. See id. at 849.


129. Id. at 603; see Roisman, supra note 2, at 849.

130. See Shell Oil Co., 307 A.2d at 603.

131. See Roisman, supra note 2, at 850–51.

132. See id.
Tenant with "a life estate in the leased property, subject to interruption only for failure to comply with lease conditions."133

B. Common-Law Versus Legislative Remedies

1. General Considerations

In certain ways, common law development of equitable protections for the Owner-Tenant is more desirable than legislative action in the form of statutory enactment.134 For example, common-law solutions are more flexible as they provide the opportunity for a judge to balance the competing interests and distinctions of a case on its own particular facts.135 For instance, where an Owner-Tenant has lived on a lot for a long period of time and has substantially invested in the property, a judge applying the equitable remedies discussed by Professor Roisman could craft a solution that recognizes the tenant's interest in the property.136 In contrast, where the Owner-Tenant's tenure and investment are insignificant, the balance would weigh more in the favor of the landowner's interests.137

Though common-law solutions are more fact-intensive and flexible, legislative remedies have the advantage of offering more comprehensive solutions.138 In contrast to courts, which can decide only the issues before them, legislatures can develop comprehensive solutions due to their ability to "fully consider an issue" through

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134. See Roisman, supra note 2, at 840.
135. See id.
136. See id. Professor Roisman argues that equitable remedies will allow judges to balance the following factors:

[W]hether the tenancy is commercial or residential; whether the residential property is a single-family or multi-family home; whether the landowner lives on the property; whether the landowner is a large or small participant in the rental housing business; how long the tenant has lived at that location; how much of a financial investment the tenant has made in the property; what representations the landowner may have made about continued occupancy; how many times and for what length of time the tenancy may have been renewed in the past; how important continued residence may be for educational, health, religious, employment, psychological, or other reasons; and how "tight" the local housing market may be and how difficult and how expensive it may be, for any reason, for the tenant to secure replacement housing.

Id.
137. See id.
extensive fact finding. In addition, "principles of separation of powers arguably require that legislatures make policy choices." Thus, like common-law solutions, there are factors which make legislative remedies desirable within the Mobile Home Owner-Tenant Scenario as well.

Therefore, common-law and legislative remedies each have their relative advantages, which is why the debate between the two is "perdurable." Common-law solutions are flexible, yet potentially expose the litigant to arbitrary judicial whims, while legislative remedies are consistent, yet potentially ill-tailored; the debate continues. However, there is reason to believe that legislative remedies are a superior and more probable solution to the Mobile Home Owner-Tenant Scenario within the specific context of North Carolina.

2. Evaluating Common-Law Versus Legislative Remedies in the Context of North Carolina

As discussed, the current allocation of legal rights between the landowner and the Owner-Tenant in North Carolina weighs heavily in favor of the landowner because it leaves the Owner-Tenant with no right to remain on the premises once the landowner provides adequate notice to quit the tenancy. In contrast to North Carolina’s current statutory scheme, a fully enforced implied covenant of good cause for termination would in effect provide the Owner-Tenant with a life estate, terminable only for failure to comply with the conditions of the lease. Under this potential solution, the landowner would be unable to evict the Owner-Tenant absent good cause. Though preventing the landowner from terminating or refusing to renew a lease for a manufactured home is desirable because it provides the Owner-Tenant with security of tenure, this new legal relationship would constitute a radical transformation of the current allocation of legal rights within North Carolina’s Mobile Home Owner-Tenant Scenario.

Where reform would result in a drastic departure from the current allocation of legal rights between landlord and tenant,

139. See id.
140. Id.
141. See id.
142. See Roisman, supra note 2, at 839.
144. See Bell, supra note 133, at 537.
legislative action is necessary.\textsuperscript{145} Judicial adoption of an implied covenant of good cause for termination might not constitute a drastic departure from the status quo in a state like New Jersey, which has already adopted a similar mechanism within the commercial context,\textsuperscript{146} or even in a state that already has a statute limiting the grounds for eviction of a manufactured home.\textsuperscript{147} Within these states, landowners are already on notice that tenants have a general right to remain. However, as discussed, North Carolina landowners live in a state where their rights dominate.\textsuperscript{148} Changing this status quo requires a substantial policy decision that should properly be decided by a legislative body representing the will of the people.\textsuperscript{149}

Another reason legislative action is more desirable in North Carolina is that experience suggests it is more likely to produce results for the Owner-Tenant.\textsuperscript{150} As Professor Roisman concedes, judicial creation of the good cause-for-termination doctrine "has been essentially non-existent."\textsuperscript{151} Roisman attributes this fact to litigants not pressing courts to impose the requirement rather than courts rejecting the requirement;\textsuperscript{152} however, a more likely reason that litigants do not seek this remedy is because they do not think it will succeed. Given section 42-14 of the North Carolina General Statutes and North Carolina's notice orientation, an Owner-Tenant, even if aware of the common-law remedies Professor Roisman advocates, would be reasonable in believing that a court would reject the implied covenant of good cause for termination argument and instead adhere to the plain language of section 42-14.\textsuperscript{153}

In the past forty to fifty years, statutes have supplanted judicial action as the key reform method within the landlord-tenant

\textsuperscript{145} See id. ("Just cause requirements . . . represent such a drastic departure from the common-law rules that legislative action would be necessary to implement them.").

\textsuperscript{146} See Roisman, supra note 2, at 849 (giving the example of Shell Oil Co. v. Marinello, 307 A.2d 598, 603 (N.J. 1973)).

\textsuperscript{147} See Protecting Fundamental Freedoms in Communities, supra note 4, at 4-5 (discussing thirty-three states with good cause statutes).

\textsuperscript{148} See discussion supra Part III.A.

\textsuperscript{149} See Korngold, supra note 138, at 706 ([P]rinciples of separation of powers arguably require that legislatures make policy choices.").

\textsuperscript{150} See Roisman, supra note 2, at 835; see also Korngold, supra note 138, at 706 ("After the initial pathbreaking judicial decisions, legislatures began supplanting courts as the key reform agents in the field.").

\textsuperscript{151} Roisman, supra note 2, at 835.

\textsuperscript{152} Id.

\textsuperscript{153} In researching for this Comment, the author could not find a single case, or brief for a case, in North Carolina where either of Professor Roisman's equitable remedies have been argued or accepted.
relationship, and thirty-three state legislatures have enacted statutes limiting the grounds for eviction of a manufactured home from a manufactured home community. In addition, North Carolina has at least considered adopting a statute that would have required manufactured home evictions to be made in good faith, which demonstrates that statutory reform of the Mobile Home Owner-Tenant Scenario has momentum and is on North Carolina’s radar. Unlike the sparse record of judicial recognition of good cause protection, broad statutory reform by other jurisdictions provides North Carolina the opportunity to critically examine the remedies other states have employed. The degree of protection afforded by good cause statutes varies widely by jurisdiction, and this variance provides North Carolina the opportunity to determine what type of statute strikes the appropriate balance of rights between the landowner and Owner-Tenant.

If North Carolina judges were to adopt Professor Roisman’s formulation of the implied covenant of good cause for termination, there is little doubt that Owner-Tenants in North Carolina would enjoy security of tenure. In the meantime, and until North Carolina is persuaded to adopt a good cause statute, litigators should pursue common-law solutions. However, as demonstrated above, there is reason to believe that a statutory remedy would be more appropriate and probable within the specific context of North Carolina. Therefore, though the common law may someday develop to provide the Owner-Tenant with security of tenure, the remainder of this Comment focuses on statutory solutions to North Carolina’s Mobile Home Owner-Tenant Scenario.

V. WHAT SHOULD CONSTITUTE GOOD CAUSE?

A key goal of any good cause statute must be to satisfy the public’s interest in “maintaining a proper balance between the landlord’s interests in running his business efficiently and the tenant’s interest in retaining his home.” Despite the profound benefit that security of tenure provides to the Owner-Tenant and society, good

154. See Korngold, supra note 138, at 706.
155. Protecting Fundamental Freedoms in Communities, supra note 4, at 4–5.
156. See discussion supra Part III.C.
157. See Roisman, supra note 2, at 853 (“Just cause standards basically provide the tenant with a life estate in the leased property, subject to interruption only for failure to comply with lease conditions.” (quoting Bell, supra note 133, at 537)).
158. See Bell, supra note 133, at 537.
159. See Roisman, supra note 2, at 820–29.
cause statutes can create costs in other areas, and, at a minimum, constitute a serious intrusion upon the property rights of the landowner.

A. The Cost of Good Cause

A downside of any good cause requirement is that it is likely to make private ownership of a manufactured home community less desirable to landowners.160 Some scholars insist that good cause requirements will decrease the supply of mobile home communities and deteriorate the quality of existing communities.161 As discussed, Owner-Tenants who are forced to relocate their mobile homes already face limited options,162 and a decrease in the number of manufactured home parks in the state would only magnify the burden of relocation. If the limitations imposed by good cause are so great that landowners no longer have an incentive to establish and at least maintain mobile home communities, then good cause protection could ironically harm the Owner-Tenant by decreasing access to affordable housing.164 Therefore, the need for balance in this situation is great, as any statutory solution to the Mobile Home Owner-Tenant Scenario must provide security of tenure while minimizing the potential costs of good cause limitations.

B. Striking a Balance: Finding the Most Appropriate Formulation of Good Cause

The phrase "good cause" can mean many different things, and protections which constitute good cause exist within a broad spectrum.165 At one end of the spectrum is what Professor Deborah Bell describes as "just cause."166 "Just cause" standards provide "the greatest degree of tenant security" because they "basically provide the tenant with a life estate in the leased property, subject to interruption only for failure to comply with lease conditions."167 Though "just cause" standards are excellent in that they provide the tenant with almost complete security of tenure, they impose an almost

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160. See id. at 838.
162. See id. at 454–55.
163. See discussion supra Part I.
164. See Carroll, supra note 161, at 447.
165. See Protecting Fundamental Freedoms in Communities, supra note 4, at 4–5.
166. See Bell, supra note 133, at 537.
167. Id.
unrealistic burden upon the landlord because they prohibit termination of the lease “even for legitimate business reasons.”

And while it may be true that “[t]he distinction between ‘opportunism’ and ‘sound business judgment’ is hard to draw,” absolutely prohibiting a community owner from terminating a lease for a legitimate business reason, such as park conversion, is likely to produce many of the negative externalities associated with good cause limitations. Therefore, the “just cause” standard does not strike the appropriate balance between the interests of the landowner and the Owner-Tenant.

At the opposite end of the spectrum is good cause protection that limits the grounds for eviction but does not require renewal of the lease at the end of the term. Though this form of good cause protection is superior to the mere notice protection seen in North Carolina, “[a] protection against eviction without good cause is of little value if the community owner can simply decline to renew the [Owner-Tenant’s] lease without cause.” Despite paying rent and faithfully meeting the obligations of the rental agreement, an Owner-Tenant living under this type of protection can still be evicted at the end of the lease for any reason whatsoever. Therefore, this formulation of good cause also fails to strike an appropriate balance between the competing interests because it provides inadequate security of tenure to the Owner-Tenant and allows the landowner to terminate the tenancy on arbitrary grounds.

Somewhere between the two formulations of good cause discussed above lies the National Consumer Law Center’s (“NCLC”) policy recommendation. Under the model policy of the NCLC, a lease term must be a minimum of two years, community owners are prohibited from evicting without good cause (“defined as nonpayment of rent, rule violations, disorderly conduct or criminal activity”), and community owners are required “to offer the resident a renewal lease when the existing lease expires except for good cause.” Additionally, to protect the community owner’s interest, the NCLC model policy allows the community owner to “terminate

168. See id.
169. Roisman, supra note 2, at 853.
171. See, e.g., S.C. CODE ANN. § 27-47-530 (2007) (enumerating certain acts for which tenants may be evicted, but imposing no requirement for renewal of the lease).
172. Protecting Fundamental Freedoms in Communities, supra note 4, at 5.
173. See id.
174. Id.
residents' leases because of a change of use of the community."

This formulation of good cause seems to appropriately balance competing interests. On the one hand, it provides security of tenure and investment because the Owner-Tenant has a right to remain so long as rent is paid, obligations are met, and the park is not converted to another use. On the other hand, the policy recognizes the legitimate business interests of the community owner by providing an opportunity to terminate investment in the community.

Though the NCLC model policy does impose upon the property rights of the community owner, the policy recognizes that "[b]oth the landlord and the tenant have property interests" at stake in the Mobile Home Owner-Tenant Scenario. As Professor Roisman eloquently described, "[t]he issue is not whether to protect property interests, but rather how to accommodate the competing property interests of the landlord and the tenant." The Owner-Tenant has a property interest in the mobile home, which can be lost due to eviction, and the community owner has a property interest in the land. The relevant question here is which interest gives way for the other. Though the NCLC model policy no doubt requires capitulation from both groups, it does so in an equitable manner because it provides security of tenure to the Owner-Tenant without unduly interfering with the community owner's ability to put the property to a more profitable use. It therefore strikes an appropriate balance by protecting the Owner-Tenant without removing all incentive for a property owner to establish or maintain mobile home communities. This, the above suggests, is the most appropriate construction of good cause.

VI. FOURTH CIRCUIT COMPARISONS

North Carolina is currently the only state in the Fourth Circuit without a statute limiting the grounds for eviction from a manufactured home community. Therefore, North Carolina currently provides less eviction protection to the Owner-Tenant than Maryland, Virginia, West Virginia, or South Carolina. In seeking to

175. Id.
176. See Roisman, supra note 2, at 839.
177. Id.
179. See Protecting Fundamental Freedoms in Communities, supra note 4, at 5.
improve the Mobile Home Owner-Tenant Scenario in North Carolina, it is important to determine whether the statutes of North Carolina’s jurisdictional neighbors should serve as templates for statutory reform. Such an evaluation requires an examination of where other Fourth Circuit states’ statutes fall within the “good cause” spectrum.  

A. South Carolina

As in North Carolina, mobile home ownership is pervasive in South Carolina. In fact, during the 2013 Miss America pageant, Miss South Carolina introduced herself by saying that she is “from the state where 20 percent of our homes are mobile because that’s how we roll.” However, unlike their North Carolina counterparts, Owner-Tenants in South Carolina can only be evicted when one or more of a limited set of grounds for eviction are present. Generally, grounds for eviction include failure to pay rent; failure to comply with the law, or park regulations; and “willfully and knowingly making a false or misleading statement in the rental agreement or application.” Though an Owner-Tenant may be

180. See discussion supra Part V.B.
182. See S.C. CODE ANN. § 27-47-530(A) (2007). South Carolina’s statute provides that an owner may evict a resident for one or more of the following reasons: (1) failure to comply with local, state, or federal laws governing manufactured homes after he receives written notice of noncompliance and has had a reasonable opportunity to remedy the violation; (2) engaging in repeated conduct that interferes with the quiet enjoyment of the park by other residents; (3) noncompliance with a provision of the rental agreement or park regulations and failure to remedy the violation within fourteen days after written notice by the owner. If the remedy requires longer than fourteen days, the owner may allow the resident in good faith to extend the time to a specified date; (4) not paying rent within five days of its due date; (5) noncompliance with a law or a provision in the rental agreement or park regulations affecting the health, safety, or welfare of other residents in the park or affecting the physical condition of the park; (6) willfully and knowingly making a false or misleading statement in the rental agreement or application; (7) taking of the park or the part of it affecting the resident’s lot by eminent domain; (8) other reason sufficient under common law.

183. Id. § 27-47-530(A)(4).
184. Id. § 27-47-530(A)(1).
185. Id. § 27-47-530(A)(3). This provision provides the Owner-Tenant with fourteen days to remedy the violation and come into compliance. Id.
186. Id.
187. Id. § 27-47-530(A)(6).
dispossessed due to eminent domain, as a general rule, South Carolina residents living within the Mobile Home Owner-Tenant Scenario are protected from eviction so long as they pay rent, act in good faith, and comply with the applicable law or park regulations.

Despite these protections, South Carolina’s statute falls on the weak side of the “good cause” spectrum because its plain language does not require a community owner to renew the Owner-Tenant’s rental agreement in the absence of good cause. South Carolina’s statute is vague, and there is little-to-no case law interpreting how the statute should be applied within the context of renewal. Experience from other jurisdictions suggests renewal will not be required unless it is explicitly and unambiguously required by the statute. Therefore, the ambiguity and absence of a renewal provision within South Carolina’s good cause statute likely exposes the Owner-Tenant to eviction for hold-over at the end of the term. This statutory scheme does not provide the Owner-Tenant with security of tenure and security of investment because it does not prohibit the community owner from refusing to renew the rental agreement of an Owner-Tenant who has met his legal obligations under the rental agreement. Therefore, though an improvement over the notice orientation of North Carolina, South Carolina’s good cause statutory scheme should not serve as a template for statutory reform of the Mobile Home Owner-Tenant Scenario in North Carolina.

B. Virginia

Similar to South Carolina, Virginia’s good cause statute provides that a manufactured home community owner may evict an Owner-Tenant only under certain circumstances. These circumstances

188. Id. § 27-47-530(A)(7).
189. See id. § 27-47-530.
190. See, e.g., 8 JEROME P. FRIEDLANDER, II, VIRGINIA PRACTICE SERIES: LANDLORD-TENANT HANDBOOK § 8:9 (2012-2013 ed. 2012) (interpreting Virginia law as permitting eviction with sixty days’ notice and not requiring renewal of a lease despite section 55-248.50:1 of the Virginia Code Annotated not including lease expiration or notice as grounds for eviction).
191. This is especially problematic because section 27-47-530 of the South Carolina Code Annotated provides for eviction due to the presence of “other reason[s] sufficient under common law.” S.C. CODE ANN. § 27-47-530(A)(8).
192. See VA. CODE ANN. § 55-248.50:1 (2012). Virginia’s statute provides that

[a] manufactured home park owner or operator may only evict a resident for: (1) Nonpayment of rent; (2) Violation of the applicable building and housing code caused by a lack of reasonable care by the tenant or a member of his household or a person on the premises with his consent; (3) Violation of a federal, state, or local law or ordinance that is detrimental to the health, safety and welfare of other
include failure to pay rent, violation of the rental agreement, and violation of the applicable housing code or law. 193 Notably, in contrast to South Carolina, Virginia park owners are required by statute to offer “all current and prospective year-round residents a rental agreement with a rental period of not less than one year.”194 This provision makes Virginia one of sixteen states that currently require leases within a manufactured housing community to be of at least a certain length.195 Virginia’s combination of a one-year provision and good cause statute provides more protection than South Carolina’s statutory scheme because Owner-Tenants in Virginia have security of tenure for at least one year.196 In contrast, Owner-Tenants in South Carolina receive good cause protection only for the length of the rental agreement, which South Carolina’s statute does not prohibit from being month-to-month.197

Despite the minimum term advantage described above, Virginia’s good cause statutory scheme suffers a critical shortcoming in that, similar to South Carolina’s, it does not generally require lease renewal at the end of the term.198 Though Virginia’s good cause statute “does not include expiration of the lease [or] a term’s termination by 60 days’ notice [as grounds for eviction],”199 Virginia’s “Termination of tenancy” statute permits a community owner to

residents in the park; (4) Violation of any rule or provision of the rental agreement materially affecting the health, safety and welfare of himself or others; or (5) Two or more violations of any rule or provision of the rental agreement occurring within a six-month period.

Id. § 55-248.50:1(1)–(5).
193. Id. § 55-248.50:1.
194. Id. § 55-248.42:1.
195. See Protecting Fundamental Freedoms in Communities, supra note 4, at 4.
196. See VA. CODE ANN. § 55-248.42:1. South Carolina is not among the states that require a lease within a manufactured home community to be of a certain length. See Protecting Fundamental Freedoms in Communities, supra note 4, at 5.
198. See VA. CODE ANN. § 55-248.46 (2012) (allowing either party to “terminate a rental agreement which is for a term of 60 days or more by giving written notice to the other at least 60 days prior to the termination date”). Note however that section 55-248.46 of the Code of Virginia Annotated may require lease renewal under certain circumstances. Pursuant to that statute,

where a landlord and seller of a manufactured home have in common (i) one or more owners, (ii) immediate family members, or (iii) officers or directors, the rental agreement shall be renewed except for reasons that would justify a termination of the rental agreement or eviction by the landlord as authorized by this chapter.

Id.
199. FRIEDLANDER, supra note 190, § 8:9.
refuse to renew a rental agreement so long as sixty days’ notice is given.\textsuperscript{200} Commentators suggest that Virginia’s good cause statute “did not repeal or modify the 60-day provision under ‘Termination of tenancy,’ ” and that, read together, “the new Code section ... relate[s] solely to what constitutes cause for termination for a reason ... other than 60-day notice to terminate ...”\textsuperscript{201} Under this construction, community owners would need good cause to evict during a lease term but no cause to refuse to renew a lease.\textsuperscript{202} Though not binding, this interpretation of Virginia’s statutory scheme demonstrates that it is an inadequate template for reform in North Carolina. Virginia’s one-year lease requirement is a step in the right direction. However, considered as a whole, the state’s statutory scheme does not provide security of tenure because, similar to South Carolina, a community owner can refuse to renew a rental agreement without good cause.

\textbf{C. West Virginia}

Under West Virginia’s good cause statutory scheme, an Owner-Tenant who places a single-section factory-built home upon a factory-built home site is protected from eviction absent good cause for one year, and an Owner-Tenant who places a multiple-section factory-built home is protected from eviction absent good cause for five years.\textsuperscript{203} Unlike South Carolina and Virginia, West Virginia’s statute does not specify what constitutes a good cause ground for eviction.\textsuperscript{204} Moreover, judicial interpretation of the statute’s good cause language is non-existent. Despite this ambiguity, if the grounds for eviction constituting good cause are found to be similar to those in South Carolina and Virginia,\textsuperscript{205} West Virginia’s statutory scheme should provide greater protection to Owner-Tenants than either of the

\textsuperscript{200} VA. CODE ANN. § 55-248.46.
\textsuperscript{201} See FRIEFLANDER, supra note 190, § 8:9.
\textsuperscript{202} See id.
\textsuperscript{203} W. VA. CODE ANN. § 37-15-6 (LexisNexis 2011) (“The tenancy for a factory-built home site upon which is placed a factory-built home that is comprised of one section, other than a camping or travel trailer, may not be terminated until twelve months after the home is placed on the site except for good cause. The tenancy for a factory-built home site on which is placed a factory built home that is comprised of two or more sections may not be terminated until five years after the home has been placed on the site except for good cause.”).
\textsuperscript{204} Compare W. VA. CODE ANN. § 37-15-6 (giving no definition of what constitutes good cause for eviction), with S.C. CODE ANN. § 27-47-530 (2007) (listing the reasons for which an owner may evict a resident), and VA. CODE ANN. § 55-248.50:1 (2012) (enumerating when a manufactured home park owner may evict a resident).
\textsuperscript{205} See discussion supra Part VI.A–B.
aforementioned states. Whereas there is no minimum term provision of good cause protection in South Carolina, Owner-Tenants purchasing multiple-section factory-built homes in West Virginia are afforded five years of good cause protection. This five-year term limit of good cause protection is a substantial step toward providing Owner-Tenants with security of tenure.

Despite providing a longer term of good cause protection for multiple section factory-built homes, there is at least one circumstance where West Virginia’s statutory scheme is weaker than Virginia’s. In Virginia, the purchaser of a used multiple section factory-built home with six years of tenure in a community would receive at least one year of good cause protection. However, under the plain language of West Virginia’s statute, the same purchaser would not appear to be provided with good cause protection for any term at all. This result occurs because West Virginia’s good cause protection is directed at the factory-built home, rather than at the Owner-Tenant. Though the statute’s plain language suggests good cause protection would be afforded to any Owner-Tenant during the term of statutory protection, once the factory-built home has sat on a site for either one or five years, good cause protection seemingly expires. Therefore, despite the protection it affords to newly-placed factory-built homes, West Virginia’s statutory scheme seemingly provides no protection to the Owner-Tenant purchasing a mobile home with a long tenure in the same community.

An additional weakness of West Virginia’s good cause scheme is that it explicitly rejects good cause protection for lease renewal. At the end of the statutory term, the community owner may terminate the rental agreement “for any reason, unless the rental agreement states that reasons for termination must exist.” In the context of a

206. See discussion supra Part VI.A.
207. See discussion supra Part VI.B.
208. W. VA. CODE ANN. § 37-15-6(a). West Virginia’s single year of “good cause” protection for single section factory-built homes places it closer in line with Virginia. See id.
210. See W. VA. CODE ANN. § 37-15-6(a). West Virginia’s statute refers to when the home “is placed” rather than to when the tenant takes possession. Id. As such, it seems that protection would not renew when a change in ownership of the mobile home occurs.
211. See id.
212. See id.
213. See id.
214. See id. § 37-15-6(b)(1).
215. Id.
newly placed multiple-section factory built home, this explicit rejection of renewal absent good cause is less troublesome because a tenant will have at least five years of security of tenure. However, in the context of a single-section factory-built home, or a long tenured home, West Virginia’s explicit rejection of renewal absent good cause provides inadequate security of tenure to the Owner-Tenant. In the former scenario, the Owner-Tenant can be evicted without cause after a year and, in the latter scenario, the Owner-Tenant can be evicted without cause at any time. Therefore, despite its strength within the context of a newly placed multiple-section factory-built home, West Virginia’s statutory scheme is ultimately undesirable on similar grounds as those in South Carolina and Virginia.

D. Maryland

Maryland’s good cause statutory scheme is the strongest in the Fourth Circuit because it prohibits a community owner from terminating or refusing to renew an Owner-Tenant’s lease absent good cause.\textsuperscript{216} In Maryland, Owner-Tenants are protected from eviction so long as they pay rent,\textsuperscript{217} abide by the terms of the rental agreement,\textsuperscript{218} are truthful and not misleading in their application for tenancy,\textsuperscript{219} and do not commit a violation of law “detrimental to the safety and welfare of other residents in the park.”\textsuperscript{220} Therefore, Maryland community owners are prohibited from evicting an Owner-Tenant without good cause.

Similar to Virginia, Maryland community owners are required to “offer all current and prospective year-round residents a rental agreement of not less than 1 year.”\textsuperscript{221} However, unlike Virginia, or any other Fourth Circuit jurisdiction, park owners are required to offer “qualified resident[s]”\textsuperscript{222} another one-year term before the expiration of the one-year period.\textsuperscript{223} A qualified resident is

\textsuperscript{216} See Md. Code Ann., Real Prop. § 8A-202 (LexisNexis 2010 & Supp. 2012); id. § 8A-1101; Marmion v. M.O.M., Inc., 541 A.2d 659, 663 (Md. App.1988) (“Not only does [Section 8A-202(c)(2)] give qualified tenants the right to demand a one-year lease, it also place[s] upon the park owner the burden of offering a one-year lease to qualified tenants at the expiration of each one-year term.” (emphasis omitted)).


\textsuperscript{218} See id. § 8A-1101(a)(2)(iii).

\textsuperscript{219} See id. § 8A-1101(a)(2)(i).

\textsuperscript{220} Id. § 8A-1101(a)(2)(ii).

\textsuperscript{221} Id. § 8A-202(a).

\textsuperscript{222} Id. § 8A-202(c).

\textsuperscript{223} Id. § 8A-202(c)(2)(i); see Marmion v. M.O.M., Inc., 541 A.2d 659, 663 (Md. App. 1988).
a year-round resident who: (i) Has made rental payments on the due date or within any grace period commonly permitted in the park during the preceding year; (ii) Within the preceding 6-month period has not committed a repeated violation of any rule or provision of the rental agreement and, at the time the term expires, no substantial violation exists; and (iii) Owns a mobile home that meets the standards of the park.  

The effect of Maryland’s qualified resident provision is that park owners are required to offer a lease renewal unless the Owner-Tenant has failed to meet the reasonable obligations of a qualified resident. Unlike South Carolina, Virginia, or West Virginia, the Owner-Tenant in Maryland has adequate security of tenure because he can expect to remain beyond the initial term so long as he maintains his legal and rental obligations.

Because Maryland’s statutory scheme prohibits termination or refusal to renew absent good cause, it fits into the most desirable part of the “good cause” spectrum. It allows the landowner to change the use of the land with ample notice while permitting a “qualified” Owner-Tenant to remain so long as the land is used as a manufactured home community. In addition, Maryland’s statutory scheme neither exposes the landowner to perpetual occupancy by uncooperative and undesirable tenants nor exposes the Owner-Tenant to involuntary displacement without cause. It therefore strikes a reasonable balance between the property interests of the landowner and the Owner-Tenant. As such, Maryland’s good cause statutory scheme should be a model for reform in North Carolina. South Carolina, Virginia, and West Virginia have each taken substantial steps toward improving the Mobile Home Owner-Tenant Scenario; however, only Maryland has provided adequate security of tenure and security of investment to the Owner-Tenant.

VII. NATIONAL COMPARISONS

Though Maryland’s good cause statutory scheme can serve as a model for reform in North Carolina, statutory schemes from beyond

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225. See discussion supra Part V.B.
227. See id. § 8A-202(c)(2)(i).
228. See id. § 8A-202(c)(2).
229. See id. § 8A-1101.
230. See discussion supra Part VI.A–C.
the Fourth Circuit should also be considered. Two excellent models for reform are Arizona and Delaware.\textsuperscript{231} A major strength of the good cause statutes in Arizona and Delaware is that they are clear and explicit.\textsuperscript{232} As seen in South Carolina, Virginia, and West Virginia, many good cause schemes "are unclear as to whether the community owner can evade the good cause requirement by simply declining to offer the resident a renewal lease once the existing lease expires."\textsuperscript{223} Arizona avoids this by explicitly providing that "[t]he landlord may not terminate or refuse to renew a tenancy without good cause."\textsuperscript{224} Similarly, Delaware's good cause statute clearly provides that "[a] landlord may terminate a rental agreement for a lot in a manufactured home community before it expires or may refuse to renew an agreement only for due cause."\textsuperscript{225} The qualified resident structure of Maryland's statutory scheme achieves the same result,\textsuperscript{236} but Delaware and Arizona demonstrate how simple and straightforward an adequate good cause statute can be. Therefore, due to the protection and clarity of their good cause statutory schemes, Delaware and Arizona should stand alongside Maryland as models for reform in North Carolina.

CONCLUSION

North Carolina has a problem within the Mobile Home Owner-Tenant Scenario that is in dire need of correction: Owner-Tenants are suffering the costs associated with a lack of security of tenure, and society is suffering the cost of an epidemic of abandoned mobile homes. In at least one way, the problems of the Mobile Home Owner-Tenant Scenario are inherent to the mixed ownership of the arrangement. Because one party owns the land and the other owns the mobile home, respective property interests collide when the issue of the right to remain arises.

Finding the appropriate balance among competing interests in this scenario is a very difficult task indeed, and it is unlikely that any solution can provide a benefit for one party without imposing a legal

\textsuperscript{231}. See Protecting Fundamental Freedoms in Communities, supra note 4, at 17-19 (setting out statutes in Arizona and Delaware as sample laws protecting residents from eviction without good cause).


\textsuperscript{233}. See Protecting Fundamental Freedoms in Communities, supra note 4, at 5.

\textsuperscript{234}. ARIZ. REV. STAT. ANN. § 33-1476(B).

\textsuperscript{235}. DEL. CODE ANN. tit. 25, § 7010(a).

\textsuperscript{236}. See discussion supra Part VI.D.
and financial cost upon the other. However, the allocation of legal rights between parties within the Mobile Home Owner-Tenant Scenario in North Carolina can be made more equitable. Though it is only one piece of the puzzle for Owner-Tenant’s rights, and by itself will not provide complete protection, a statute requiring good cause to evict or to refuse renewal of an existing lease would be a substantial step toward providing the Owner-Tenant with security of tenure.

Fortunately, North Carolina does not have to be the leader traveling down an unmarked path to provide this much needed protection. Instead, North Carolina need only look to the multitude of other jurisdictions that have protected the Owner-Tenant. States like Maryland, Delaware, and Arizona demonstrate that effective good cause statutes come in many forms. Some are complex, and some are simple and direct, but they are all equally effective if they provide the Owner-Tenant with adequate security of tenure and security of investment.

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237. In addition to the freedom from eviction without good cause, the National Consumer Law Center outlines three additional protections that are needed within the Mobile Home Owner-Tenant Scenario: The Freedom of Association and the Freedom of Speech, the Freedom from Retaliation, and the Protection of the Right to Sell the Home in Place. See Protecting Fundamental Freedoms in Communities, supra note 4, at 2. Though it is beyond the scope of this Comment, rent control is obviously another subject which requires consideration within the Mobile Home Owner-Tenant Scenario. If the landowner can unreasonably raise rates with impunity, then good cause protection will be of little use to the Owner-Tenant.

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