

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 555 (Delegate Lafferty, *et al.*)
Environmental Matters

Mobile Home Park Residents' Relocation Act of 2008

This bill clarifies and expands the law governing the closure of mobile home parks. A violation that affects a park resident or prospective resident falls within the scope of the enforcement duties and powers of the Division of Consumer Protection of the Office of the Attorney General as set forth in the Maryland Consumer Protection Act.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: If the Office of the Attorney General receives fewer than 50 complaints stemming from this bill, the additional workload could be handled with existing resources.

Local Effect: Local government expenditures for assistance paid to displaced residents could decrease. Revenues would not be affected.

Small Business Effect: Meaningful for mobile home park owners and operators.

Analysis

Bill Summary:

Notice of Proposed Change in Land Use: The bill requires a mobile home park owner to submit a relocation plan to the appropriate county or municipal zoning board, authority, or unit as a part of an application for a change in the land use of a park. Within 21 days

after submitting an application, the park owner must deliver written notice of the proposed change in land use to each resident by hand delivery or certified mail, return receipt requested. This notice must • identify the change in land use proposed by the park owner; • identify the county or municipal zoning board, authority, or unit to which the application will be submitted; and • contain a conspicuous statement that approval of the application could result in the dislocation of park residents. The bill states that these provisions shall be construed to apply retroactively and shall be applied to and interpreted to affect any mobile home park owner who has submitted an application for a change in the land use of a park if the application is pending before a county or municipal zoning board, authority, or unit on the bill's July 1, 2008 effective date. If an application is so pending, the park owner must, within 30 days of the effective date, submit a relocation plan that complies with the bill to the applicable county or municipal zoning board, authority, or unit. In addition, the park owner must deliver notice in the same manner and form stated above to each resident.

The bill states that the following provisions shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to an owner of a mobile home park if the park is closed before the effective date of the bill.

Lease Termination Requirements: The bill allows a park owner to terminate the rental agreement of a resident by giving the resident written notice of the termination at least six months before the termination date if the use of land is changed and the park owner provides a resident with the corresponding relocation assistance as required by the bill. A park owner may not close a park or any portion of a park unless the park owner provides each resident who will be dislocated as a result of the closure with • written notice of the park closure at least 12 months before the closure date along with relocation assistance valued at \$2,500; or • written notice of the park closure at least 6 months before the closure date along with relocation assistance valued at \$5,000. These provisions may not require a park owner to provide any individual household relocation assistance in an amount that is greater than the aforementioned amounts.

Termination Notice: The required notice accompanying relocation assistance must • be delivered by hand delivery or certified mail, return receipt requested; • include the approximate date on which the park owner plans to close the park or a portion of the park; • include a copy of the resident's rental agreement; • include a copy of the park's relocation plan, as required by the bill; and • include the date, time, and location of an initial meeting with the park owner, which shall be open to all residents and held no later than 15 days from the date of posting the notices of park closure required by the bill.

Relocation Assistance: The relocation assistance required by the bill must be in one of the following forms, as elected by the resident: • a cash payment; • a reduction of rent owed under the terms or the resident's rental agreement; • one or more services rendered in relocating the resident's mobile home to an alternate location acceptable to the resident; • other relocation assistance provided by the park owner; or • any combination of the above. If the mobile home of a dislocated resident cannot be relocated without destroying the usefulness of the mobile home, the park owner, at the election of the resident, must dispose of the mobile home at the park owner's expense.

Rent Increase Prohibition: A park owner may not increase a resident's rent • for the purpose of offsetting the cost of relocation assistance provided to any resident; or • after giving the resident notice of the park closure as required by the bill. These provisions do not apply to an increase in rent in accordance with a written agreement between the park owner and the resident that was executed before notice of the park closure was provided to the resident.

Legal Factors: The bill's provisions do not prevent a park owner from • providing a greater financial incentive than is required by the bill; or • contracting with the resident for a mutually acceptable arrangement to assist the resident's relocation, if the resident receives relocation assistance as required by the bill. The failure of a park owner to provide the notice required by the bill's relocation assistance provisions is a defense to an action for repossession.

Posted Notices: A park owner is required to post notices of park closure in conspicuous places throughout the park, including all park entrances and community gathering areas, no later than three days after providing written notice of park closure to a resident as required by the bill. These posted notices must include • the date on which the park owner plans to close the park or a portion of the park; and • the approximate date, time, and location of an initial meeting with the park owner, which must be open to all residents and held no later than 15 days after the posting of the notices. The failure of a park owner to post such notices is also a defense to an action for repossession.

Relocation Plan Submissions: Within 15 days after providing the required notice of park closure to residents, a park owner must submit a copy of the park's relocation plan to • the Division of Consumer Protection of the Office of the Attorney General; • the housing agency, if one exists, of the county in which the park is located; and • the housing agency, if one exists, of the incorporated municipality in which the park is located if applicable. The failure of a park owner to submit such a relocation plan is a defense to an action for repossession.

Under the bill, a relocation plan must include • a description of the park, including the number of occupied mobile home sites; • details of the relocation assistance the park owner will provide or offer to residents, including any conditions imposed by the park owner as a prerequisite to a resident receiving assistance; • a timetable for providing residents with assistance; • a statement as to whether any residents will receive priority in the allocation of relocation assistance; • a list of all mobile home parks within 25 miles of the park to be closed; and • the name and contact information of the park owner's relocation agent, who shall represent the park owner in connection with the relocation of the residents. In addition, the plan must include a description of each occupied mobile home that will be dislocated, based on information available to the park owner after reasonable inquiry, including • the mobile home's condition, size, and probable mobility; • the number of occupants in the mobile home; and • the approximate age of each occupant.

Prospective Tenants: A park owner who has given any resident notice of a park closure must provide a prospective resident with written notice of the proposed change in land use prior to the signing of a rental agreement or occupation of the premises by a prospective resident. The failure of a park owner to provide such notice is a defense to an action for repossession.

Current Law: Specific laws regarding mobile home parks are currently set forth in Title 8A of the Real Property Article. This statute contains a number of requirements for mobile home park owners, beginning with a requirement that owners provide specific detailed information to current or prospective park residents before the signing of a rental agreement. This required information includes a description of applicable laws, terms, and a description of any termination or renewal option. This law also requires that the owner offer all current and prospective year-round residents at least a one-year rental agreement. If a resident chooses not to enter a one-year agreement, the lease will continue on a month-to-month basis and can be discontinued by either party upon 30 days notice. A current resident is entitled by law to be offered a new or additional one-year agreement at any time upon request if the resident • has made rental payments on the due date or within any grace period commonly permitted in the park during the preceding year; • has not committed a repeat violation of any rule or provision of the rental agreement within the preceding six-month period; • does not have any existing substantial violation at the expiration of the current term; and • owns a mobile home that meets the standards of the park.

Under current law, park owners are prohibited from • preventing a resident from selling his mobile home in the park; and • requiring the resident to remove the mobile home from the park because of the sale of the mobile home. Park owners may only evict a

resident for • nonpayment of rent; • making or causing to be made, with knowledge, any false or misleading statement on an application for tenancy; • violation of a federal, State, or local law that is detrimental to the safety and welfare of other residents in the park; or • repeated violation of any rule or provision of the rental agreement occurring within a six-month period.

A mobile home park owner may not evict a resident or arbitrarily increase the rent or decrease services to which the resident is entitled solely because • the resident or the resident's agent has filed a written complaint with the park owner or with a public agency against the park owner; • the resident or agent has filed a lawsuit or lawsuits against the owner; or • the resident is a member or organizer of any tenants' organization. If a judgment in an eviction proceeding is for the resident for any of these defenses, the court may enter judgment for reasonable attorney's fees and court costs against the park owner. An eviction may not be deemed retaliatory upon the expiration of a six-month period following the determination of the initial case by a court or administrative agency. These provisions do not alter the park owner's or resident's rights arising from breach of any provision of a rental agreement or rule, or either party's right to terminate or not renew the agreement.

Currently, when a mobile home park owner submits an application for a change in the land use of a park, the owner must simultaneously submit a plan for alternative arrangements for each resident to be dislocated as a result of the change in land use. The statute does not currently provide a specific definition of what constitutes an application for a change in land use. If the use of land for a mobile home park is changed, all residents are entitled to a one-year prior written notice of termination, notwithstanding the provisions of a longer term in a rental agreement. A resident with a month-to-month lease may not request a one-year rental agreement once notice to terminate is delivered by certified mail to the resident.

In 2007, the Maryland Court of Special Appeals upheld a 2006 circuit court decision in the case of *Dove v. Childs*, 173 Md. App. 602, ruling that a change of land "use" is not synonymous with a change in zoning. In *Dove*, the mobile home park owner was denied a change of zoning request by the county. The owner then sold the property and served notice requesting the tenants to vacate the property in 12 months. As a result of this decision, a mobile home park owner does not need a change of zoning to be approved by the county in order to serve residents with notification of a change of land use. A change of land use could simply be a sale of the property, without a change in zoning, as was the situation in *Dove*. This type of change in land use does not require the submission of any application, so the statutory requirement for an alternative arrangement plan would not be triggered.

Background: The number of households in Maryland that reside in mobile homes has declined steadily in past decades. According to the U.S. Census Bureau, in 1990 there were 55,992 such households in Maryland. By 2000, there were 43,462, and by 2006 there were 38,421. There are currently 487 mobile home parks in the State, and although certain counties have seen a decrease in the number of parks in recent years, the statewide total has remained the same since 2005, as shown in **Exhibit 1**.

Local Fiscal Effect: Although developers who purchase mobile home parks typically provide some assistance to displaced residents, local governments have in some cases utilized community development block grant funds to provide additional assistance. For example, St. Mary's County reports that a considerable amount of time and money was spent by the county department of social services in helping to relocate approximately 80 county residents displaced in the past year. Costs incurred by the county to relocate a mobile home varied from \$2,000 to \$15,000, depending on the complexity and distance of the relocation. The county also notes that these funds were a one-time grant and would not be available for future use.

Historical data supports the conclusion that there will continue to be a number of mobile home park closings across the State each year. The bill's requirements for relocation plans and assistance to displaced residents of a specific monetary value would likely reduce the amount of expenditures that the local department of social services would dedicate to assisting displaced mobile home park residents.

Small Business Effect: Mobile home park owners would face a meaningful impact due to the bill's provisions. Increased notice requirements, relocation plan requirements, and relocation assistance requirements will have substantial financial impact on park owners. The bill's restrictions on the termination of leases and changes in land use will create a significant burden on a park owner's ability to alter the use of, sell, or otherwise transfer ownership of the park owner's land.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Town of Bel Air, Town of Leonardtown, City of Salisbury, Somerset County, Montgomery County, Prince George's County, St. Mary's County, Frederick County, State Department of Assessments and Taxation, U.S. Census Bureau,

Office of the Attorney General (Consumer Protection Division), Department of
Legislative Services

Fiscal Note History: First Reader - February 27, 2008
ncs/jr

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Exhibit 1
Number of Mobile Home Parks in the State

County	CY 2005	CY 2008	Net Change
Allegany	34	35	1
Anne Arundel	36	38	2
Baltimore City	2	2	0
Baltimore	37	39	2
Calvert	8	7	-1
Caroline	18	19	1
Carroll	15	15	0
Cecil	55	54	-1
Charles	6	6	0
Dorchester	13	13	0
Frederick	6	6	0
Garrett	19	17	-2
Harford	28	28	0
Howard	69	70	1
Kent	7	7	0
Montgomery	10	10	0
Prince George's	6	6	0
Queen Anne's	10	10	0
St. Mary's	19	19	0
Somerset	10	10	0
Talbot	6	6	0
Washington	23	23	0
Wicomico	31	31	0
Worcester	19	16	-3
Total	487	487	0

Source: State Department of Assessments and Taxation
