

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 692 (Delegate Lafferty, *et al.*)
Environmental Matters

Mobile Home Park Relocation Act

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 (MCPA).

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's imposition of existing penalty provisions. If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints stemming from this bill, the additional workload can be handled with existing resources.

Local Effect: Local government expenditures for assistance paid to displaced residents may decrease. Potential minimal increase in revenues and expenditures due to the bill's imposition of existing penalty provisions.

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 proposed change in land use;
- 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 may result in the dislocation of park residents.

The bill states that these provisions apply retroactively and affect any mobile home park owner who has submitted an application to change the land use of a park if the application is pending before a county or municipal zoning board, authority, or unit as of the bill's July 1, 2009 effective date. If an application is pending as of July 1, 2009, the park owner must, within 30 days of the bill's 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 specifies that the following provisions are construed to apply prospectively and may not be applied to an owner of a mobile home park if the park is closed before the bill's effective date of July 1, 2009.

Lease Termination Requirements: 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 and relocation assistance valued at \$3,500. A park owner is not required to provide any individual household relocation assistance in any greater amount. If a county or municipal corporation requires a park owner to provide more than \$3,500 in relocation assistance to each dislocated resident, the county or municipal corporation must give a \$3,500 credit against the total amount required to be provided by the park owner under local law.

Termination Notice: The required notice accompanying relocation assistance must:

- be delivered by hand delivery and certified mail, return receipt requested;
- include the proposed 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, or a summary of the terms of the rental agreement if a copy cannot be located;
- include a copy of the park's relocation plan, that complies with the bill, as specified; and
- include the 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 from the date of posting of 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 in writing: a cash payment; a reduction of rent owed; services rendered in relocating the resident's mobile home; other relocation assistance provided by the park owner; or any combination of the above. The park owner must provide assistance within 15 days after a resident informs the park owner of an intention to relocate. If the mobile home of a dislocated resident cannot be relocated without destroying its usefulness, and the resident chooses to dispose of the home, the park owner must pay for the disposal costs.

Rent Increase Prohibition: A park owner may not increase a resident's rent for the purpose of offsetting the cost of relocation assistance or after giving the resident notice of the park closure. These provisions do not apply to an increase in rent according to 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. A park owner's failure 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 two conspicuous places in the park, and at all park entrances and community gathering areas, no later than three days after delivering 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 as well as the proposed 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 from the posting of the notices of closure. 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;
- housing agency of the county in which the park is located, if one exists; and
- the housing agency of the incorporated municipality in which the park is located, if one exists.

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;
- a complete list of all residents, including household sizes, addresses, and resident contact information;
- 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.

If a park owner makes a reasonable good faith effort to obtain the aforementioned information and the information in the plan is based on the good faith effort, the park owner will not incur liability resulting from a failure to provide accurate information in the relocation plan.

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. However, a park owner is not required to provide relocation assistance to a prospective resident who elects to sign a rental agreement upon being informed of the planned park closure.

Current Law: 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. State law 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 the *Dove* case, 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 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. This type of change in land use does not require the submission of any application, so the statutory requirement for an alternative arrangement plan is not triggered.

The Consumer Protection Division of the Office of the Attorney General is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, hold a public hearing, seek an injunction, or bring an action for damages. A merchant who violates MCPA is subject to a fine of up to \$1,000 for the first violation and up to \$5,000 for each subsequent violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to maximum penalties of a fine of \$1,000 and/or imprisonment for one year.

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. Over the past few years, the number of mobile home parks in the State has remained relatively stable, with approximately 487 communities statewide. Although the number of mobile home parks on a county-by-county basis has varied slightly, the number of parks statewide has not dramatically changed in recent years. Howard and Cecil counties combine for approximately 25% of the total mobile home parks in the State.

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 2007. 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 are not available for future use.

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

Small Business Effect: Mobile home park owners face a meaningful impact due to the bill's provisions. Increased notice requirements, relocation plan requirements, and relocation assistance requirements will have a 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 land for mobile home parks.

Additional Information

Prior Introductions: A similar bill was introduced as HB 555 in the 2008 session and received an unfavorable report from the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Towns of Bel Air and Leonardtown; City of Salisbury; Carroll, Harford, and Montgomery counties; Department of Housing and Community Development; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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