

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1323 (Delegate Holmes)
Environmental Matters

Real Property - Mobile Home Parks - Resident and Park Owner Rights

This bill requires mobile home park owners to maintain security deposits in federally insured financial institutions and establishes procedures with respect to the maintenance and distribution of security deposits in the event of a sale or transfer of the mobile home park. The bill also establishes rent escrow procedures and remedies in the event of an action for repossession of the premises, holding over beyond the termination of a rental agreement, or wrongful detainer.

Fiscal Summary

State Effect: If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources. Any increase in the workload of the District Court and enforcement of the bill's provisions can likely be handled with existing resources.

Local Effect: Any increase in the workload of the circuit courts and enforcement of the bill's provisions can likely be handled with existing resources.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: A mobile home park owner must maintain residents' security deposits in a federally insured financial institution that maintains branches in the State in (1) an interest-bearing bank account; (2) federally insured certificates of deposit; or (3) State or federal government-issued securities. In the event of the sale or transfer of

the mobile home park, including receivership or bankruptcy, the park owner or the owner's estate remains liable to the residents for the maintenance of the security deposits.

A security deposit may not be attached by a creditor of either the mobile home park owner or a resident. If a park owner withholds either any portion of a security deposit, a written list of damages claimed and a statement of cost must be mailed to the resident's last known address. If a resident has been evicted or ejected for breaching a condition of the lease, or has abandoned the premises before the end of the tenancy, the resident may demand the return of the security deposit by written notice to the park owner within 45 days of eviction, ejection, or abandonment. The park owner must return the security deposit with accrued interest at 3% per annum, less any actual costs incurred and damages rightfully withheld.

The bill also establishes rent escrow procedures in the event a party demands a jury trial in an action for repossession of the premises or in an action where a tenant holds over beyond the end of the rental agreement. If the resident, or sublessee, fails to pay rent as it comes due, the circuit court must conduct a hearing on the status of the delinquent rent. If the circuit court determines the failure to pay rent is without legal justification, the court may waive the resident's demand for a jury trial; immediately conduct a nonjury trial; or set the matter for a future nonjury trial on the merits of the park owner's claim.

In the event a resident or sublessee unlawfully holds over beyond the termination of the rental agreement, and service of process upon the resident was legally sufficient, the court may award the park owner damages in addition to the costs of the lawsuit. However, if a park owner consents to a resident holding over beyond the termination of the lease, the agreement becomes a periodic month-to-month tenancy.

The bill establishes procedures to eject a person who holds possession of a property without the right of possession (wrongful detainer). If a person other than a resident holding over violates this provision, a person claiming possession may make a written complaint to the District Court of the county where the property is located.

After receiving a complaint for possession, the court must summon the person in possession to appear and to show cause, if any, why the court should not grant restitution to the person filing the complaint. If the person in actual possession cannot be found, process may be served by affixing an attested copy conspicuously on the property. If the notice is sent by first class mail, affixing the summons constitutes sufficient service to support restitution of possession. A counterclaim or crossclaim may not be filed in an action for a wrongful detainer.

If the court determines that the complainant is legally entitled to possession, the court must (1) give judgment for restitution of the possession of the property to the

complainant; and (2) issue a warrant to deliver possession. The court may also order judgment in favor of the complainant for damages due to the wrongful detainer and for court costs and attorney's fees under specified circumstances.

Decisions of the District Court may be appealed to the circuit court. If the circuit court's judgment after a hearing is in favor of the landlord, the court must issue a warrant for possession. The bill allows a person in actual possession of the property to retain possession until the determination of the appeal, if the person (1) files an affidavit with the court; and (2) files sufficient securitized bond or pays the complainant or the appellate court:

- the fair rental value of the property for the period of possession to the date of judgment;
- all court costs;
- all losses or damages other than fair rental value that the court determined to be due as a result of the detention of possession; and
- the fair rental value of the property during the pendency of appeal.

The bill further specifies procedures for a park owner to bring an action for summary ejectment in the event a resident dies intestate and without next of kin, and establishes the presumption that property is abandoned in accordance with the Commercial Law Article.

Current Law:

Security Deposits: A mobile home park owner may not impose a security deposit that exceeds the greater of \$50 or two months rent. A park owner must maintain all security deposits only in a separate account at a State bank or savings institution. However, security deposits cannot be held in federally insured certificates of deposit or in federal or State-issued securities, such as Treasuries or municipal bonds. In the event of a sale or transfer of a mobile home park, including receivership or bankruptcy, the successor in interest is liable to the resident for the security deposit. If a park owner withholds a portion of a resident's security deposit, the park owner does not have to provide the resident with a written list of damages claimed along with a statement of the costs actually incurred.

Holding Over Beyond the Termination of a Rental Agreement: If a mobile home park tenant or sublessee unlawfully remains on the premises beyond the end of a lease, a park owner may file a written complaint with the District Court of the county where the property is located. The court must issue a summons to the resident or person in possession of the premises to show cause as to why possession has not been restored to

the park owner. A park owner is not entitled to the costs of the lawsuit if the court finds that the resident was personally served with a summons.

A mobile home park tenant or sublessee that unlawfully remains on the premises beyond the end of a lease is liable to the park owner for any actual damages incurred. The owner's damages may not be less than the proportional amount of rent that accrued during the holdover period. A park owner has the option of bringing an action for damages in a separate lawsuit or during the eviction proceeding so long as the District Court has proper jurisdiction over the amount in issue.

Wrongful Detainer: A wrongful detainer is the unlawful holding or possession of property without the right to possession and is not currently recognized as a separate violation of the Mobile Home Parks Act. The Mobile Home Parks Act sets forth remedies to address unlawful possession of property that are similar to established statutory remedies for wrongful detainer landlord-tenant actions; statutory provisions, addressing a park owner's repossession remedies in the event of holding over beyond the end of a rental agreement, refer to both the resident and the person in actual possession of the premises.

Background: Generally, the District Court has exclusive jurisdiction over landlord-tenant disputes and contract and tort claims involving \$30,000 or less.

The bill tracks nearly identical provisions of Title 8 of the Real Property Article addressing the rights and remedies of landlords and tenants, specifically sections governing security deposits; rent escrow in landlord-tenant actions; and landlord remedies for failure to pay rent and for the unlawful holding over beyond the end of a tenancy or lease.

The Consumer Protection Division of the Office of the Attorney General is responsible for enforcing the Mobile Home Parks Act. To the extent a violation of the Mobile Home Parks Act affects a resident or prospective resident, that violation is within the scope of the enforcement duties and powers of the Consumer Protection Division of the Office of the Attorney General, as described in the Maryland Consumer Protection Act.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Secretary of State, Department of Legislative Services

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