



HOUSE BILL 151: Vacation Rentals/Orange Co. Jail Construction.

2016-2017 General Assembly

Committee:	Senate Commerce	Date:	May 31, 2016
Introduced by:	Reps. Tine, Setzer, J. Bell, Jackson	Prepared by:	Wendy Ray
Analysis of:	PCS to Second Edition H151-CSSU-43		Committee Counsel

SUMMARY: *The Proposed Committee Substitute for House Bill 151 makes changes to the Vacation Rental Act, amends provisions of law related to summary ejectment and residential rental agreements, and amends a State land lease to facilitate construction of a new jail in Orange County as follows:*

- *Amends the Vacation Rental Act by adding definitions of terms used in the Act, clarifying when a real estate broker may deduct management fees from advanced payments, requiring landlords to provide carbon monoxide detectors in rental properties, setting out responsibilities of real estate brokers managing rental properties, and providing for early termination of vacation rental agreements when a member of the Armed Forces is deployed or relocated.*
- *Provides that a writ for possession in a summary ejectment is not returned unexecuted when the landlord allows property to remain on the premises but the sheriff padlocks it.*
- *Provides that a real estate broker is not personally liable in a civil action between landlord and tenant because he or she fails to identify the landlord in a rental agreement.*
- *Provides that a landlord may charge a court-appearance fee in a successfully prosecuted summary ejectment action, but the fee is vacated if the tenant appeals the judgment.*
- *Amends a land lease between the Department of Administration and Orange County to facilitate construction of a new jail by allowing the County to grant a leasehold of trust in the land and buildings, allowing the mortgage holder to foreclose if the County defaults, and extending the original lease dates for commencement and completion of construction by 18 months.*

BILL ANALYSIS: The Proposed Committee Substitute for House Bill 151 does the following:

Part I of the PCS makes changes to statutes related to vacation rentals, residential rental agreements, and summary ejectment procedures.

Section 1 provides definitions for "advanced payments" and "landlord", terms that are currently used but not defined in the Vacation Rental Act.

Section 1.2 provides that a real estate broker holding advanced payments from a tenant when a landlord's interest in a rental property terminates may deduct management fees earned prior to the transfer per the agency agreement between the broker and landlord. The landlord would be responsible to his or her successor in interest for any amount deducted.

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Director



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Section 1.3 requires the landlord of a vacation rental property to provide one carbon monoxide alarm for each level of each rental unit if the unit has a fossil-fuel burning heater, appliance, or fireplace, or if the unit has an attached garage.

This section also sets out responsibilities and liabilities of real estate brokers who manage vacation rental properties on behalf of a landlord.

Section 1.4 provides for early termination of a vacation rental agreement for a member of the Armed Forces of the United States if he or she receives an order for deployment or a permanent change of station after executing the vacation rental agreement. The member would have to provide written notice of cancellation to the landlord within ten calendar days of receipt of the order and provide a copy of the order or verification signed by the member's commanding officer. This right to terminate also extends to the spouse of a member of the Armed Forces.

Section 1.5 provides that a writ for possession of real property in a summary ejectment is not returned unexecuted when the landlord allows property to remain on the premises but the sheriff locks the premises.

Section 1.6 provides that a real estate broker managing a rental property on behalf of a landlord is not personally liable in a civil action between the landlord and tenant when the broker fails to identify the landlord in the rental agreement.

Section 1.7 authorizes a landlord to charge a court-appearance fee when a tenant is in default of a lease and the landlord successfully prosecutes a complaint for summary judgment, but provides that the fee awarded shall be vacated if the tenant appeals.

Section 1.8 is a conforming change to a cross-reference needed due to the renumbering of definitions in Section 1.1.

Part II of the PCS authorizes amendments to a lease of State property to Orange County in order to facilitate construction of a new jail.

Sections 2.1-2.4 require the Department of Administration, upon agreement by Orange County, to amend its lease of land to the County to provide:

- That the County may grant a leasehold deed of trust in the land and buildings for up to 40 years.
- That the mortgage holder may foreclose and evict the County if it defaults.
- That the dates for commencement and completion of construction set out in the original lease are extended by 18 months.

The amendments would not be required to be submitted to the Governor or Council of State for approval.

EFFECTIVE DATE: Part I of the bill, pertaining to vacation and residential rental agreements, would become effective July 1, 2016, but would not affect any litigation pending on that date. The remainder of the act would be effective when it becomes law.