



2015-2016 General Assembly

# HOUSE BILL 151: Vacation Rentals/Orange County Jail Construction, Part I: Changes to the Vacation Rental Act/Summary Ejectment/Residential Rental Agreements

<b>Committee:</b>		<b>Date:</b>	September 8, 2016
<b>Introduced by:</b>		<b>Prepared by:</b>	Wendy Ray Staff Attorney
<b>Analysis of:</b>	Part I of S.L. 2016-98		

**OVERVIEW:** Part I of S.L. 2016-98 makes changes to the Vacation Rental Act and amends provisions of law related to summary ejectment and residential rental agreements 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 real estate broker or firm is not personally liable in a civil action between landlord and tenant solely 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.

*This part became effective July 1, 2016, but does not affect any litigation pending on that date.*

**BILL ANALYSIS:** Part I of the act makes changes to statutes related to vacation rentals, residential rental agreements, and summary ejectment procedures.

**Section 1.1** 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.

**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

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# House Bill 151

Page 2

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 1.6** provides that a real estate broker or firm managing a rental property on behalf of a landlord is not personally liable in a civil action between the landlord and tenant solely because the broker or firm 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.

**EFFECTIVE DATE:** This part became effective July 1, 2016, but does not affect any litigation pending on that date.