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Bill Analysis
Legislative Service Commission

Am. Sub. H.B. 263

123rd General Assembly
(As Passed by the House)

Reps. Cates, Allen, Boyd, Clancy, Corbin, DePiero, Krebs, Maier, Olman, Pringle, Thomas, Winkler, Jolivette, Mead, Roman, Grendell, Perz, Core, Vesper

BILL SUMMARY

- Expands the circumstances that are considered to be evidence of an intent to commit theft of rented property to include absconding with the rented property and knowingly failing to pay the rental as required by a contract of rental without excuse for the failure.

CONTENT AND OPERATION

Existing law

Under existing law, each of the following is considered evidence of an intent to commit theft of rented property (sec. 2913.72(A)):

(1) At the time of entering into the rental contract, the rentee presented the renter with identification that was materially false, fictitious, or not current with respect to name, address, place of employment, or other relevant information.

(2) After receiving a notice demanding the return of rented property, the rentee neither returned the rented property nor made arrangements acceptable with the renter to return the rented property.

To establish that a rentee has an intent to commit theft of rented property under the provision described in paragraph (2), existing law authorizes a renter to issue a notice to a rentee demanding the return of rented property. The renter must mail the notice by certified mail, return receipt requested, to the rentee at the address the rentee gave when the rental contract was executed, or to the rentee at the last address the rentee or the rentee's agent furnished in writing to the renter. A demand for the return of rented property is not a prerequisite for the prosecution of a rentee for theft of rented property. The evidence specified in paragraphs (1) and

(2), above, does not constitute the only evidence that may be considered as evidence of intent to commit theft of rented property. (Sec. 2913.72(B) and (C).)

For the purposes of this provision (sec. 2913.72(D) and sec. 2913.01(W)--not in the bill):

(1) "Rented property" means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the duration of possession of the property.

(2) "Renter" means a person who owns rented property.

(3) "Rentee" means a person who pays consideration to a renter for the use of rented property.

Operation of the bill

Under the bill, the following circumstances also are to be considered evidence of an intent to commit theft of rented property (sec. 2913.72(A)(2) and (3)):

(1) The rentee absconded with the rented property.

(2) The rentee knowingly failed to pay the rental as required by a contract of rental without reasonable excuse for the failure.

The bill also defines the following terms for the purposes of the provision:

(1) "Rental" does not include rental payments to a landlord or park operator by a tenant or owner, payments for the rental of real property for residential use and occupancy by the owner of a manufactured home or the owner of a recreational vehicle, or payments under a lease-purchase agreement (sec. 2913.72(C)(3)).

(2) "Landlord" means the owner, lessor, or sublessor of premises, the agent or person the landlord authorizes to manage premises or to receive rent from a tenant under a rental agreement, except, if required by the facts of the action to which the term is applied, "landlord" means a park operator (sec. 2913.72(D)(4) by reference to sec. 1923.01(C)(2)--not in the bill).

(3) "Lease-purchase agreement" means an agreement for the use of personal property by an individual primarily for personal, family, or household

purposes for an initial period of four months or less that is automatically renewable with each lease payment after the initial period and that permits the lessee to acquire ownership of the property. It does not include any of the following: (a) a lease for agricultural, business, or commercial purposes, (b) a lease made to an organization, (c) a lease of money or intangible personal property, or (d) a lease of a motor vehicle. (Sec. 2913.72(D)(5) by reference to sec. 1351.01(F)--not in the bill.)

(4) "Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards. (Sec. 2913.72(D)(6) by reference to secs. 4501.01(NN) and 3781.06(C)(4)--not in the bill.)

(5) "Recreational vehicle" means a vehicular portable structure that is designed and constructed to be used as a temporary dwelling for travel, recreational, and vacation uses and is classed as follows (sec. 2913.72(D)(6) by reference to sec. 4501.01(Q)--not in the bill):

(a) "Travel trailer" means a nonself-propelled recreational vehicle that does not exceed an overall length of 35 feet, exclusive of bumper and tongue or coupling, and contains less than 320 square feet of space when erected on site. "Travel trailer" includes a tent-type fold-out camping trailer.

(b) "Motor home" means a self-propelled recreational vehicle that is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.

(c) "Truck camper" means a nonself-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(d) "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of 400 square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.

(e) "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American National Standard Institute standard for park trailers, is built on a single chassis, has a gross trailer area of 400 square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

(6) "Owner" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who owns the home occupying the lot (sec. 2913.01(D)(7) by reference to sec. 3733.01(K)--not in the bill).

(7) "Park operator" means a manufactured home park operator. "Operator" means the person who has responsible charge of a manufactured home park, recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp and who is licensed under the Manufactured Home Park Laws. "Manufactured home park" means, subject to specified exceptions, any tract of land upon which three or more manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the park. (Sec. 2913.01(D)(7) by reference to sec. 3733.01(A), (M), and (N)--not in the bill.)

(8) "Tenant" means both of the following (sec. 2913.72(D)(8) by reference to secs. 1923.01(C)(1) and 3733.01(J)--not in the bill):

(a) A person who is entitled under a rental agreement to the use or occupancy of premises, other than premises located in a manufactured home park, to the exclusion of others.

(b) A person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who does not own the home occupying the lot.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-22-99	p. 330
Reported, H. Criminal Justice	05-19-99	p. 685
Passed House (85-12)	05-26-99	pp. 719-722

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