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Bill Analysis
Legislative Service Commission

H.B. 425

126th General Assembly
(As Introduced)

Reps. Uecker, Blasdel, Flowers, Seitz, Blessing, Bupp, Coley, Fessler, Gibbs, Hoops, Law, J. McGregor, Setzer, Wolpert, Allen, Barrett, Distel, Mitchell

BILL SUMMARY

- Authorizes eviction (forcible entry and detainer) proceedings against a manufactured home park resident, or the estate of a manufactured home park resident, who dies during the term of the resident's rental agreement with the park operator.
- Specifically authorizes the disposal of personal property abandoned on the residential premises of a manufactured home park when a deceased resident or resident's estate is evicted from a manufactured home park.
- Authorizes the clerk of a court to impose on a manufactured home park operator a reasonable fee for the appraisal and the advertisement of the sale of an abandoned manufactured or mobile home or recreational vehicle and provides for reimbursement of the fee from the proceeds of the sale.
- Requires the court clerk to give notice of the possible destruction, sale, or transfer of title of a manufactured or mobile home or recreational vehicle pursuant to a writ of execution on a judgment of restitution issued under the Forcible Entry and Detainer Law to the auditor and treasurer of the county in which the court is located.
- Prohibits the removal from a manufactured home park and the storage of a manufactured or mobile home or recreational vehicle that is the subject of a writ of execution on a judgment of restitution issued under the Forcible Entry and Detainer Law if the holder of any outstanding lien, right, title, or interest in the home or vehicle meets certain conditions.

- Requires that the officer conducting a sale of an abandoned manufactured or mobile home or recreational vehicle pursuant to a writ of execution on a judgment of restitution issued under the Forcible Entry and Detainer Law give written notice of the sale to the auditor and treasurer of the county in which the court that issued the writ of execution is located and to persons listed on the writ as having any outstanding right, title, or interest in any personal property to be sold.
- Provides that the purchaser of a manufactured or mobile home or recreational vehicle that was sold pursuant to a writ of execution has no right to maintain the home or vehicle in a manufactured home park without the park operator's consent and that the officer conducting the sale must notify all prospective purchasers of that fact before commencing the sale.
- Authorizes an officer who sells a manufactured or mobile home or recreational vehicle pursuant to a writ of execution on a judgment of restitution issued under the Forcible Entry and Detainer Law to have the home or vehicle destroyed if it is abandoned and worth less than \$3,000 if there is no person other than the titled owner who has an outstanding right, title, or interest in the home or vehicle or to have title to it transferred to the plaintiff if no one other than the titled owner has an outstanding right, title, or interest in it or if a lienholder who does have an outstanding right, title, or interest in it consents in writing to the transfer.
- Allows the holder of any outstanding lien, right, title, or interest in a manufactured or mobile home or recreational vehicle that is to be sold pursuant to a writ of execution on a judgment of restitution issued under the Forcible Entry and Detainer Law, other than the titled owner of the home or vehicle, to stop a sale of the home or vehicle by commencing a proceeding to repossess it and by paying to the park operator all monthly rental payments for the lot on which the home or vehicle is located from the time of the issuance of the writ of execution until the time that the home or vehicle is sold following repossession.
- Authorizes a manufactured home park operator to make rental renewal offers by regular mail or personal delivery.
- Defines "personal property" for purposes of the Forcible Entry and Detainer Law and makes various nonsubstantive changes to existing law.

CONTENT AND OPERATION

Eviction of a deceased tenant or the tenant's estate from a manufactured home park

The existing Forcible Entry and Detainer Law (FE and D Law) authorizes eviction proceedings to be brought against tenants and other persons under specified circumstances. For example, the statute allows proceedings by landlords against tenants or manufactured home park residents who hold over their terms or breach obligations imposed by statute or written rental agreements. Some provisions apply expressly to manufactured home park residents. These allow eviction proceedings against manufactured home park residents who default in the payment of rent, breach the terms of a rental agreement, commit multiple material violations of the rules of the manufactured home park, the rules of the public health council, or applicable health and safety codes, or has been absent from the manufactured home park for 30 consecutive days without notice or payment of rent. The bill expands the existing list of persons against whom eviction proceedings under the FE and D Law may be brought to include a manufactured home park resident, or the estate of a manufactured home park resident, who dies during the term of the resident's rental agreement with the park operator. (R.C. 1923.02(A)(16).)

Under existing law, when a resident's estate has been evicted from a manufactured home park under the FE and D Law, the removal from the park and the potential sale, destruction, or transfer of ownership of the resident's manufactured or mobile home or recreational vehicle must be conducted in the manner prescribed by the probate court in which letters testamentary or of administration have been granted for the estate. The bill applies this provision to the eviction of a deceased resident as well as to the resident's estate and includes among the property subject to disposition pursuant to the probate court's order any personal property abandoned on the residential premises. (R.C. 1923.12(D).)

Disposition of manufactured home, mobile home, or recreational vehicle on eviction from a manufactured home park

Fee for appraisal and advertisement of sale

Existing FE and D Law provides a procedure through which an operator of a manufactured home park may have the manufactured home, mobile home, or recreational vehicle of an evicted resident or resident's estate removed and disposed of if the home or vehicle has been abandoned or otherwise left unoccupied for three days following the entry of eviction judgment. The procedure requires the manufactured home park operator to provide notice to the titled owner of the home or vehicle to remove the home or vehicle within 14 days

of delivery of the notice, the issuance of a writ of execution by the court if the home or vehicle is not removed within that 14-day period, and the storage and sale of the home or vehicle by a law enforcement officer or bailiff. (R.C. 1923.12(A), (B), and (C), 1923.13(B), and 1923.14(B).)

The bill authorizes the clerk of a municipal court, county court, or court of common pleas to require the park operator to pay a reasonable fee for the appraisal and the advertisement of the sale of the home or vehicle (R.C. 1923.12(C)).

Notice of possible action following issuance of a writ of execution

When a court enters a judgment of restitution in an eviction proceeding under the FE and D Law against a resident or estate of a resident of a manufactured home park, it will also issue, at the plaintiff's request, a writ of execution directing the appropriate peace officer or bailiff to cause the removal of the defendant (resident) from the residential premises if necessary to levy on the goods and chattles of the defendant, and either to remove the defendant's manufactured or mobile home or recreational vehicle from the manufactured home park and store it if necessary or to retain it at its current location until disposed of (R.C. 1923.13). When a court issues a writ of execution as described above, the court clerk must send notice by regular mail to the last known addresses of the titled owner of the home or vehicle and other persons listed on the writ as having any outstanding right, title, or interest in the home or vehicle that the home or vehicle may be sold or destroyed or have its title transferred. The bill adds the requirement that the clerk also send the notice by regular mail to the auditor and treasurer of the county in which the court is located. (R.C. 1923.14(B)(1).)

Removal and storage of home or vehicle

Under existing FE and D Law, the officer receiving the writ of execution may either remove and store the manufactured or mobile home or recreational vehicle that is the subject of the writ or keep it at its current location until it is claimed by the defendant or otherwise disposed of in an authorized manner. The bill prohibits removal or storage of either the home or vehicle or the defendant's personal property if the holder of any outstanding lien, right, title, or interest in the home or vehicle, other than the titled owner of the home or vehicle, commences a proceeding to repossess the home or vehicle pursuant to R.C. Chapter 1309. (secured transactions) or 1317. (retail installment contracts) and pays to the park operator all monthly rental payments for the lot on which the home or vehicle is located from the time of the issuance of the writ of execution until the time that the home or vehicle is sold pursuant to those chapters. (R.C. 1923.14(B)(2) and (6).)

Notice of sale of manufactured or mobile home or recreational vehicle and personal property

Ordinarily, a peace officer or bailiff must commence proceedings for the sale of a manufactured or mobile home or recreational vehicle within 60 days after receiving a writ of execution on a judgment of restitution issued under the FE and D Law if the home or vehicle is determined to be abandoned. In addition to the other notices required to be given, the officer or bailiff must serve a written notice of the date, time, and place of the sale upon all persons at their respective last known addresses who are listed on the writ of execution as having any outstanding right, title, or interest in the abandoned manufactured home, mobile home, or recreational vehicle. The bill adds to the property to be sold the defendant's personal property on the residential premises and requires that notice of sale be given to persons listed on the writ as having any outstanding right, title, or interest in the personal property. The bill also requires that the officer or bailiff provide written notice of the sale to the auditor and the treasurer of the county in which the court issuing the writ is located. (R.C. 1923.14(B)(3).)

Distribution of proceeds of sale

Existing law provides for the distribution of the proceeds from the sale of an abandoned manufactured or mobile home or recreational vehicle. Before any distributions are made for the payment of tax liens, security interests, or other claims on the proceeds, the peace officer or bailiff who conducted the sale must pay any costs that have been incurred for moving and storing the home or vehicle. The bill specifies that these costs include reimbursement to the park operator for any appraisal and advertising fee paid to the clerk of courts (see "**Fee for appraisal and advertisement of sale**," above). The bill does not otherwise change the priorities for distributing the proceeds from the sale of the abandoned home or vehicle. (R.C. 1923.14(B)(3)(a) and 1923.12(C).)

Issuance of new title to home or vehicle

Under existing law, if a peace officer or bailiff returns a writ of execution on a judgment of restitution issued under the FE and D Law after selling an abandoned home or vehicle and the court that issued the writ is satisfied that the sale was properly made, the court must direct the clerk of the court to issue a certificate of clear title to the purchaser. If the officer or bailiff returns the writ unsatisfied because of a lack of bidders, the clerk of the court that issued the writ issues a certificate of clear title to the plaintiff. Under the bill, if the home or vehicle was sold, the court must direct the clerk of the court of common pleas of the county in which the writ was issued to issue the certificate of clear title. If the home or vehicle was not sold because there were no bidders, the clerk of the court of common pleas in the county in which the writ was issued issues the certificate

of title to the plaintiff. The bill further requires the clerk of the court of common pleas to issue the certificate of title regardless of whether the writ was issued by the court of common pleas or another court that was authorized to issue the writ. The bill specifies that if a home or vehicle that was sold is located in a manufactured home park, the purchaser has no right to maintain it there without the park operator's consent, and the officer conducting the sale must notify all prospective purchasers of that fact before commencing the sale. (R.C. 1923.14(B)(3), last two paragraphs.)

Under existing law, subject to the exception discussed in the next paragraph, if a peace officer or bailiff receives a writ of execution on a judgment of restitution issued under the FE and D Law and the manufactured or mobile home or recreational vehicle is determined to be abandoned and to have a value of less than \$3,000, the peace officer or bailiff, within 60 days after receiving the writ, must serve a written notice of potential action upon all persons at their respective last known addresses who are listed on the writ as having any outstanding right, title, or interest in the home or vehicle. The officer or bailiff must then take one of three actions. If there is no outstanding right, title, or interest in the home or vehicle, the officer or bailiff must either cause the destruction of the home or vehicle or present the writ to the clerk of the court that issued it for the issuance by the clerk of a certificate of title transferring the title to the plaintiff. The third alternative is to proceed with a sale. The bill specifies that the officer or bailiff may have the home or vehicle destroyed if there is no person, other than the titled owner, who has an outstanding right, title, or interest in the home or vehicle. It further specifies that the officer or bailiff may have the clerk transfer title to the plaintiff if no one other than the titled owner has an outstanding right, title, or interest or if a lienholder who does have an outstanding right, title, or interest consents in writing to the transfer. The bill requires the clerk of the court of common pleas to issue the certificate transferring the title regardless of whether the writ was issued by the court of common pleas or another court that was authorized to issue the writ. (R.C. 1923.14(B)(4).)

Existing law allows the titled owner of an abandoned manufactured or mobile home or recreational vehicle to remove the home or vehicle from a manufactured home park or other place of storage at any time between the issuance of a writ of execution and the day scheduled for the home or vehicle's sale, destruction, or transfer upon payment of all costs of moving and storage plus costs incurred to date by the officer, all outstanding tax liens, and, unless the owner is indigent, all unpaid court costs assessed against the owner in the eviction proceeding. The bill also allows the holder of any outstanding lien, right, title, or interest in the home or vehicle, other than the titled owner, to stop a sale by commencing a proceeding to enforce a security interest or to repossess under R.C. Chapter 1309. or 1317. or by paying to the park operator all monthly rental payments for the lot on which the home or vehicle is located from the time of the

issuance of the writ of execution until the time that the home or vehicle is sold. (R.C. 1923.14(B)(5) and (6).)

Delivery of subsequent rental offers

Existing law, unchanged by the bill requires a manufactured home park operator to offer each home owner a written rental agreement for a manufactured home park lot for a term of one year or more that contains terms essentially the same as any alternative month-to-month rental agreement offered to current and prospective tenants and owners. The park operator must offer the minimum one-year rental agreement to the owner prior to installation of the home in the manufactured home park or, if the home is in the manufactured home park, prior to the expiration of the owner's existing rental agreement. (R.C. 3733.11(A)(1).)

The park operator must deliver the rental offer to the owner by certified mail, return receipt requested, or in person. If the owner accepts the offer, the park operator must, at the expiration of each successive rental agreement, offer the owner another rental agreement, for a term that is mutually agreed upon, and that contains terms essentially the same as the alternative month-to-month agreement. Existing law requires that the park operator deliver subsequent rental offers in the same manner in which the operator delivered the first rental offer. Under the bill, subsequent rental offers must be made by ordinary mail or personal delivery. (R.C. 3733.11(A)(2).)

Miscellaneous changes

The bill defines "personal property" for purposes of R.C. Chapter 1923. (forcible entry and detainer) as "tangible personal property other than a manufactured home, mobile home, or recreational vehicle that is the subject of an action" under Chapter 1923. The bill moves the definitions of "mobile home" and "manufactured home" to separate subdivisions of R.C. 1923.01 and changes the references in the definitions to other sections of the Revised Code without altering the substance of the definitions. (R.C. 1923.01(C)(3), (9), (10), and (11).)

The bill also makes nonsubstantive corrections or clarifications to some of the language used in several sections (R.C. 1923.02(A)(10); 1923.12(A), (C), (D), and (E)(2) and (3); 1923.13; 1923.14(B)(2) and (3)).

HISTORY

ACTION	DATE
Introduced	11-15-05
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