

Uniform Law Revision Update Uniform Residential Landlord and Tenant Act



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At the most recent MHI Convention in Las Vegas, one of the educational seminars addressed the potential impacts of the new revised Uniform Residential Landlord and Tenant Act. In the intervening time after the MHI Convention, the Uniform Law Commission has continued meeting and has now approved a proposed new Uniform Residential Landlord and Tenant Act (“Act”).

The Act as proposed by the Uniform Law Commission does not directly affect rentals of sites within a mobile home park. However, states that might be considering the legislation can amend the model act, as suggested by any particular state legislature. Thus, while the Act as proposed would not cover a typical tenancy in a mobile home park, a revision could easily be added to include the normal type of land lease arrangement used in mobile home parks.

Additionally, since the commencement of the “great recession” in late 2008, early 2009, many mobile home parks have found it necessary to rent out mobile homes owned by the community to assist in keeping rental occupancy rates high and improve cash flow. Rental of a mobile home, as a dwelling, would absolutely be covered by the Act.

As of this time, approximately 20 states have enacted the prior version of the Act and presumably many of these same states will take up and consider the newly revised Act. Given that the Uniform Law Commission submits their proposal to all 50 states, park owners in jurisdictions that have not adopted the Act should meet with their legislators to ascertain if the Act is going to be considered.

The proposed Act contains a number of provisions that can directly affect park operations if the concepts being proposed are adopted. Thus, for example, the proposed legislation raises an issue as to what it “unearned” rent and precisely what rent can be collected after a breach of any lease agreement. The legislation also enacts substantial regulatory oversight on the disposition of personal property left behind by a departing tenant and how to approach and resolve issues of abandonment.

Here in California, I would opine there is not a high probabilit-

ty of the Uniform Law Commission proposal being adopted. California has over a hundred years of statutory and decisional law governing real property tenancies and the current interaction of contract law and real property law is well entrenched. Adoption of the proposed legislation would be a highly significant change in policy. However, for the many states that have adopted the Uniform Law Commission’s recommendations for residential tenancy the new legislation should be closely watched and reviewed. The legislation, as a whole, is very “tenant friendly” and contains a number of statutory provisions that are not helpful for a landlord. One obvious example is under section 203 where a lease may not require a tenant to pay the attorney’s fees and costs of a landlord except as specifically authorized by the legislation at issue. That provision can easily be abused by recalcitrant residents that drive up costs on a needless basis for landlords.

The Uniform Law Commission’s recommendations also provide that residents may effectively challenge leases and even settlement agreements on grounds they are “unconscionable.” The opportunity and ability to assert something as unconscionable is set forth in section 106 and provides very few guidelines to restrict a court in its view and interpretation.

Not surprisingly, the legislation also specifically sets forth the “repair” rights of a tenant in a fashion that is again, tenant friendly.

In conclusion, as was expressed at the seminar at the last MHI Convention, park owners should contact their state representative to ascertain whether this new Uniform Law revision recommendation will be acted upon in their state.

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