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Newly passed or pending laws regarding fire protection and eviction procedures affect landlords and tenants

March 01, 2012 - Northern New England

Whether you are a landlord or a tenant, the New Hampshire Legislature has recently passed or is now considering legislation that will impact your rights. This evolving body of law saw significant changes last year in both construction-related requirements and eviction proceedings. Not to be outdone, the 2012 legislature has a number of bills that, if passed, will further affect landlords and tenants. Here are the recent changes:

Fire Protection. In 2011, the legislature, over the Governor's veto, passed laws preventing municipalities from mandating sprinkler systems in residential buildings. One prohibits local planning boards from requiring the installation of fire suppression sprinkler systems in proposed one or two family residences. Similar legislation amended the state building code to prevent municipalities from mandating sprinklers in any new or existing one or two family residences. Critics have voiced concerns that by limiting the choices available to communities in meeting local fire control requirements, developers and landowners will have to use more costly options to provide adequate fire protection.

The 2012 legislature is currently deliberating three new bills relating to fire protection. Senate Bill 1286 would take the deregulation of fire sprinklers a step further than current law by preventing the State Fire Marshall from requiring sprinklers in public buildings where there is inadequate water supply. Senate Bill 335 would exempt high-rise condominium buildings from being retrofitted to comply with the fire code rules if the building was occupied prior to the date the rule was adopted and the majority of unit owners vote to opt-out. The lone bill increasing fire safety standards, House Bill 1153, would establish minimum fire protection standards for detached single and two family dwellings that were built or substantially rehabilitated after January 1, 2013. If passed, this amendment to the Building Code could be costly for those landlords rehabbing properties.

Eviction Procedure. The 2011 legislature passed numerous laws altering the landlord - tenant relationship. Senate Bill 70 reduced the number of days a landlord is required to store a tenant's abandoned property from 21 to 7 and the award for violation of this law to actual damages, plus costs and reasonable attorney's fees. House Bill 173 authorizes commercial tenants to serve a demand for rent or eviction notice at the rental property if a copy is sent via certified mail to the tenant at its last known address. This makes commencing an eviction proceeding much less burdensome in cases when an absentee tenant has defaulted. Previously, commencing in 2011, the legislature required all owners of restricted property to file a statement with the municipality with the contact information of an individual authorized to accept service of process. However, this legislation recently lost some of its bite when the associated \$1,000 penalty for noncompliance was repealed. Moreover, there is newly proposed legislation that would repeal this notification requirement altogether.

There are many other bills involving the eviction process pending before the New Hampshire Legislature. Two separate bills would permit a landlord to amend a writ of summons to correct a technical or procedural defect within seven days of filing, eliminating the need to re-start the eviction process in many instances. Further, Senate Bill 301 would reduce the eviction notice period from 30 to 7 days regardless of the grounds for eviction, increase the amount of damages available to landlords to \$10,000 and require former tenants to provide a financial affidavit and forwarding address if they have been found liable for damages to the landlord. Another landlord favorable bill would establish a procedure to confirm when a tenant has abandoned the rental property. The bill would also clarify that a landlord is not obligated to store personal property once it has been abandoned. Lastly, Senate Bill 364 would prohibit a landlord from interfering with a tenant's ability to invite guests to the residence in limited circumstances.

For landlords and tenants, it pays to devote attention to these various changes and to have legal counsel who can guide you through the complex and ever-changing laws governing rental property. Philip Hastings and Mark Beaudoin are attorneys with Cleveland, Waters and Bass, P.A., Concord, N.H.

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