

No. 1990-221

AN ACT

HB 1549

Amending the act of April 6, 1951 (P.L.69, No.20), entitled "An act relating to the rights, obligations and liabilities of landlord and tenant and of parties dealing with them and amending, revising, changing and consolidating the law relating thereto," providing for removal of tenants for drug violations; providing for tenants' access to cable television; and providing for remedies.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 501 of the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951, repealed in part April 28, 1978 (P.L.202, No.53), is amended to read:

Section 501. Notice to Quit.—A landlord desirous of repossessing real property from a tenant may notify, in writing, the tenant to remove from the same at the expiration of the time specified in the notice under the following circumstances, namely, (1) Upon the termination of a term of the tenant, (2) or upon forfeiture of the lease for breach of its conditions, (3) or upon the failure of the tenant, upon demand, to satisfy any rent reserved and due.

In case of the expiration of a term or of a forfeiture for breach of the conditions of the lease where the lease is for any term of less than one year or for an indeterminate time, the notice shall specify that the tenant shall remove within thirty days from the date of service thereof, and when the lease is for one year or more, then within three months from the date of service thereof. In case of failure of the tenant, upon demand, to satisfy any rent reserved and due, the notice, if given on or after April first and before September first, shall specify that the tenant shall remove within fifteen days from the date of the service thereof, and if given on or after September first and before April first, then within thirty days from the date of the service thereof.

In case of termination due to the provisions of section 505-A, the notice shall specify that the tenant shall remove within fifteen days from the date of service thereof.

The notice above provided for may be for a lesser time or may be waived by the tenant if the lease so provides.

The notice provided for in this section may be served personally on the tenant, or by leaving the same at the principal building upon the premises, or by posting the same conspicuously on the leased premises.

Section 2. The act is amended by adding a section and an article to read:

Section 505-A. Use of Illegal Drugs.—(a) The following acts relating to illegal drugs shall be a breach of condition of the lease and shall be grounds for removal of the tenant from a single-family dwelling, apartment, multiple dwelling premises or tenement building:

(1) *The first conviction for an illegal sale, manufacture or distribution of any drug in violation of the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," on a single-family dwelling or any portion of the multiple dwelling premises or tenement;*

(2) *The second violation of any of the provisions of "The Controlled Substance, Drug, Device and Cosmetic Act" on a single-family dwelling or any portion of the multiple dwelling premises or tenement;*

(3) *The seizure by law enforcement officials of any illegal drugs on the leased premises in the single-family dwelling or multiple dwelling premises or tenement.*

(b) *Failure to remove any tenant for violation of any of the provisions of subsection (a) shall not act as a waiver of the landlord's rights with regard to the same or any other tenant relating to any subsequent acts.*

ARTICLE V-B.

TENANTS' RIGHTS TO CABLE TELEVISION.

Section 501-B. Definitions.—As used in this article—

(1) *"CATV system" or "cable television system" shall include a system or facility or part thereof which consists of a set of transmission paths and associated signal generation, reception, amplification and control equipment which is operated or intended to be operated to perform the service of receiving and amplifying and distributing and redistributing signals broadcast or transmitted by one or more television or radio stations or information distribution service companies, including, but not limited to, the cable communications system owner, operator or manager itself, to subscribers. The term shall include the service of distributing any video, audio, digital, light or audio-video signals whether broadcast or otherwise.*

(2) *"Holding a franchise" shall include obtaining municipal consent to or approval of the construction or operation of a CATV system and the rendering of CATV services whether granted by resolution, ordinance or written agreement. The term shall include a person who has constructed and is operating a CATV system within the public right-of-way of a municipality which, at the time of construction and initial operation of such CATV system, did not require that municipal consent be obtained.*

(3) *"Landlord" shall include an individual or entity owning, controlling, leasing, operating or managing multiple dwelling premises.*

(4) *"Multiple dwelling premises" shall include any area occupied by dwelling units, appurtenances thereto, grounds and facilities, which dwelling units are intended or designed to be occupied or leased for occupation, or actually occupied, as individual homes or residences for three or more households. The term shall include mobile home parks.*

(5) *"Operator" shall include the operator of a CATV system holding a franchise granted by the municipality or municipalities in which the multiple dwelling premises to be served is located.*

Section 502-B. Tenants Protected.—A landlord may not discriminate in rental or other charges between tenants who subscribe to the services of a

CATV system and those who do not. The landlord may, however, require reasonable compensation in exchange for a permanent taking of his property resulting from the installation of CATV system facilities within and upon his multiple dwelling premises, to be paid by an operator. The compensation shall be determined in accordance with this article.

Section 503-B. Tenants' Rights.—The tenant has the right to request and receive CATV services from an operator or a landlord provided that there has been an agreement between a landlord and an operator through the negotiation process outlined in section 504-B or through a ruling of an arbitrator as provided for in this article. A landlord may not prohibit or otherwise prevent a tenant from requesting or acquiring CATV services from an operator of the tenant's choice provided that there has been an agreement between a landlord and an operator through the negotiation process outlined in section 504-B or through a ruling of an arbitrator as provided for in this article. A landlord may not prevent an operator from entering such premises for the purposes of constructing, reconstructing, installing, servicing or repairing CATV system facilities or maintaining CATV services if a tenant of a multiple dwelling premises has requested such CATV services and if the operator complies with this article. The operator shall retain ownership of all wiring and equipment used in any installation or upgrade of a CATV system in multiple dwelling premises. An operator shall not provide CATV service to an individual dwelling unit unless permission has been given by or received from the tenant occupying the unit.

Section 504-B. Right to Render Services; Notice.—If a tenant of a multiple dwelling premises requests an operator to provide CATV services and if the operator decides that it will provide such services, the operator shall so notify the landlord in writing within ten days after the operator decides to provide such service. If the operator fails to provide such notice, then the tenant's request shall be terminated. If the operator agrees to provide said CATV services, then a forty-five day period of negotiation between the landlord and the operator shall be commenced. This original notice shall state as follows: "The landlord, tenants and operators have rights granted under Article V-B of the act of April 6, 1951 (P.L. 69, No. 20), known as 'The Landlord and Tenant Act of 1951.'" The original notice shall be accompanied by a proposal outlining the nature of the work to be performed and including an offer of compensation for loss in value of property given in exchange for the permanent installation of CATV system facilities. The proposal also shall include a statement that the operator is liable to the landlord for any physical damage, shall set forth the means by which the operator will comply with the installation requirements of the landlord pursuant to section 505-B and shall state the time period for installation and security to be provided. The landlord may waive his right to security at any time in the negotiation process.

During the forty-five day period, the landlord and the operator will attempt to reach an agreement concerning the terms upon which CATV services shall be provided. If, within the forty-five day period or at any time thereafter, the proposal results in an agreement between the landlord and the operator, CATV services shall be provided in accordance with the agree-

ment. If, at the end of the forty-five day period, the proposal does not result in an agreement between the landlord and the operator, then this article shall apply. The right of a tenant to receive CATV service from an operator of his choice may not be delayed beyond the forty-five day period contained in the original notice or otherwise impaired unless the matter proceeds to arbitration or court as provided in this article. An operator may bring a civil action to enforce the right of CATV services installation given under this article.

Section 505-B. Compensation for Physical Damage.—*An operator shall be liable to the landlord for any physical damage caused by the installation, operation or removal of CATV system facilities. A landlord may require that the installation of cable television facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises and the convenience and well-being of tenants. A landlord may also require that the installation of cable television facilities conforms to reasonable requirements as to the location of main cable connections to the premises, the routing of cable lines through the premises and the overall appearance of the finished installation. To the extent possible, the location of the entry of a main cable connection to the premises shall be made at the same location as the entry into the premises of public utility connections. A second or subsequent installation of cable television facilities, if any, shall conform to such reasonable requirements in such a way as to minimize further physical intrusion to or through the premises.*

Section 506-B. Compensation for Loss of Value.—*(a) A landlord shall be entitled to just compensation from the operator resulting from loss in value of property resulting from the permanent installation of CATV system facilities on the premises.*

(b) If a landlord believes that the loss in value of the property exceeds the compensation contained in the proposal accompanying the original notice or believes that the terms involving the work to be performed contained in the proposal are unreasonable, or both, the issue of just compensation or reasonableness of terms shall be determined in accordance with the following procedure:

(1) At any time prior to the end of the forty-five day period from the date when the landlord receives the original notice that the operator intends to construct or install a CATV system facility in multiple dwelling premises, the landlord shall serve upon the operator written notice that the landlord demands a greater amount of compensation or believes that the terms involving the work to be performed are unreasonable.

(2) If the operator is dissatisfied with the result of the negotiations at the conclusion of the forty-five day negotiation period, then he shall notify the landlord of the terms which the operator believes to be unreasonable and shall accompany this notice with a formal request for arbitration.

(3) Arbitration proceedings shall be conducted in accordance with the procedures of the American Arbitration Association or any successor thereto. The proceedings shall be held in the county in which the multiple dwelling premises or part thereof are located. Requirements of this act relating to time, presumptions and compensation for loss of value shall apply in

the proceedings. The cost of the proceedings shall be shared equally by the landlord and the operator. The arbitration proceedings, once commenced, shall be concluded and a written decision by the arbitrator shall be rendered within fourteen days of commencement. Judgment upon any award may be entered in any court having jurisdiction.

(4) Within thirty days of the date of the notice of the decision of the arbitrators, either party may appeal the decision of the arbitrators in a court of common pleas, regarding the amount awarded as compensation for loss of value or for physical damages to the property. During the pendency of an appeal, the operator may not enter the multiple dwelling premises to provide CATV services, except as to those units that have existing CATV services. The court shall order each party to pay one-half of the arbitration costs.

(c) In determining reasonable compensation, evidence that a landlord has a specific alternative use for the space occupied or to be occupied by CATV system facilities, the loss of which will result in a monetary loss to the owner, or that installation of CATV system facilities upon such multiple dwelling premises will otherwise substantially interfere with the use and occupancy of such premises to an extent which causes a decrease in the resale or rental value thereof shall be considered. In determining the damages to any landlord in an action under this section, compensation shall be measured by the loss in value of the landlord's property. An amount representing increase in value of the property occurring by reason of the installation of CATV system facilities shall be deducted from the compensation.

(d) The time periods set forth in this section may be extended by mutual agreement between the landlord and the operator.

Section 507-B. Venue.—The court of common pleas of the county in which the multiple dwelling premises or part thereof is located shall have venue of all actions to enforce the provisions of this article or to hear any appeal from the award of arbitrators or any dispute between the parties.

Section 508-B. Alternative Service.—Nothing in this act shall preclude a landlord from offering alternative CATV services to tenants provided that the provisions of this article are not violated.

Section 509-B. Compliance with Requirements for Historical Buildings.—The operator shall comply with all Federal, State or local statutes, rules, regulations or ordinances with respect to buildings located in historical districts.

Section 510-B. Existing CATV Services Protected.—CATV services being provided to tenants in multiple dwelling premises on the effective date of this act may not be prohibited or otherwise prevented so long as the tenant in an individual dwelling unit continues to request such services.

Section 3. The General Assembly finds and declares as follows:

(1) Cable television has become an important medium of public communication, education and entertainment.

(2) It is in the public interest to assure apartment residents and other tenants of leased residential dwellings access to cable television service of a quality and cost comparable to service available to residents living in personally owned dwellings.

(3) It is in the public interest to afford apartment residents and other tenants of leased residential dwellings the opportunity to obtain cable television service of their choice and to prevent landlords from treating such residents and tenants as a captive market for the sale of television reception services selected or provided by the landlord.

Section 4. This act shall take effect in 60 days.

APPROVED—The 20th day of December, A. D. 1990.

ROBERT P. CASEY