

Department of Legislative Services
 Maryland General Assembly
 2001 Session

FISCAL NOTE

House Bill 1346
 Economic Matters

Delegates Brown and La Vay)

Landlord and Tenant - Tenant Holding Over and Breach of Lease - Remedies

This bill establishes time frames for summonses, hearings, process service, and appeals for cases of tenants holding over or breaching leases.

Fiscal Summary

State Effect: General fund expenditures could increase by \$145,100 in FY 2002, reflecting the bill's October 1, 2001 effective date. Out-year projections reflect annualization and inflation. Revenues would not be affected.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	145,100	174,600	184,800	195,800	207,700
Net Effect	(\$145,100)	(\$174,600)	(\$184,800)	(\$195,800)	(\$207,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Expenditures could increase to the extent local jurisdictions need additional sheriffs' deputies or constables to meet the process service requirements of the bill.

Small Business Effect: Minimal.

Analysis

Bill Summary: This bill requires a holdover tenant, another person holding over under a tenant, or a tenant in breach of an unexpired lease to appear in the District Court within 14 days after the filing of the complaint to show cause why restitution should not be

made to the landlord. If the landlord prevails in a restitution case, the court must issue its restitution warrant within four days of the judgment for possession, and the local sheriff or constable must execute the warrant within ten days after its issue. The bill shortens the time frame, from ten to four days, from the judgment within which a party may appeal to the circuit court. When a tenant gives notice to the landlord and the landlord accepts, the tenancy terminates on the date specified in the notice.

The bill authorizes a landlord to file a complaint in the District Court when an unexpired lease for a stated term provides that the landlord may repossess the premises prior to the expiration of the term if: (1) the tenant breaches the lease; (2) the landlord gives the tenant one month's written notice about the lease violation and the landlord's desire to repossess the premises; and (3) the tenant or person in actual possession refuses to comply with the request.

Current Law: A landlord seeking to evict a tenant who holds over at the expiration of the lease may make a complaint in the District Court, if the landlord has given one month's written notice to the tenant or person in possession of the property to vacate the property. The court must issue a summons requiring the tenant, assignee, or subtenant to show cause why restitution should not be granted. If either party fails to appear, the court may continue the case for at least six and not more than ten days. If the landlord prevails in a restitution case, the court must issue its restitution warrant at once and command the tenant to deliver possession at once. Either party may appeal to the circuit court within ten days from the entry of the judgment.

Except in Baltimore City, when a tenant gives oral notice to the landlord at least one month before the expiration of the lease or tenancy in all cases except in year to year tenancies, of the tenant's intent to surrender possession of the property, the landlord is not required to provide written notice to the tenant to recover possession of the property if the landlord proves the tenant's notice by competent testimony.

Except in Baltimore City, the following minimum times apply to the written notices: (1) three months before the expiration of the current year of the tenancy for tenancies from year to year, including tobacco farm tenancies; (2) six months before the expiration of the current year of the tenancy for all other farm tenancies; (3) one month for monthly tenancies; (4) one week for weekly tenancies; and (5) in Montgomery County, except in the case of single family dwellings, two months for residential tenancies with a term of at least month to month but less than year to year.

The damages awarded to a landlord against a holdover tenant or someone holding over under a tenant may not be less than the apportioned rent for the period of the holdover.

Any action to recover damages may be brought in a suit separate from an eviction proceeding or in the same action.

When a lease provides that the landlord may repossess the premises if the tenant breaches the lease and the tenant does breach the lease, the landlord may make a complaint in writing to the District Court. The landlord must give the tenant one month's written notice that the tenant is in violation of the lease and the landlord desires to repossess the premises. The court must then summons the tenant to a hearing. If the court determines that the tenant has breached the lease, the court must grant possession of the premises to the landlord and enter a judgment against the tenant for costs. Acceptance of rent payment by the landlord after notice but before eviction does not operate as a waiver of any notice of breach of the lease or any judgment for possession, unless the parties agree in writing. Either party may appeal to the circuit court within ten days from the entry of the judgment.

State Expenditures: The District Court handles approximately 1,400 breach of lease cases and 2,700 tenant holding over cases annually. The bill's definite time frames could accelerate the processing of these cases. General fund expenditures could increase by an estimated \$145,100 in fiscal 2002, which accounts for the bill's October 1, 2001 effective date. This estimate reflects the cost of hiring five court clerks for the State's busiest rent court divisions (two in Baltimore City and one each in Baltimore, Montgomery, and Prince George's counties) to process the cases within the bill's time frames. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$124,900
Operating Expenses	<u>20,200</u>
Total FY 2002 State Expenditures	\$145,100

Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Local Expenditures: Expenditures could increase to the extent additional deputies or constables are needed to meet the bill's process service requirements. Of the jurisdictions that responded, Howard and Montgomery counties advised that they would require additional deputies. Calvert, Caroline, and Prince George's counties advised that they could handle the bill's requirements with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (District Court of Maryland); Calvert, Caroline, Howard, Montgomery, and Prince George's counties; Department of Legislative Services

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