

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 176

(Senators Eckardt and Carozza)

Judicial Proceedings

Environment and Transportation

**Wicomico County - Landlord and Tenant - Repossession for Failure to Pay Rent
- Procedures**

This bill alters the procedures for enforcing an action for repossession for failure to pay rent in Wicomico County. The bill specifies that nothing in it restricts the authority of Wicomico County to enact legislation governing landlords and tenants, including legislation establishing penalties for a violation of the bill's provisions. The bill applies prospectively, and may not be applied to any cause of action for repossession for failure to pay rent brought in Wicomico County arising before the bill's October 1, 2020 effective date.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: The bill does not materially affect Wicomico County finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: In Wicomico County, subject to specified limitations, if judgment is given in favor of the landlord, the landlord, the landlord's duly qualified agent, or the landlord's attorney may provide for repossession of the property by notifying the tenant of the intended repossession in writing (1) sent by first-class mail, return receipt requested, at least 14 days before the intended date of repossession and (2) posted on the tenant's front door of the leased premises at least 7 days before the intended date of repossession. The required notice must include:

- the District Court summary ejectment case number;
- the tenant's name as stated in the lease or otherwise agreed by the landlord;
- the address of the leased premises;
- the date on which the warrant of restitution was ordered by the District Court;
- the date of the eviction;
- a statement that the repossession may occur unless the tenant (1) returns control of the leased premises to the landlord or (2) exercises his or her specified right to redemption, if available;
- a statement that, if the repossession occurs, all property remaining in the leased premises will be considered abandoned and may be disposed of on execution of the warrant of restitution; and
- a statement that the notice is the final notice to the tenant of the intended repossession, even if the repossession is stayed due to extreme weather conditions.

There is a rebuttable presumption that the tenant was notified as required if the landlord provides (1) the certificate of mailing and (2) a signed affidavit of the person who posted the notice on the tenant's front door of the leased premises. However, if the sheriff *reasonably believes* that the landlord has *not* provided the required notice, the sheriff (1) must notify the District Court and (2) may not execute the warrant of restitution without further order of the District Court. If the District Court finds that the landlord did not provide the required notice, the District Court must vacate the warrant of restitution.

If the landlord presents the certificate of mailing and a signed affidavit of the person who posted the notice on the leased premises, any official of the county entitled to serve process may execute the warrant by putting the landlord, the landlord's duly qualified agent, or the landlord's attorney in possession of the premises, *without* removal of any chattels or personal property from the premises. All chattels and personal property remaining in or about the leased premises at the time that the warrant of restitution is executed must be deemed abandoned. The landlord or any person acting on the landlord's behalf may not be liable for any loss or damage to property deemed abandoned, and the landlord may dispose of abandoned property by (1) transportation to a licensed landfill; (2) donation to charity; or (3) any other legal means. Property deemed abandoned under the bill may not be placed in a public right-of-way or on any public property.

Current Law: Generally, whenever the tenant fails to pay the rent when due and payable, the landlord may repossess the leased premises. Statute contains specific requirements related to filing a complaint, issuing a summons, adjourning the proceedings to procure a witness, executing judgment in favor of the landlord, surrendering the premises by the tenant, and the effect of tender of rent by the tenant.

Removal of Tenant for Noncompliance with Judgment in Favor of Landlord

If judgment is in favor of the landlord and the tenant does not return the premises to the landlord within four days, the court must, at any time after the four days have elapsed, issue a warrant, directed to any official of the county entitled to serve process, ordering the official to take the necessary action to put the landlord in possession of the property. The warrant must also authorize removal from the property of all the furniture, implements, tools, goods, effects, or other chattels belonging to the tenant.

If the landlord does not order a warrant of restitution within 60 days from either the date of judgment or the expiration date of any stay of execution (whichever is later), then (1) the judgment for possession must be stricken and (2) the judgment must generally count toward the threshold for the number of judgments at which a tenant no longer has the right to redemption of the leased premises. Specifically, when three judgments of possession have already been entered against a tenant within the previous 12 months, the tenant is prohibited from being able to redeem the leased premises by paying all past-due amounts.

The administrative judge of any district may stay the execution of a warrant of restitution of a residential property, from day to day, in the event of extreme weather conditions. When a weather-related stay has been granted, the execution of the warrant of restitution must be given priority and completed within three days after the extreme weather conditions cease.

Background: The Judiciary advises that, in fiscal 2019, there were a total of 11,521 landlord/tenant failure to pay rent cases filed in the District Court in Wicomico County. Additionally, more than 3,000 warrants of restitution were issued in Wicomico County in fiscal 2019.

Procedures similar to those found in the bill are also in effect in Baltimore City, pursuant to Baltimore City Code, Article 13, Section 8A.

Additional Information

Prior Introductions: HB 1218 of 2019, a similar bill, passed the House as amended, and received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: HB 227 (Wicomico County Delegation) - Environment and Transportation.

Information Source(s): Wicomico County; Judiciary (Administrative Office of the Courts); Baltimore City Code; Department of Legislative Services

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