

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1070
Judiciary

(Delegate Boyce)

Baltimore City – Landlord and Tenant – Repossession for Failure to Pay Rent

This bill alters procedures for failure to pay rent actions in Baltimore City, including establishing notice requirements prior to filing a complaint with the District Court and more stringent requirements for written complaints. The bill also makes numerous stylistic changes.

Fiscal Summary

State Effect: Potential significant operational impact on the District Court, as discussed below. General fund revenues and special fund revenues may decrease, at least minimally, to the extent that fewer cases are filed.

Local Effect: Potential increase in Baltimore City expenditures and decrease in Baltimore City revenues, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Notice Requirement

To repossess a property for the failure to pay rent, the landlord must first serve a written notice of default on the tenant or tenants named in the lease or rental agreement or, in the absence of a written agreement, the tenant who last paid the rent, by (1) personal delivery; (2) leaving notice at the premises with someone of suitable age and discretion; or

(3) posting at a conspicuous part of the premises. If notice is not personally delivered, the landlord must also serve notice on the tenant by regular mail and certified mail, return receipt requested.

The notice of default must:

- describe the amount of rent claimed to be due, the rental period or periods for which the rent is overdue, the due date, any lawful late fees, and the method by which the tenant may make a full payment to the landlord;
- state that the tenant may cure the arrearage by making a full payment to the landlord, which the landlord may not refuse, within 14 days after service of the notice;
- state that the tenant's failure to cure the arrearage provides the landlord with grounds to file a complaint to evict the tenant in court and that the court may order the tenant to pay court costs;
- state the date on which the landlord may first submit a written complaint to the District Court of Maryland for Baltimore City; and
- include with the notice of default copies of (1) the lease or rental agreement, if one exists, and has not been provided to the tenant previously under the bill's provisions in the past year; (2) records demonstrating that the leased premises complies with applicable registration, inspection, and licensing requirements of the Baltimore City Department of Housing and Community Development and the Maryland Department of the Environment (MDE); (3) any document that the landlord intends to rely on at trial; and (4) a list of nonprofit legal services organizations that may provide legal advice or representation to the tenant, as compiled by the Maryland Legal Services Corporation.

Landlord Complaint in the District Court

If the tenant has not cured the rent arrearage, or the parties have not otherwise resolved the dispute, on the fifteenth day after service of the notice of default, the landlord may file a written complaint in the District Court of Maryland for Baltimore City. The complaint must:

- describe the address of the property sought to be repossessed;
- include the name of each tenant to whom the property is rented and any assignee or subtenant (if applicable);
- state the amount of rent and any late fees due and unpaid as set forth in the notice of default, as specified;
- request a judgment to repossess the premises and, if desired, a judgment for a stated amount;

- if applicable, state that, to the best of the landlord’s knowledge, the tenant is deceased, intestate, and without next of kin;
- affirmatively plead and demonstrate whether, if applicable, the landlord is in compliance with statutory provisions regarding lead risk reduction in housing and a property’s status as an “affected property”;
- affirmatively plead and demonstrate that the landlord is in compliance with applicable registration and licensing requirements for rental housing in Baltimore City, stating the registration or license number for the leased premises; and
- include (1) a copy of the notice of default indicating that the landlord has provided the tenant 14 days to cure the rent arrearage; (2) an affidavit of service describing how the notice of default was served, the documents that were served with the notice of default, and listing the certified mail tracking number, if applicable; and (3) copies of records demonstrating that the leased premises complies with applicable registration, inspection, or licensing requirements of the Baltimore City Department of Housing and Community Development and MDE.

The landlord must also specify the amount of rent due for each rental period under the lease, the day that the rent is due and late for each rental period, and lawful late fees for overdue rent payments. The bill prohibits a clerk from accepting a complaint that does not comply with the requirements.

Service by Sheriff

The District Court must issue a summons and order the sheriff to notify each defendant by service of process to appear before the District Court at the trial to be held no earlier than 14 days after the filing of the complaint and answer the landlord’s complaint.

The sheriff must serve the summons, on or before the third day after the filing of the complaint, on each defendant or the defendant’s known or authorized agent by (1) personal delivery; (2) leaving the summons at the premises with someone of suitable age and discretion; or (3) posting the summons conspicuously on the door of the property to be repossessed. If the defendant or agent is not served by personal delivery, the sheriff must also deliver an attested copy of the summons and complaint to the address of the property sought to be repossessed by regular mail and certified mail, return receipt requested.

The posting of the summons conspicuously on the door of the property to be repossessed, after notification of each defendant by regular mail and certified mail as required, must conclusively be presumed to be a sufficient service to all persons to support the entry of a default judgment for possession of the premises, together with court costs, in favor of the landlord, but it must not be sufficient service to support a default judgment in favor of the

landlord for the amount of rent due. If the sheriff cannot post the summons as required due to a landlord's failure to provide sufficient access to the property, the summons must be returned to the District Court and the complaint dismissed without prejudice.

Current Law:

Initiation of Failure to Pay Rent Actions

Generally, in Baltimore City, when a tenant fails to pay rent, the landlord initiates an action to repossess the premises by filing a complaint in the District Court. The Baltimore City Sheriff's Office is responsible for serving a summons issued by the court related to the action and must do so within three days after the complaint is filed. The summons may generally be served on the tenant or by posting a copy of the summons conspicuously on the affected premises, which constitutes sufficient service. A trial for the failure to pay rent action is generally to be held on the fifth day after the complaint is filed.

Licensure and Lead Paint Affected Property

Under the Baltimore City Code, an individual is prohibited from (1) renting or offering to rent to another all or any part of any rental dwelling without a currently effective license from the Housing Commissioner or (2) charging, accepting, retaining, or seeking to collect any rental payment or other compensation for providing to another the occupancy of all or any part of any rental dwelling unless the person is licensed, as specified. A license is not required for any rental dwelling that is owned and operated by the Housing Authority of Baltimore City (HABC).

An "affected property" is one that is at risk for lead paint contamination, as specified. Statutory provisions set forth a process by which an affected property must be registered. If a property to be repossessed is an affected property, the complaint is required to state that the landlord has registered the affected property as required under the Environment Article and kept the registration current. The complaint must also provide the inspection certificate number for the inspection conducted for the current tenancy, or state that the owner is unable to provide an inspection certificate number because:

- the owner has requested that the tenant allow the owner access to the property to perform the work required under the Environment Article;
- the owner has offered to relocate the tenant in order to allow the owner to perform work if the work will disturb the paint on the interior surfaces of the property and to pay the reasonable expenses the tenant incurs directly related to the relocation; and
- the tenant has refused to allow access to the owner or refused to vacate the property in order for the owner to perform the required work.

State/Local Fiscal Effect: Generally, landlord-tenant matters routinely represent a high volume of the cases filed in the District Court each year. For example, in fiscal 2019, 136,777 failure to pay rent cases were filed in Baltimore City. The bill creates additional compliance requirements for landlords that may result in fewer cases being filed overall. For example, providing tenants with advance notice of potential filings may allow some tenants the time to become current on rent payments without the need for court involvement. *If* significantly fewer cases are filed, thereby reducing the workload of the District Court, operational efficiencies may be realized. However, the Judiciary advises that the bill's provisions also increase the level of effort associated with each case, as clerks must examine more detailed complaints for compliance. Consequently, the bill likely has a significant operational impact on the District Court, particularly until the completed integration of the Maryland Electronic Court System in Baltimore City.

The Department of Legislative Services (DLS) did not receive sufficient information from Baltimore City in time to fully analyze the potential impact on the Baltimore City Sheriff's Office and HABC. However, Baltimore City advises that the bill has the potential to significantly increase the administrative burden whenever HABC prepares a complaint for filing.

To the extent that overall filings may decrease in Baltimore City, the sheriff's office may benefit from operational efficiencies due to a reduction in the number of summons that will be served in such actions. However, the bill also imposes additional requirements for cases that are filed. Specifically, unless a tenant is personally served, the sheriff is required to also mail (via regular and certified mail) a copy of the summons/complaint to the tenant. Information is not readily available regarding how often tenants are typically served by methods other than personal delivery. To the extent that a significant number of cases require subsequent mailings, Baltimore City expenditures may increase to reflect costs associated with such mailings.

Any impact on the number of cases filed has a corresponding impact on filing fee revenues collected by the Judiciary and to surcharges imposed on such fees that are disbursed to special funds and Baltimore City. *If* overall filings decrease in Baltimore City as a result of the bill's provisions, State revenues (general/special funds) and Baltimore City revenues decrease.

DLS notes that the notice provisions in the bill may also result in more individuals using related resources, such as the Alternative Dispute Resolution Office in the District Court. This estimate does not reflect any expenditures potentially associated with such an impact.

Small Business Effect: Small business landlords in Baltimore City are required to provide additional documentation to repossess residential property for failure to pay rent actions and must provide notice to a tenant prior to doing so. Additionally, the timelines outlined

by the bill increase the repossession time currently available to a landlord in Baltimore City.

Additional Comments: MDE advises that it continues to develop the Lead Registration Compliance and Accreditation (LRCA) database, which will be accessible to the public and facilitate verification of the registration status of affected properties. As of February 2021, the LRCA project remains on schedule to be implemented by October 2021.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Baltimore City; Department of Legislative Services

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