

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

Senate Bill 460 (Senators Stone and Hughes)
(Committee to Revise Article 27 – Crimes and Punishment)

Judicial Proceedings

Judiciary

Criminal Law - Conversion of Leased or Rented Goods

This bill repeals the requirement that a person be a bona fide resident of the State to qualify for: (1) a prohibition against prosecution for conversion of a leased or rented good or thing of value if the good or thing of value is returned or accounted for within ten days of a written demand for its return, sent via certified mail to the person's last known address; and (2) a ten-day delay in prosecution for conversion of a leased or rented good or thing of value (to provide the person with time to return or account for it) where the person has received such a written demand for return of the good or thing of value.

Fiscal Summary

State Effect: This bill is procedural in nature and is not expected to directly impact governmental finances.

Local Effect: None -- see above.

Small Business Effect: Potential minimal.

Analysis

Current Law: A person may not fraudulently convert to the person's own use a good or thing of value received under a written contract or written lease entered into for the purpose of renting or leasing things for valuable consideration. Failure to return or account for the good or thing of value at the time or in the manner described in the written contract or lease is prima facie evidence of intent to fraudulently convert the good

or thing of value. A violation is a misdemeanor subject to imprisonment not exceeding 60 days or a fine not exceeding \$1,000 or both. A person found guilty must also restore the good or thing of value or pay the full value to the owner or person who delivered the good or thing of value.

A person may not be prosecuted for this crime if the person: (1) is a bona fide resident of the State; and (2) returns or accounts for the good or thing of value to the person who delivered it within ten days of a written demand, sent via certified mail, to the person's last known address for return of the good or thing of value. A prosecution for a bona fide resident of the State may not be started until ten days after such a written demand is mailed.

Background: This bill is the result of the work of the Criminal Law Article Code Revision Committee. While revising the criminal laws, the committee encountered issues that were not appropriate for inclusion in the code revision bill because they involved substantive changes to the law. In the revisor's notes to House Bill 11, the Criminal Law Article code revision bill, the committee recommended that the General Assembly address these issues. This is one of several bills resulting from these recommendations.

The Criminal Law Article Review Committee referred this matter to the Article 27 Committee. The Article 27 Committee was appointed in 1991 by the Speaker and the President and charged with making both substantive and stylistic changes to the State's criminal law. The committee is composed of legislators, judges, lawyers representing both defendants and the State, and a victims' rights representative. In past sessions the committee has successfully sponsored legislation to revise the laws on accessory before and after the fact, arson, assault, benefit of clergy, burglary, destructive devices, disorderly conduct, escape, Medicaid fraud, offensive contact, prostitution, robbery, sabotage, trespass, and victims' rights.

The Article 27 Committee requested an opinion from the Attorney General as to the constitutionality of the statute's distinction between State residents and non-residents. The Attorney General concurred that the distinction raised constitutional issues and specifically opined that it violated the Commerce Clause and possibly also the Equal Protection Clause of the U.S. Constitution. Suggested changes to remedy the violation were: (1) extending the waiting period for prosecution to all persons, not just Maryland residents; or (2) eliminating the waiting period entirely (relying instead on prosecutorial discretion in deciding whether to bring a particular case to court).

Additional Information

Prior Introductions: None.

Cross File: HB 666 (Delegates Getty and Doory) (Committee to Revise Article 27 – Crimes and Punishments) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), State’s Attorneys’ Office, Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2002
lsc/cer Revised - Senate Third Reader - March 18, 2002

Analysis by: Debra A. Dickstein

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510