

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 597 (Senator Hughes)
Judicial Proceedings

Landlord and Tenant - Evictions - Tenant's Right to Reclaim Personal Property

This bill establishes rights of a tenant and duties of a landlord upon eviction of a tenant through the judicial process.

Fiscal Summary

State Effect: Any change in State activities would not materially affect State finances.

Local Effect: Any change in local government activities would not materially affect local government finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: When a judgment is entered in favor of a landlord for possession of leased premises, the sheriff or county official directed to carry out an eviction of a residential tenant must notify the landlord and tenant, in the manner specified, of the scheduled date on which the warrant of restitution will be executed. The tenant has the right to reclaim any personal property left in the premises within three full days after the date that the warrant was executed.

The sheriff or county official must post on the door of the premises a notice stating specified information about the execution of the warrant of restitution, the tenant's right to reclaim personal property, and instructions on how the tenant may exercise that right.

During the period when the tenant may reclaim personal property, the landlord may: (1) leave the tenant's property in the premises after changing the locks and securing the premises; (2) move the tenant's property to another rental unit or secure storage under the landlord's control within a reasonable distance of the premises; or (3) move the tenant property to a public warehouse.

The landlord must allow the tenant to make reasonable arrangements to obtain and move the property during the reclamation period. The landlord may not charge a fee or place conditions on the tenant's right to reclaim.

If the property is moved to a warehouse, the tenant must pay moving and storage fees. If the tenant does not reclaim the property within the reclamation period, the property is considered abandoned. The landlord or warehouseman may dispose of the property at a public disposal facility and must pay any disposal fees. The property may not be disposed of in a public right-of-way or on public property.

The landlord or warehouseman is not obligated to inventory or take any steps to preserve the tenant's personal property beyond providing secure physical storage.

Current Law: When a tenant fails to pay rent, the landlord is entitled to repossession of the premises through filing an action in District Court. If the court finds in favor of the landlord, the court must order that possession of the premises be given to the landlord within four days after trial. However, the tenant may still pay the past due rent and late fees. If the tenant does so, judgment is for the tenant.

If the judgment is in favor of the landlord and the tenant fails to pay the past due rent and late fees, the court must issue its warrant directed to any official of the county entitled to serve process, ordering the official to give the landlord possession of the premises and to remove, by force if necessary, the personal property of the tenant and anyone claiming or holding by or under the tenant.

The tenant also has a right to redeem the leased premises after the landlord is awarded a judgment by giving the landlord all past due amounts, as determined by the court, plus all court awarded costs and fees, at any time before the execution of the eviction order.

If the lease provides that the landlord may repossess the premises because of the tenant's breach of the lease, the landlord may also file a complaint in District Court, if specified conditions are met. If the court determines that the tenant breached the lease and that the breach is substantial and warrants eviction, the court must give judgment for restitution of the premises and issue a warrant to the sheriff or constable commanding the tenant to

deliver possession to the landlord. The court must also give judgment for costs against the tenant.

Neither the landlord nor the person executing the eviction warrant is required to retain possession of the tenant's personal property.

Background: When an eviction warrant is executed, the party executing the warrant frequently leaves the tenant's personal property outside the premises in a public right-of-way.

Additional Information

Prior Introductions: None.

Cross File: HB 1481 (Delegate Cane, *et al.*) – House Rules and Executive Nominations.

Information Source(s): Judiciary (Administrative Office of the Courts), Baltimore County, Department of Legislative Services

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