

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 463

(Senator Brochin)

Judicial Proceedings

Landlord and Tenant - Expedited Eviction Proceedings - Notice and Appeals

This bill expedites the process for evictions for breach of a lease due to dangerous behavior by a tenant or a person on the property with the tenant's consent. Specifically, the bill reduces the number of days of notice that a landlord must give to evict such a tenant – from 14 to 5 days. It also reduces, from 10 to 4 days, the amount of time during which either party may appeal a judgment to the circuit court in such an eviction proceeding.

The bill takes effect June 1, 2016.

Fiscal Summary

State Effect: The bill's requirements can be handled with the existing resources of the District Court, as discussed below, and the Department of Housing and Community Development.

Local Effect: The bill is not anticipated to have a material fiscal or operational impact on the circuit courts. Enforcement can be handled with existing resources.

Small Business Effect: Potential meaningful. Landlords may be able to regain possession of their properties sooner than they would otherwise. Conversely, tenants that operate as small businesses may become subject to quicker evictions due to the bill's provisions.

Analysis

Bill Summary: A landlord has to give five days' notice that the landlord wants to repossess the property, as specified, before the landlord may file a complaint in the District Court (if, after the five days, a tenant or person in possession still refuses to leave

the property). The five-day notice requirement applies in situations where the breach of the lease involves dangerous behavior by a tenant or another person on the property with the tenant's consent. The behavior must demonstrate a clear and imminent danger of the tenant or person doing serious harm to themselves, other tenants, the landlord, the landlord's property or representatives, or any other person on the property.

The bill also maintains the authorization for either party to appeal a decision to the circuit court after a judgment has been entered in an eviction proceeding that involves dangerous behavior by a tenant or a person who is on the property with the tenant's consent. However, an appeal of a judgment for such an eviction proceeding must be filed within four days.

Current Law:

Filing a Complaint in District Court to Evict a Tenant: When a lease allows a landlord to repossess a property because a tenant breaches the lease, the landlord may file a complaint in the District Court of the county where the property is located if specified requirements are met. Once the tenant breaches the lease, the landlord is generally required to give the tenant 30 days' written notice that the tenant is in violation of the lease and that the landlord wants to repossess the premises. However, the landlord is required to give only 14 days' written notice of a violation of the lease and that the landlord wants to repossess the premises, if the violation involves dangerous behavior by a tenant or another person on the property with the tenant's consent. The behavior must demonstrate a clear and imminent danger of the tenant or person doing serious harm to themselves, other tenants, the landlord, the landlord's property or representatives, or any other person on the property. Once the notice period expires, the landlord may file the complaint if the tenant or person in actual possession refuses to comply.

Summons to Appear, Notice, and Continuances: Once the complaint is received, the District Court must immediately issue a summons for the tenant or person in actual possession to appear before the court to show why the landlord should not be allowed to repossess the property. If the tenant or person in actual possession cannot be found, the sheriff must attach a copy of the summons to the property. Once notice is also sent by first-class mail, the summons posted on the property is conclusively presumed to be sufficient service to support restitution to the landlord. If either party fails to appear for the hearing, the District Court is authorized to continue the case for between 6 and 10 days, and notices are required to be sent to both parties.

Judgment and Appeal: If the District Court determines that the breach was sufficient to justify an eviction, the District Court must enter a judgment that the landlord is entitled to repossess the property, and issue a warrant to the sheriff demanding the tenant return the property to the landlord in as good a condition as the property was when the lease began.

The District Court must enter a judgment that costs are to be paid by the tenant or the person in possession.

Following the judgment, either party may appeal the case to the circuit court within 10 days. If the tenant (1) files an affidavit with the District Court that the appeal is not taken to intentionally delay the eviction; (2) files sufficient bond with one or more securities so that the appeal may move forward quickly; (3) pays all past-due rent and all court costs; and (4) pays all losses or damages that the landlord may suffer because the tenant remains on the property, then the tenant or person in possession of the premises may retain possession until the appeal is complete.

Once either party appeals, the circuit court must set a date for the appeal that is between 5 and 15 days after the application. Notice of the order for the appeal must be served on the other party or that party's counsel at least 5 days before the hearing. If the judgment of the District Court is in favor of the landlord, a warrant must be issued by the circuit court to the sheriff, who must execute the warrant.

Background: The Administrative Office of the Courts (AOC) advises that, in fiscal 2015, there were a total of 1,754 actions to regain possession of a property for breach of lease filed in the District Court. It is unknown how many actions involved situations where dangerous behavior was alleged.

State Fiscal Effect: AOC advises that the bill requires changes to landlord/tenant forms and brochures. While the costs of making the changes and reprinting can be absorbed with existing resources, AOC advises that the District Court may not be able to have the forms and brochures printed in time for the bill's effective date of June 1, 2016.

Small Business Effect: The bill may enable landlords who qualify as small businesses to regain possession of their properties more quickly in situations where the tenant or person in possession presents a clear and imminent danger of doing serious harm to themselves, other tenants, the landlord, the landlord's property or representatives, or any other person on the property. As a result, a landlord may avoid liability for the actions of the tenant or person, and they may also avoid (further) damage to the property. On the other hand, small businesses that are tenants may be subject to a faster repossession process if their representatives, agents, or employees engage in the dangerous behavior specified in the bill while occupying leased property.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Harford and Montgomery counties, Judiciary (Administrative Office of the Courts), Department of Housing and Community Development, Department of Legislative Services

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