

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1487

(Delegate Rosenberg)

Environment and Transportation

Judicial Proceedings

Landlord and Tenant - Repossession for Failure to Pay Rent - Procedures

This bill makes several changes to the process by which a landlord may repossess property for failure to pay rent, and it makes other technical and conforming changes. The bill also specifies that provisions related to a complaint for failure to pay rent and service of the complaint on a respondent preempt any public local law or ordinance. Further, provisions related to the adjournment of a trial, time limitations for filing a complaint, and judgment in favor of a landlord preempt any *substantially similar* public local law or ordinance.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current law:

Required Contents of a Complaint to Repossess Residential Property

The bill expands the required contents of a complaint to repossess residential property by requiring the landlord to state whether the property to be repossessed is an affected property as defined in § 6-801 of the Environment Article. An affected property is one that is at risk for lead paint contamination, as specified. If the 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 state 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.

The bill also requires the District Court to dismiss a complaint if the landlord fails to include in the complaint information about whether the property is an affected property or fails to include the required registration information, unless the court adjourns the trial to enable either party to procure necessary witnesses, documents, or other proof of a claim or defense.

Summons to Appear Before the District Court

The bill requires the District Court to order the tenant, assignee, or subtenant to appear for a trial to be held on a date determined by the court that is no later than the fourteenth day after the original complaint is filed, rather than the fifth day. The bill also specifies that the constable or sheriff must serve the summons on the tenant, assignee, or subtenant or their known or authorized agent at least four days before the trial date. The bill further requires the court to reschedule a hearing if the constable or sheriff is unable to serve the summons as required, and it requires the constable or sheriff to refund any fees for service when failure to timely serve a summons is not the result of delay by the court.

Adjournment to Enable Procurement of Witnesses

The bill expands the authority of the court to adjourn the proceedings by enabling either party to obtain documents or other proof of a claim or defense. Existing provisions authorize the court to adjourn the trial only to allow either party to procure necessary witnesses. The bill also extends the maximum length of the adjournment from one to seven days.

Issues of Fact at Trial

The bill repeals the prohibition against raising at trial, as an issue of fact, information related to the property's status as an affected property.

Prohibition Against Filing an Action for Repossession

The bill prohibits a landlord from filing a complaint for repossession of a residential property (1) for a specific rental period, prior to the expiration of a previous judgment or warrant of restitution issued for that specific rental period and (2) more than one year after a specific failure to pay rent occurred. Existing provisions do not limit such actions.

Background: During the 2016 interim, a workgroup was convened at the request of members of the Baltimore City legislative delegation to consider and make recommendations as to needed changes in legislation, judicial policy and procedures, as well as local government programs, particularly in Baltimore City, to fairly and effectively adjudicate the rights and responsibilities of both landlords and tenants.

In the final report of the workgroup, dated December 8, 2016, which included both legislative and nonlegislative recommendations, the workgroup made several recommendations related to provisions of the bill including:

- repealing language prohibiting the status of a lead certificate being an issue at trial;
- adding language prohibiting a landlord from obtaining multiple judgments within 60 days or from obtaining a judgment for the same rent claimed on an open warrant;
- extending the timeline for actions to repossess residential property by requiring service to be made at least seven days before the trial date and authorizing the court to schedule the hearing for no later than the fourteenth day after the complaint is filed; and
- requiring the sheriff's office to refund fees for service if specified information to enable service of process is provided by the court in a timely manner.

The Administrative Office of the Courts advises that 583,978 landlord/tenant cases for failure to pay rent were filed in the District Court in fiscal 2016.

Small Business Effect: Small business landlords may be required to provide additional documentation when filing a complaint to repossess residential property for failure to pay

rent. The bill's extension of the timeline for hearing cases may also delay the final disposition of a case, resulting in lost revenue.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Carroll, Montgomery, and St. Mary's counties; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Legislative Services

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