

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1051 (Delegate Wilson)
Environment and Transportation

**Charles County - Landlord and Tenant - Repossession for Failure to Pay Rent -
Procedures**

This bill alters the procedures for enforcing an action for repossession for failure to pay rent in Charles County. The bill applies prospectively, and may not be applied to any cause of action for repossession for failure to pay rent brought in Charles County arising before the bill's October 1, 2019 effective date.

Fiscal Summary

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

Local Effect: The bill is not anticipated to materially affect Charles County finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: In Charles County, subject to specified limitations, if the court enters a judgment in favor of the landlord for repossession of a leased dwelling and orders a warrant of restitution, the landlord must notify the tenant of the date the warrant of restitution will be executed by the sheriff. The notice must be (1) mailed by first-class mail with certificate of mailing at least 14 days before the date of execution and (2) posted on the premises at least 7 days before the date of execution. The required notice must:

- state the court case number, the tenant's name, and the address of the leased dwelling;
- specify the date on which the eviction is scheduled to be executed;

- state that the eviction will be executed on that date unless the tenant (1) moves out and returns control of the property to the landlord or (2) exercises his or her specified right to redemption, unless the right to redeem has been foreclosed or otherwise is inapplicable;
- prominently warn the tenant that any property left in the leased dwelling will be considered abandoned and may be disposed of on execution of the warrant of restitution; and
- state that it is the final notice of the date of the eviction, even if the eviction date is postponed by the sheriff or the court.

A landlord may charge the tenant for expenses incurred in providing the required notice, up to a maximum of \$5.

If the sheriff reasonably believes that the landlord has not provided the required notice, the sheriff (1) must notify the District Court and (2) may not execute the warrant of restitution without further order of the District Court. If the District Court finds that the landlord did not provide the required notice, the District Court must vacate the warrant of restitution. However, there is a rebuttable presumption that the tenant was notified as required if the landlord provides (1) a copy of the notice; (2) the certificate of mailing; and (3) a signed affidavit of the person who posted the notice on the leased premises, so long as all of the required documents are dated within the proper time periods required under the bill.

All property in or about the leased premises at the time that the warrant of restitution is executed is considered abandoned. Neither the landlord nor a person acting on the landlord's behalf is liable for any loss or damage to abandoned property. The landlord must dispose of abandoned property by (1) transportation to a licensed landfill; (2) donation to charity; or (3) any other legal means. Property deemed abandoned under the bill may not be placed in a public right-of-way or on any public property, under any circumstances.

Any person who violates the bill's provisions related to the disposal of abandoned property by a landlord is guilty of a misdemeanor and on conviction subject to a fine of up to \$1,000 for each offense. Each day that a violation continues is a separate offense.

Current Law: Generally, whenever the tenant fails to pay the rent when due and payable, the landlord may repossess the leased premises. Statute contains specific requirements related to filing a complaint, issuing a summons, adjourning the proceedings to procure a witness, executing judgment in favor of the landlord, surrendering the premises by the tenant, and the effect of tender of rent by the tenant.

Removal of Tenant for Noncompliance with Judgment in Favor of Landlord

If judgment is in favor of the landlord and the tenant does not return the premises to the landlord within four days, the court must, at any time after the four days have elapsed, issue a warrant, directed to any official of the county entitled to serve process, ordering the official to take the necessary action to put the landlord in possession of the property. The warrant must also authorize removal from the property of all the furniture, implements, tools, goods, effects, or other chattels belonging to the tenant.

If the landlord does not order a warrant of restitution within 60 days from either the date of judgment or the expiration date of any stay of execution (whichever is later), then (1) the judgment for possession must be stricken and (2) the judgment must generally count toward the threshold for the number of judgments at which a tenant no longer has the right to redemption of the leased premises. Specifically, when three judgments of possession have already been entered against a tenant within the previous 12 months, the tenant is prohibited from being able to redeem the leased premises by paying all past due amounts.

The administrative judge of any district may stay the execution of a warrant of restitution of a residential property, from day to day, in the event of extreme weather conditions. When a weather-related stay has been granted, the execution of the warrant of restitution must be given priority and completed within three days after the extreme weather conditions cease.

Background: The Judiciary (Administrative Office of the Courts) advises that, in fiscal 2018, there were a total of 8,791 landlord/tenant failure to pay rent cases filed in the District Court in Charles County. Additionally, nearly 3,000 warrants of restitution were issued in Charles County in fiscal 2018.

Procedures similar to those found in the bill are also in effect in Baltimore City, pursuant to Baltimore City Code, Article 13, Section 8A.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles County; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Baltimore City Code; Department of Legislative Services

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