

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 52

(Delegate Wells)

Judiciary and Environment and
Transportation

Judicial Proceedings

Real Property - Eviction Actions - Alterations in Actions for Repossession

This bill makes procedural changes in failure to pay rent cases, including (1) requiring specified notice to tenants prior to filing a complaint; (2) extending the number of days between the filing of the complaint and the trial date; and (3) expanding permitted lengths of stay after a judgment for possession has been awarded. The bill also authorizes the court to order an emergency stay of execution of a warrant of restitution for residential properties in breach of lease and tenant holding over actions.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect the workload of the Judiciary. The Judiciary can use existing resources to modify any necessary forms or informational material. Minimal decrease in general fund/special fund revenues associated with filing fees, as discussed below.

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

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Landlord Responsibilities

In addition to existing statutory requirements, prior to filing a failure to pay rent claim in the District Court, the bill requires a landlord to deliver written notice to the tenant that meets specified requirements, including:

- the date of the notice and a description of the manner of delivery of the notice;
- a description of the past due rent in dispute, including the amounts of rent and late fees due to the landlord, excluding charges related to utilities, services, other fees, fines, or court costs, and the specific periods of time to which the past due rent and fees correspond;
- a statement informing the tenant that, on request of the tenant, the landlord will promptly provide an itemized accounting of debts and credits;
- a statement containing information on rental assistance programs;
- a statement that the landlord may initiate an action for repossession in the District Court if the tenant does not cure within seven days after delivery of the written notice and that the tenant has the legal right to dispute the charges; and
- contact information for the landlord, nonprofit legal services organizations that may provide legal advice or representation to the tenant (as compiled by the Maryland Legal Services Corporation), the Alternative Dispute Resolution Office; and the Self-Help Center.

The written notice must be delivered by at least two of the following methods: (1) first-class mail; (2) affixed to the door of the premises; or (3) if elected by the tenant, delivered by either electronic mail message or a text message

Complaint for Repossession of Residential Property

A complaint for repossession must include a statement that affirms and states the date that the landlord delivered the required notice. A tenant may challenge assertions made by a landlord, and the court may dismiss the landlord's complaint on a showing of sufficient cause.

Procedural Alterations

The bill amends numerous statutory provisions that refer to the tenant's appearance at trial on the *fifth* day after the complaint is filed to instead require the appearance on the *seventh* day.

Following a judgment in favor of the landlord, the bill increase the time for repossession of the property from within *four* days to *seven* days after the trial, and makes conforming changes to statutory provisions that reference the surrender of the premises within this specified time period.

The court may also order an emergency stay of execution of a warrant of restitution for a residential property on a motion presenting evidence that eviction of the tenant would endanger the health or life of the tenant or any other occupant of the premises. The emergency stay may also be ordered in breach of lease and tenant holdover actions under these circumstances.

Current Law: In general, a landlord seeking to evict a tenant initiates the process by filing the appropriate action (*e.g.*, failure to pay rent, breach of lease, etc.) in the District Court. If awarded a judgment by the court, the landlord files a warrant of restitution, which, once reviewed and signed by the court, authorizes an eviction. The warrants of restitution are forwarded to the local sheriff's office, who is then authorized to carry out the evictions. Statute sets forth numerous specific requirements for such actions, including those related to written notice prior to filing certain actions.

In failure to pay rent actions, if judgment is in favor of the landlord and the tenant does not return the premises to the landlord or otherwise satisfy the judgment by paying the applicable rent and late fees within 4 days, as specified, the court must, at any time after 4 days have elapsed, issue a warrant of restitution. The court may, upon presentation of a certificate signed by a physician certifying that surrendering the property within the 4-day period would endanger the health or life of the tenant or other occupant, extend the time for surrender of the premises as justice may require, up to 15 days. Statutory provisions also authorize stays of execution in other specified circumstances, such as in the event of extreme weather conditions.

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, as specified.

State Revenues: Any impact on the number of cases filed has a corresponding impact on general fund filing fee revenues collected by the Judiciary (as well as on special fund revenues from surcharges imposed on filing fees). To the extent that the bill's provisions decrease the number of landlord-tenant cases filed (as tenants may be able to cure rent deficiencies before court action is initiated if given notice and specific information regarding rental assistance programs), general/special fund revenues decrease. For purposes of this fiscal and policy note, it is assumed that general/special fund revenues decrease *at least* minimally from fewer filings.

Small Business Effect: Landlords are subject to more stringent requirements in failure to pay rent actions, including notice requirements prior to filing and increased waiting periods before property may be repossessed. The bill's expanded application of the emergency judicial stay procedures may also result in lost revenues. However, landlords may avoid costs associated with enforcement if the notice provisions in the bill facilitate the payment of past-due rent without court involvement. Landlords may also benefit to the extent that more tenants are referred to programs that facilitate rent assistance.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 454 (Senator Sydnor) - Judicial Proceedings.

Information Source(s): Carroll, Montgomery, and Prince George's counties; Department of Housing and Community Development; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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Analysis by: Donovan A. Ham

Direct Inquiries to:
(410) 946-5510
(301) 970-5510