

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1309
Judiciary

(Delegate Adams, *et al.*)

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. The bill applies prospectively and may not be applied to any cause of action for repossession for failure to pay rent arising before the bill's October 1, 2022 effective date.

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 finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: In failure to pay rent actions, subject to specified limitations, if judgment is entered in favor of the landlord, the landlord, the landlord's duly qualified agent, or the landlord's attorney may provide for repossession of the property by notifying the tenant of the intended repossession in writing (1) sent by first-class certified mail, at least 14 days before the intended date of repossession, and (2) posted on the leased premises at least 7 days before the intended date of repossession. The required notice must include:

- the District Court summary ejectment case number;
- the tenant's name as stated in the lease or otherwise agreed to by the landlord;
- the address of the leased premises;
- the date on which the warrant of restitution was ordered by the District Court;

- a statement that the repossession may occur unless the tenant (1) returns control of the leased premises to the landlord or (2) exercises his or her specified right to redemption, if available;
- a statement that if the repossession occurs, all property remaining in the leased premises will be considered abandoned and may be disposed of on execution of the warrant of restitution; and
- a statement that the notice is the final notice to the tenant of the intended repossession, even if the repossession is stayed due to extreme weather conditions.

The bill repeals current provisions related to the court issuing a warrant of restitution if the tenant fails to comply with a failure to pay rent judgment in favor of a landlord after 4 days.

There is a rebuttable presumption that the tenant was notified as required if the landlord provides (1) the certificate of mailing and (2) a signed affidavit of the person who posted the notice on the leased premises. However, 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.

If the landlord presents the certificate of mailing and a signed affidavit of the person who posted the notice on the leased premises, any official of the county entitled to serve process may execute the warrant by putting the landlord, the landlord's duly qualified agent, or the landlord's attorney in possession of the premises, *without* removal of any chattels or personal property from the premises. All chattels and personal property remaining in or about the leased premises at the time that the warrant of restitution is executed must be deemed abandoned. The landlord or any person acting on the landlord's behalf may not be liable for any loss or damage to property deemed abandoned, and the landlord may dispose of abandoned property by (1) transportation to a licensed landfill or solid waste facility; (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.

Current Law: In general, a landlord seeking to evict a tenant must file 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. This includes specific requirements for written notice prior to initiating a failure to pay rent action.

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.

A tenant has the right to redemption of the leased premises by tendering in cash, certified check, or money order to the landlord or the landlord's agent all past due amounts, as determined by the court, plus all court awarded costs and fees, at any time before actual execution of the eviction order. This right of redemption does not apply to any tenant against whom three judgments of possession have been entered for rent due and unpaid in the 12 months prior to the initiation of the action, as specified.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Kent, Montgomery, and Washington counties; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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