

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1023 (Delegate Terrasa, *et al.*)
Environment and Transportation

**Real Property - Landlord and Tenant - Procedures for Failure to Pay Rent,
Breach of Lease, and Tenant Holding Over**

This bill establishes additional requirements when a court has issued a warrant of restitution in a failure to pay rent, breach of lease, or tenant holding over action, as specified, including those related to notice and the storage of a tenant's property. The bill only applies prospectively and may not be applied or interpreted to have any effect on or application to any cause of action filed before the bill's effective date.

Fiscal Summary

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

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

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Notice Requirement

When a court issues a warrant of restitution, the landlord, the landlord's duly qualified agent, or the landlord's attorney must, at least 14 days before the intended date of repossession as set by the sheriff, provide written notice to the tenant of the scheduled date on which the warrant of restitution is to be executed. The notice must be provided by

(1) certified first-class mail and (2) posting the notice on the front door of the leased premises and taking a date-stamped photograph of the posting. The required notice must include:

- the District Court summary ejectment case number;
- the tenant's name as stated in the summary ejectment case;
- the address of the leased premises;
- the date on which the warrant of restitution was ordered by the District Court;
- the scheduled date of the eviction;
- a statement that the repossession may occur unless the tenant returns possession of the leased premises to the landlord or exercises the right to redemption, if available and applicable;
- a statement that if the eviction occurs, all property remaining in the leased premises will be considered abandoned and may be disposed of seven days after the eviction date;
- a statement informing the tenant as to how the tenant may obtain any personal property left in or about the leased premises after the eviction occurs; and
- a statement that the notice is the final notice to the tenant of the intended repossession.

There is a rebuttable presumption that the tenant was notified as required if the landlord provides the sheriff with (1) the certificate of mailing; (2) a photograph of the notice posted on the front door of the leased premises containing a readable timestamp indicating the date and time that the summons was posted; and (3) a signed affidavit of the person who posted the notice on the front door of the leased premises. However, if the sheriff reasonably believes that the landlord has not provided required notice or that the tenant may have redeemed the property, the sheriff must notify the District Court and 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 notice required, the District Court must vacate the warrant of restitution.

Otherwise, following the presentation of documentation demonstrating notice, the sheriff may execute the warrant of restitution by putting the landlord, the landlord's duly qualified agent, or the landlord's attorney in possession of the premises, without the removal of any personal property from the premises.

Personal Property

A tenant must be given seven days following the execution of a warrant of restitution to recover personal property from the premises or another reasonably secure location chosen by the landlord. A landlord is prohibited from assessing any fee for storing the tenant's

personal property during the seven-day period; tenants may not waive the right to reclaim personal property during this time. During the seven-day period, the landlord is not liable to the tenant for any losses relating to the personal property, unless the loss is the result of a deliberate or grossly negligent act on the part of the landlord or anyone acting on behalf of the landlord.

Following the seven-day period, any personal property remaining in or about the leased premises or in a reasonably secure storage location must be considered abandoned. A landlord or any person acting on the landlord's behalf cannot be held liable for any loss of or damage to property deemed property. The abandoned property may be disposed of by specified methods but may not be placed in a public right-of-way or on any public property.

Miscellaneous Provisions

The bill specifies that its provisions do not restrict the authority of the State and local jurisdictions to enact legislation governing landlords and tenants, including legislation establishing penalties for violations of the aforementioned provisions.

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, 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.

Small Business Effect: Landlords are subject to more stringent requirements before property may be repossessed and may incur costs associated with the storage of tenants' property.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

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