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SB 347: Anne Arundel County – Landlord and Tenant – Procedures for Failure to Pay Rent

Hearing before the Judicial Proceedings Committee on February 9, 2022

Position: Favorable with Amendments

The Public Justice Center (PJC) is a nonprofit public interest law firm that stands with tenants to expand their rights to safe, habitable, affordable, and non-discriminatory housing. Eviction without notice is a top concern of renters throughout the State. Under current law (Real Prop. art. (“RP”) § 8-401), after a judicial order of repossession, neither the landlord nor the sheriff is required to provide the tenant notice of an eviction date. Renters need and deserve reliable notice of the eviction date so that they can exercise their statutory right of redemption (to “pay to stay” before eviction) or to leave the property without loss of personal belongings. SB 347 would provide for notice by requiring the landlord to send a notice to the tenant of the scheduled eviction date 14 days in advance by mail and 7 days by posting.

Baltimore City has implemented a similar scheme, and Public Justice Center has represented tenants during the time this provision has been in place. Tenants have often realized the benefits described above. However, many tenants do not receive the notice for whatever reason or do not have sufficient time to secure alternatives for their belongings resulting in the loss of critical medications, vital records, and documents crucial to accessing public benefits. Based on this experience, we offer five proposed amendments to SB 347:

- 1. Extend the time period to reclaim personal belongings to seven (7) days.** The bill provides that 24 hours after eviction all of the tenant’s belongings are considered abandoned and may be disposed of by the landlord. While we appreciate that a 24-hour reclaim period is better than the prior iteration, it is still a harsh penalty and out of step with surrounding jurisdictions. At least 33 other states have reclaim periods that are longer than 24 hours. Pennsylvania provides for a 30-day reclaim period. 68 Pa. Stat. Ann. § 250.505a(d). Delaware, North Carolina, and the District of Columbia

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provide for a 7-day reclaim period.¹ Given the gravity of the action considered – the disposal of a family’s medicines, vital records, clothes, and other personal belongings – Maryland should provide at least the same amount of time to reclaim possessions as these nearby jurisdictions.

2. **Notice should be consistent with whatever reclaim period is provided.** The notice of eviction date specified in paragraph (g)(2)(ii) is inconsistent because it does not notify tenants of the reclaim period.
3. **Only the Sheriff should execute an eviction warrant.** SB 347 speaks frequently of the central role of the County Sheriff in the eviction process, and yet on page 4, line 20, the bill appears to allow individuals other than the Sheriff to execute the warrant of restitution: “Any official of the County entitled to serve process may execute the warrant....” Does this include a private process server? This would be a sea change in the eviction process by allowing a private process server who is paid for by the landlord to oversee the eviction process. A private process server has a conflict of interest under these circumstances – particularly if they are now supposed to determine whether a critical 14-day or 7-day notice was provided. Evictions can involve a potential confrontation between landlord and tenant, and the Sheriff’s role to keep the peace and ensure fair process is essential. No other county allows an individual other than a Sheriff or constable to execute a warrant of restitution. Anne Arundel should not be the first.
4. **Require the Sheriff to keep a copy of the proof presented by the landlord that an eviction notice was served.** We have found in Baltimore City that there is often a dispute about whether the landlord served the tenant with the 14-day and 7-day notice. The Sheriff should be required to retain for 90 days a copy of the proof presented by the landlord that notice was served, e.g., a photo of the certificate of mailing and affidavit of posting. This would provide a clear record to settle any dispute.
5. **Require the Sheriff to bring the case back to Court if there is a dispute about whether the tenant has redeemed the property.** SB 347 only requires the Sheriff to bring the case back to court if there is a dispute about whether the tenant received notice of the eviction date. In our experience there may be a dispute about whether the tenant exercised the right to “pay and stay.” In that situation the Sheriff should bring the case back to court as well.

¹ Del. Code Ann. tit. 25, § 5715; DC Code 42-3505.01a; N.C. Gen. Stat. § 42-25.9

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As Maryland residents recover from the economic shock of COVID-19, the General Assembly should take all steps necessary to create a more fair, equitable housing sector. The amendments proposed above would do so. Draft language for these amendments is attached.

Please issue a report of Favorable with Amendments on SB 347. If you have any questions, please contact Matt Hill, hillm@publicjustice.org, 410-625-9409, ext. 229.

Amendment 1:

Page 4, line 25, replace “24 hours” with “7 days”

Page 4, line 29, replay “24-hour” with “7-day”

Amendment 2:

Page 3, line 29, after “abandoned” add “AFTER 7 DAYS FROM THE DATE OF EVICTION”

Amendment 3:

Page 4, line 20, replace “ANY OFFICIAL OF THE COUNTY ENTITLED TO SERVE PROCESS” with “THE SHERIFF”

Amendment 4:

Page 5, add new subparagraph (11): “THE SHERIFF SHALL RETAIN FOR A PERIOD OF 90 DAYS A COPY OF THE PROOF PRESENTED BY THE LANDLORD THAT NOTICE OF THE EVICTION DATE WAS PROVIDED PURSUANT TO SUBPARAGRAPH (G)(2)(iii) ABOVE.

Amendment 5:

Page 4, line 11 after “subsection” add “OR THAT THE TENANT MAY HAVE REDEEMED THE PROPERTY”