

MMHA - 2022 - HB 1309 - Statewide lock and leave.p

Uploaded by: Aaron Greenfield

Position: FAV



Bill Title: House Bill 1309, Landlord and Tenant – Repossession for Failure to Pay Rent – Procedures

Committee: Environment and Transportation

Date: March 2, 2022

Position: Favorable

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry.

Under this bill, the landlord may provide for repossession of the property by notifying the tenant of the intended repossession in writing with first-class mail at least 14 days before the intended date of repossession and posted on the leased premises at least 7 days before the intended date of repossession. The notice must include certain information and state that if the repossession occurs, all property will be considered abandoned and may be disposed of. There is a rebuttable presumption that the tenant received the notice if the landlord provides the certificate of mailing and a signed affidavit of the person who posted the leased premises. The Sheriff can decline to execute the warrant if the Sheriff reasonable believes the landlord failed to provide the notice. In that case, the District Court will vacate the warrant of restitution. If the landlord presents documentation, the warrant can be executed and place the landlord in possession of the premises without removal of the tenant's property. The landlord is not liable for loss or damage to the property. The landlord may dispose of the property by transportation to a licensed landfill, solid waste facility, donation to charity or any other legal means. The abandoned property may not be placed in the right of way or on any public property

House Bill 1309 is patterned after Baltimore City Code Article 13, Section 8A which mandates procedures for notifying residents of a pending eviction and procedures for the lawful disposal of evicted personal property by the landlord. This legislation benefits all parties. Under House Bill 1309, a resident will get notice of the entry of a judgment for eviction, advance notice of the eviction date and have a clear deadline to pay what is due or relocate. Sheriffs and constables will no longer have to use public resources to dispose of chattels. Lastly, for a housing provider, passage of this bill creates a bright line specifying when a tenant's evicted property is abandoned and when the landlord can lawfully dispose.

For these reasons, we respectfully request a favorable report on House Bill 1309.

Aaron J. Greenfield, MMHA Director of Government Affairs, 410.446.1992

HB1309-SUP-Salisbury Area Property Owners Associat

Uploaded by: Delegate Chris Adams

Position: FAV



Salisbury Area Property Owners Association
P.O. Box 527 Salisbury, MD 21803

February 22, 2022

c/o Delegates Adams, McKay, Thiam, and Wivell
House Office Bldg., Room 310
6 Bladen Street
Annapolis, MD 21401

Dear Delegates Adams, McKay, Thiam, and Wivell:

We're writing today to lend strong support towards House Bill HB1309 Landlord and Tenant – Repossession for Failure to Pay Rent – Procedures affecting rental evictions in Wicomico County.

We support HB1309 to the benefit of all parties involved for a much safer, more efficient, and more compassionate means for the repossession of property during the execution of a Warrant of Restitution while at the same time respecting our former resident's dignity and personal property.

The current eviction process, as mandated in subsection 8-401(d)(1)(i) of the Real Property Article, requires any remaining property in a rental unit to be physically removed from the premises and placed outside in order to finalize the eviction process. This process involves Sheriff's Deputies on location and can take several hours while the property is removed. In addition, the chattels are required to remain there for a minimum of 48 hours, during which time many items of value are pilfered by others; while papers and miscellaneous other items can be found strewn throughout the neighborhood. Additionally, medications can be lost or stolen putting the former resident in a dangerous and critical condition without much-needed medications and putting the general public at risk as some medications can be highly dangerous if not taken in the appropriate dosages. .

The Landlord and Tenant – Repossession for Failure to Pay Rent – Procedures being supported would allow the owner or their resident agent, after all proper notices and legal procedures have run their course, to appear on the day of the scheduled eviction and secure the remaining abandoned property inside the premises rather than disposing of it outdoors, under the supervision of the Sheriff's Department.

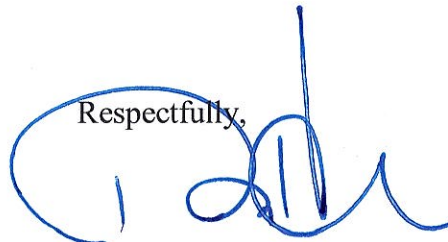
This proposed process ensures the following improvements and safeguards:

- ✓ Personal dignity is maintained; less exposure to ridicule and/or embarrassment for the former residents.
- ✓ Better protection from theft and/or damages of the former resident's personal property or the third-party leased property for which the tenants can be held responsible. These are items often found inside the homes.
- ✓ Protection against public blight whereby property is currently required to remain on the lawn for 48 hours, subject to wind and rain.
- ✓ Resident being able to maintain control of critical medications as well as public protection from unknown medications entering the community.
- ✓ Reduction in the amount of time the Sheriff's deputies are required to remain on the premises during the eviction process. Currently, deputies are required to maintain surveillance for the duration of the eviction, a process which normally takes several hours.

The proposed HB1309 legislation would allow the eviction process to remain discreet as a benefit to the former resident, prevent the property from exposure to wind, rain and theft, medications control, and reduce the time the Sheriff's Deputies have to remain on site to a matter of minutes, rather than hours – allowing them to promptly return to their numerous other civic duties.

We understand that action by the General Assembly is necessary to authorize the proposed alternative procedure. We thank you for your time and hope you can appreciate what we consider to be a great benefit to those involved in this process and to our community as a whole.

Respectfully,



Bret R. Hopkins
President, Salisbury Area Property Owners Assoc.
410.742.5577 or Bret.Hopkins@FSEcommunities.com

HB 1309--AOBA--FAV.pdf

Uploaded by: Erin Bradley

Position: FAV



Bill No: HB 1309 -- Landlord and Tenant – Repossession for Failure to Pay Rent – Procedures

Committee: Judiciary

Date: 3/2/2022

Position: Favorable

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's Counties.

Per HB 1309, a landlord may provide for repossession of a unit by notifying the resident of the intended repossession in writing with first-class mail at least 14 days before the intended date of repossession and posted on the leased premises at least 7 days before the intended date of repossession. The notice must include certain information and state that if the repossession occurs, all property will be considered abandoned and may be disposed of. There is a rebuttable presumption that the resident received the notice if the housing provider supplies the certificate of mailing and a signed affidavit of the person who posted the leased premises. The Sheriff can choose not to execute the warrant if the Sheriff reasonable believes the housing provider did not provide the notice. In that case, the District Court will vacate the warrant of restitution. If the housing provider presents documentation, the warrant can be executed and place the housing provider in possession of the premises without removal of the resident's property. The housing provider is not liable for loss or damage to property and may dispose of the property by transportation to a licensed landfill, donation to charity or any other legal means. The abandoned property may not be placed in the right of way or on any public property.

The bill seeks to allow all jurisdictions to follow Baltimore City's eviction procedures. In Baltimore, residents are given advance notice of the eviction date and have a date certain to pay what is due or relocate on their own terms. This system places the responsibility on residents rather than Sheriffs for removal and disposal of chattels.

While AOBA members support that system in theory, they are uncertain how they will comply with the notice component in Montgomery or Prince George's Counties. The Sheriff's Department in both Counties specifically ask housing providers not to disclose the exact date of an eviction for safety reasons. In some instances, the property management staff does not know when the Sheriff will arrive to execute the Warrant of Restitution—certainly not 14 days in advance. If this bill passes AOBA members will need to work with local Sheriff's Departments to alter current procedures.

For further information, contact Erin Bradley, AOBA's Vice President of Government Affairs, at (301) 904-0814 or ebradley@aoba-metro.org .

HB 1309_realtors_fav.pdf

Uploaded by: William Castelli

Position: FAV



House Bill 1309 – Landlord and Tenant – Repossession for Failure to Pay Rent - Procedures

Position: Favorable

The Maryland REALTORS® supports HB 1309 which would create a minimum 14-day notice period for tenants before they are evicted and clarifies how landlords handle abandoned personal property.

HB 1309 requires landlords to provide two notices once a judgment has been issued in the landlord's favor. The first notice must be mailed by first-class mail with a certificate of receipt at least 14 days prior to the date of repossession. The second notice must be posted on the premises at least 7 days prior to repossession. The notices must explain the landlord's award of repossession, the tenant's right to redemption under law, and, importantly, if eviction occurs, that any personal property remaining on the property will be considered abandoned.

The bill gives tenants a guaranteed time to move their personal belongings and directs that their personal property may not be left on public property. Although the bill technically extends the time before eviction can occur, it provides landlords with more certainty about how to handle personal property left on site.

For almost all landlords, eviction is a tool of last resort. In addition to the lost weeks (sometimes months of rent), there are costs associated with repair and maintenance of dwellings and the costs associated with the physical eviction. These costs can be hundreds of dollars -- and many times -- thousands of dollars in the context of single-family rentals. Providing more certainty in these cases is good for both landlord and tenant.

The Maryland REALTORS® recommends a favorable report.

**For more information contact bill.castelli@mdrealtor.org,
susan.mitchell@mdrealtor.org, theresa.kuhns@mdrealtor.org;
lisa.may@mdrealtor.org**

HB 1309 Testimony.pdf

Uploaded by: Gregory Countess

Position: UNF



**MARYLAND
LEGAL AID**

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**Human Rights and
Justice for All**

**STATEWIDE
ADVOCACY SUPPORT UNIT**

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February 28, 2022

The Honorable Luke Clippinger
Judiciary Committee
Room 101, House Office Building
Annapolis, Maryland 21401

**RE: Testimony in Opposition to House Bill 1309
Landlord and Tenant – Repossession for Failure to Pay Rent –
Procedures**

Dear Chairperson Clippinger and Committee Members:

Thank you for the opportunity to testify in opposition to HB 1309, a bill that would declare tenant's property abandoned if it remains in the unit at the time of eviction. The Maryland Legal Aid ("MLA") is a private, non-profit organization that provides free legal services to indigent Maryland residents. In our 12 offices around the state, we help individuals and families with a wide array of civil legal issues including consumer, housing, public benefits, and family law matters. We also represent abused and neglected children and provide legal assistance to senior citizens and nursing home residents. This letter serves as notice that Gregory Countess is testifying on behalf of the Legal Aid Bureau, Inc. at the request of Delegate David Moon.

The MLA represents thousands of tenants throughout the state. Some tenants contact us after having judgments rendered against them in actions involving § 8-401, §8-402 and § 8-402.1 of the Real Property Article. Because these statutes do not require the court or any party to advise the tenant of the date of the actual eviction, these tenants have no idea when the actual eviction will take place. In some jurisdictions MLA can call the Sheriff's office and give those tenants some idea of when an eviction may take place.

In actions which involve rent, tenants that have no other housing options and often no resources to immediately move from the premises, use that uncertain amount of time to search for resources to pay the rent found due and owing. In some instances, when a tenant knows to call the Sheriff and in those jurisdictions where the Sheriff's office as a courtesy will tell tenants the date of the eviction, tenants may have an opportunity to remove some of their possessions from the premises prior to the eviction date. However, in many cases tenants have no idea

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04.2021



that the eviction date has arrived until the Sheriff is knocking at the door. MLA often encounters tenants who are in this situation, calling MLA offices and asking about their options. In response to many of the calls, MLA can only advise tenants to safeguard their possessions while they are placed out on the street. HB 1309 though it will provide notice, does not provide notice of the date when the eviction will occur.

The consequences of a tenant being confused because they don't know the date the eviction will take place is particularly devastating. Even in Baltimore City, which has a version of this statute in place but where significantly the tenant is told the date of the eviction, MLA often sees tenants who come into our office after an eviction has taken place who can't get their possessions because the items are locked in their former apartment and because the items are considered abandoned, the Landlord has no duty to give the tenant their property. Our Baltimore City office often has to call the landlord and finds that the landlord will not return their property to them. Further, MLA has encountered instances, on some of those occasions, when the landlord returns the tenants' property, they charge a fee. Birth Certificates, social security cards, medicines, medical equipment, photographs, bibles, clothes, and furniture are lost.

Once an eviction takes place in Baltimore all property still in the residence is lost to the tenant. There have been incidents of tenant's being evicted with just the clothes on their backs and barred by the provisions in the law from gathering other possessions. If tenants are without the funds to pay their rent, the notice provided by this bill affords them little opportunity to move and safeguard their possessions. Many of our clients will be made more destitute by having lost their only possessions.

HB 1309 would turn a wretched situation –eviction- into one immeasurably worse and for these reasons, we respectfully request that you give H.B. 1309 an unfavorable report.

Sincerely,

/s/ Gregory Countess
Gregory Leo Countess
Legal Aid Bureau, Inc.
gcountess@mdlaborg
(410) 951-7687

HB 1309_Consumer Protection Division_unfav_2022.pd

Uploaded by: Kira Wilpone-Welborn

Position: UNF

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Fax No.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

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kwilponewelborn@oag.state.md.us

February 28, 2022

To: The Honorable Luke Clippinger
Chair, Judiciary Committee

From: Kira Wilpone-Welborn, Assistant Attorney General
Consumer Protection Division

Re: House Bill 1309 – Landlord and Tenant – Repossession for Failure to Pay Rent
Procedures (OPPOSE)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) opposes House Bill 1309 sponsored by Delegates Adams, McKay, Thiam, and Wivell. House Bill 1309 seeks to alter the current residential repossession procedures in Real Property Article § 8-401 by: (1) permitting landlords to unilaterally repossess a residential rental property without first obtaining a warrant of restitution issued by a District Court; and (2) permitting landlords to unfairly deem evicted tenants’ personal property immediately abandoned.

Presently, under Real Property Article § 8-401, to evict a residential tenant who has not paid the rent and fees awarded to a landlord within four (4) days of the entry of a failure to pay rent judgment, a landlord must seek a warrant of restitution from the District Court. House Bill 1309 eliminates the landlord’s obligation to file for a warrant of restitution. Instead, it permits a landlord to repossess the property simply by mailing an extrajudicial notice of repossession fourteen (14) days before the repossession date and posting the same notice seven (7) days before the repossession date. Thus, House Bill 1309 hastens an already swift and summary judicial process by unfairly denying tenants important procedural protections and may further inflame tensions during the fractious relationship between a landlord and tenant during an eviction. By so doing, House Bill 1309 would harm vulnerable consumers who have appealed an adverse judgment, are seeking to find alternative housing, or are working to acquire the funds necessary to redeem the leased premises and remain in their home, and the self-help process could lead to breaches of the peace.

Further, House Bill 1309 would unfairly permit landlords to take possession of a residential rental property without first removing evicted tenants’ personal property and deem the evicted tenants’ personal property immediately abandoned incentivizing landlords, to whom evicted

The Honorable Luke Clippinger
House Bill 1309
February 28, 2022
Page Two

tenants may owe an outstanding balance, to sell tenants' personal property for profit to reimburse landlords any monies still owed.

For these reasons, the Division requests that the Judiciary Committee give House Bill 1309 an unfavorable report.

cc: The Honorable Christopher T. Adams, *et al.*
Members, Judiciary Committee

MBIA Letter of Opposition HB 1309.pdf

Uploaded by: Lori Graf

Position: UNF

March 2, 2022

The Honorable Luke H. Clippinger
House Judiciary Committee
House Office Building, Room 101
6 Bladen St., Annapolis, MD 21401

RE: HB 1309 Landlord and Tenant – Repossession for Failure to Pay Rent – Procedures

Dear Chairman Smith:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **HB 1309 Landlord and Tenant – Repossession for Failure to Pay Rent – Procedures**. **MBIA Opposes** the Act in its current version.

This bill would institute new requirements for the notifications of a tenant by a landlord that they are repossessing the property. MBIA respectfully opposes this measure. The information that is required to be provided by landlords institutes a waiting period of a minimum of 7 and a maximum of 14 days after the court has already ruled in their favor because the letter must be sent by mail or directly posted at least 7 days prior to taking repossession. Landlords are already required to inform tenants before re-possession and this bill would make the requirements more difficult to meet, making it more difficult for landlord to exercise their right of repossession. The conclusion of a court case and presumably the notification that one is proceeding and the knowledge of its loss should be plenty of notice to a tenant.

For these reasons, MBIA respectfully requests the Committee give this measure an unfavorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the House Judiciary Committee

hb1309.pdf

Uploaded by: Sara Elalamy

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1309
Landlord and Tenant – Repossession for Failure to Pay Rent -
Procedures
DATE: February 23, 2023
(3/2)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes House Bill 1309, as drafted. House Bill 1309 authorizes a landlord to repossess rented property for failure to pay rent if they first notify the tenant, in writing sent by first-class mail with certificate of mailing, at least 14 days before the intended date of repossession, and posted on the leased premises at least 7 days before the intended date of repossession.

The Judiciary has no position on the policy aims of the legislation, but has concerns with two drafting provisions. First, the bill removes, at Real Property § 8-401(f)(1)(i), the existing statutory provision that calls for clerks to issue warrants of restitution in cases for nonpayment of rent, but it does not add a new provision explaining who issues the warrants. In addition, at § 8-401(f)(1)(iv)(2.), the bill states that the District Court “shall vacate” a warrant of restitution if it finds that a landlord did not provide notice as required under the bill. This removes discretion of judges to take into account the specific circumstances of a case, including whether actual notice had been provided even if not in precise compliance with the methods described in the bill.

cc. Hon. Christopher Adams
Judicial Council
Legislative Committee
Kelley O’Connor