



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

**HB1023 - Real Property - Landlord and Tenant - Procedures for Failure to Pay Rent,
Breach of Lease, and Tenant Holding Over**

Hearing before the House Environment and Transportation Committee,

Feb. 28, 2023

Position: FAVORABLE

Maryland Legal Aid (MLA) submits its written and oral testimony on HB1023 at the request of bill sponsor Delegate Jen Terrasa.

MLA is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. Our 12 offices serve residents in each of Maryland's 24 jurisdictions and handle a range of civil legal matters, including housing, family law, public benefits, bankruptcy and other debt collection matters, and criminal record expungements. MLA urges the Committee's favorable report on HB1023.

HB1023 would apply to evictions for non-payment of rent, holdover, and breach of lease and establish uniform procedures for (1) notifying tenants of their actual eviction date, (2) prohibiting the dumping of tenants' personal possessions in the public right of way, and (3) affording tenants a 7-day post-eviction period to reclaim personal possessions from the rental property.

HB1023 improves on the existing model of anti-bligh eviction procedures

In recent years, the General Assembly has considered delegation-requested bills (Wicomico County, Charles County, Anne Arundel County) and one statewide bill that attempted to end eviction-related blight by copying Baltimore City's "clean streets" ordinance.¹ The City ordinance, enacted in 2007, requires landlords to notify tenants of their actual eviction date in non-payment eviction cases.² The tenants' personal possessions are statutorily deemed abandoned at the time of eviction, and the landlord is obligated to remove the tenants' belongings to a landfill or by other means that avoid obstruction of the public right of way. The "clean streets" legislation was a compromise to curtail both surprise evictions and blight. In the intervening 15 years, however, tenants and tenant advocates have found that the legally required eviction notice sometimes fails. In these instances, the harm of the surprise eviction is exacerbated by the abandonment provision in the law. Households lose everything, without legal right to intervene as

¹ HB1051 (2019), HB1218 (2019), SB0347 (2022); see HB1309 (2022), with statewide application; see also HB0626 (2020), requiring, in Baltimore County, legal abandonment of tenants' personal property without notice.

² Baltimore City Code, Art. 13 Subtitle 8A.

they watch crews destroy and haul away their belongings or even hold those belongings ransom for exorbitant prices.

MLA has opposed all recent bills because they did not correct the problems that our clients have experienced in practice in Baltimore City. In September 2022, the U.S. District Court also discerned the significant jeopardy that tenants face in the City’s “clear streets” ordinance, finding the notice-and-abandonment procedure constitutionally defective.³ In 2023, it is now clear that any legislation on this topic must improve, rather than copy, the City’s model.

Notice of eviction under HB1023

Under HB1023, landlords must send notice to tenants of critical information about their pending eviction. Of foremost importance, the notice must state the actual eviction date, not simply that an eviction may occur at some time after the date of the notice. Additionally, the notice must provide the District Court case number for case that resulted in an order to evict the tenant. It must also state the date on which the court signed a warrant of restitution for the eviction. These additional elements of notice are important for establishing that the notice of eviction is legitimate. As importantly, the eviction notice must warn the tenant their personal property will be considered abandoned and may disposed 7 days after the eviction date.

Reclamation period under HB1023

During the 7 days between the eviction date and the date on which the tenant’s personal possessions become legally abandoned, the tenant may recover their personal possessions from the rental property or reasonably secure location chosen by the landlord. During this “reclamation” period, the landlord may not charge the tenant a fee for storing the personal property. The landlord would *not* be liable for loss or damage to stored property except where they acted deliberately or with gross negligence.

This feature of HB1023 would be a sensible, humane addition to Maryland law that brings our state into line with neighboring jurisdictions. Locally, Washington D.C. (7 days), New Jersey (30 days), West Virginia (30 days), Pennsylvania (30 days), Delaware (7 days), and Virginia (1 day)

³ *Todman v. Mayor & City Council of Baltimore*, No. CV DLB-19-3296, 2022 WL 4548640, at *19 (D. Md. Sept. 29, 2022) (“[T]he plaintiffs had no way to contest the state-mandated abandonment of their personal property. The operation of § 8A-4 violated their due process rights because they received inadequate notice and had no opportunity to be heard.”).

all have reclamation periods that allow tenants to access to their property after eviction. Across the states and the District of Columbia:

9 jurisdictions require notice of eviction + a right to reclaim post-eviction possessions.

19 jurisdictions require notice of eviction date + a right to reclaim + a duty on the landlord to store the post-eviction possessions.

Even without the notice requirement, thirty-three states have reclamation periods that are longer than 24 hours. The state of Maryland provides no time for reclaiming personal property and stands woefully outdated on this important due process and public safety measure.

Those opposed to this bill will argue that a reclamation period is unnecessary because HB1023 provides a 14-day notice of the scheduled eviction date. Presumably, that 14-day notice period provides sufficient time for the tenant to vacate with their belongings. However, MLA knows from our clients that, too often, tenants do not have notice of their evictions until the sheriff shows up to execute the warrant. In these surprise eviction scenarios, many of MLA's clients are not even aware that they missed a court date and were subject to a court's order for eviction. HB1023 would alleviate the harm of surprise evictions. We would expect failed notices to be rare, but we also know that, in those rare instances, we must safeguard against catastrophic loss. The 7-day post-eviction period in HB1023 provides that safeguard.

As supervisors at Maryland Legal Aid, we are tasked with training many young attorneys to advise clients on how not to lose their possessions during an eviction. We often share stories with young attorneys about clients who have come to us after an eviction, trying to obtain a family member's ashes, that were left in the property during the eviction. These young attorneys often think this is a one-off situation that we use for training. However, these young attorneys are then quickly surprised when they confront the same situation typically within the first six months of their employment as this is a regular occurrence in our practice and more importantly and unfortunately in the lives of our clients.

Tenants who lose their housing should not be forced to start over with only the clothes on their back. Our clients have recounted coming home from work to find out they had been evicted. They are in shock, as their mind races to understand how they will find shelter, clothing, and basic living items while balancing their ordinary responsibilities, such as getting the kids to school the next day and going to work. They may soon lose their job because they no longer have a place to sleep, shower, and wash their clothes for work. They may have lost critical items

such as medication, medical equipment, identification documents, all necessary for their day-to-day responsibilities.

HB1023 offers the most balanced approach to post-eviction procedures

In most of Maryland currently, a tenant's personal belongings, from lifesaving medication to birth certificates, are thrown out into the street at the time of eviction. The ensuing clutter and trash blocks sidewalks and rights-of-way, creating public safety risks. HB1023 would prevent blight much like prior legislation – it establishes the legally abandoned status of the tenant's post-eviction possessions and requires the landlord to remove those items without resort to dumping in the public right of way. Yet, it is crucial to accomplish this priority humanely, that is, by including a 7-day, post-eviction reclamation period. This benefits all stakeholders: the tenant, the landlord, and the community at large. It also reduces the risk for law enforcement officers at the time of eviction by moderately lowering the stakes.

This bill will enhance public safety and bring Maryland in line with other surrounding states that have taken a systematic approach to mitigating the harm of eviction. For these reasons, **Maryland Legal Aid urges the Committee's favorable report on HB1023.** If you have any questions, please contact:

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