

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 992 (Senator Benson)
Judicial Proceedings

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

This bill establishes additional requirements once 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 requirements related to notice and the storage of a tenant’s property. The bill also establishes civil remedies for a tenant if a landlord is in violation of the bill’s provisions. The bill 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 October 1, 2024 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:

Execution of a Warrant of Restitution – Landlord’s Responsibilities

If the District Court issues a warrant of restitution, the landlord must, at least 14 days before the scheduled date of repossession as set by the sheriff, provide written notice to the tenant of the date on which the warrant of restitution is scheduled to be executed by (1) sending

the notice by first-class mail with certificate of mailing and (2) posting the notice on the front door of the leased premises and taking a date-stamped photograph of the notice posted on the front door.

The notice must include the following:

- 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 (1) returns possession of the leased premises to the landlord or (2) for a warrant of restitution issued based on a failure to pay rent action, exercises the right to redemption (if available);
- a statement that if the eviction occurs, all personal property remaining in or about the leased premises will be considered abandoned and may be disposed of 10 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;
- a statement that the notice is the final notice to the tenant of the intended repossession, even if the repossession is stayed for any reason; and
- specified contact information for the landlord.

A landlord may charge a tenant up to \$5 for expenses actually incurred in providing the notice.

There is a rebuttable presumption that the tenant was notified if the landlord provides to the sheriff (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 notice was posted; and (3) a signed affidavit of the person who posted the notice.

Execution of a Warrant of Restitution – Sheriff's Responsibilities

If the sheriff reasonably believes that the landlord has not provided the required notice or that the tenant may have redeemed the property, the sheriff (1) must notify the District Court and (2) is prohibited from executing the warrant of restitution without further court order. If the District Court finds that the landlord did not provide the required notice, it must vacate the warrant of restitution.

However, if a landlord presents the required documentation to the sheriff, the sheriff (1) must file the documentation with the clerk of the court and (2) may execute the warrant

of restitution by putting the landlord in possession of the premises, without the removal of any personal property from the premises.

If a tenant is not present during the execution of the warrant of restitution, the sheriff must post a notice on the front door of the premises indicating that repossession of the premises has been completed and that the tenant has 10 days to reclaim the tenant's personal property.

Tenant's Personal Property

A tenant must be given 10 days after the execution of a warrant of restitution to recover personal property from the premises or another reasonably secure location chosen by the landlord. During the 10-day period, the landlord must make the tenant's personal property reasonably available for reclamation and may not charge a fee for storage. A tenant may not waive the right to reclaim the personal property.

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. Unless the tenant and the landlord agree otherwise, personal property remaining is deemed abandoned after the 10-day period. The landlord or any person acting on the landlord's behalf may not be held liable for any loss of or damage to property deemed abandoned.

Property deemed abandoned under these provisions may not be placed in a public right-of-way or on any public property. Generally, a landlord may dispose of abandoned property by:

- transportation to a licensed landfill or solid waste facility;
- donation to charity;
- sale; or
- any other legal means.

However, if the landlord disposes of abandoned property by sale, the tenant is entitled to any proceeds of the sale that exceed any back rent, move-out costs, or damage fees owed.

A landlord is not prohibited from (1) disposing of abandoned property consisting of perishable food, hazardous materials, or trash or (2) transferring an animal to an animal control officer, a humane society, or any other person willing to provide care for the animal.

Other Provisions

On violation of the bill's requirements and a court finding in favor of a tenant, the tenant is entitled to (1) actual damages; (2) reasonable attorney's fees and costs; (3) injunctive relief to recover possession of the leased premises or personal property; or (4) any other remedy the court may find reasonable.

The bill may not be interpreted to restrict the authority of the State and local jurisdictions to enact legislation governing landlords and tenants, including legislation establishing penalties for violations.

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. Landlords are also subject to additional civil remedies following the violation of any of the bill's provisions.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1023 of 2023.

Designated Cross File: HB 1114 (Delegate Terrasa, *et al.*) - Environment and Transportation.

Information Source(s): Howard County; Judiciary (Administrative Office of the Courts);
Department of Legislative Services

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