

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 452

(Delegate Niemann, *et al.*)

Environmental Matters

Judicial Proceedings

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**Landlord and Tenant - Summary Ejectment - Deceased Tenant**

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This bill permits a landlord to bring an action for summary ejectment against a tenant under lease who has died without a will and without next of kin. The landlord must certify to the court in the required written complaint that, to the best of the landlord's knowledge, the tenant is deceased, intestate, and without next of kin. Under the bill, property or income from property that a landlord holds for such a tenant is presumed abandoned according to State law.

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**Fiscal Summary**

**State Effect:** The bill would not materially affect State finances or operations. The Comptroller's Office assumes that any revenue increase from the sale of abandoned property would be negligible.

**Local Effect:** The bill would not directly affect local finances or operations.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** If a landlord certifies to the court in the required written complaint that, to the best of the landlord's knowledge, the tenant is deceased, intestate, and without next of kin, the District Court is required to issue its summons ordering the constable or sheriff of the county entitled to serve process to notify the occupant of the premises or the next of kin of the deceased tenant, if known, by personal service • to appear before the court at the trial to be held on the fifth day after the filing of the complaint; and • to answer the

landlord's complaint to show cause why the demand of the landlord should not be granted.

The constable or sheriff is required to serve the summons • to any such persons whom the sheriff is directed to serve if they are found on the property or at another known address; or • by affixing an attested copy of the summons conspicuously upon the property if none of these person are found on the property or at another known address. The affixing of the summons upon the property is conclusively presumed to be a sufficient service to all persons to support the entry of a default judgment for possession of the premises, together with court costs, in favor of the landlord, but it is not sufficient service to support a default judgment in favor of the landlord for the amount of rent due.

**Current Law/Background:** State law currently does not specifically provide for the eviction of deceased tenants who have died without a will and without next of kin. When a tenant fails to pay rent, the landlord is entitled to repossession of the premises through filing an action in District Court. If the court finds in favor of the landlord, the court must order that possession of the premises be given to the landlord within four days after trial. However, the tenant may still pay the past due rent and late fees. If the tenant does so, judgment is for the tenant.

If the judgment is in favor of the landlord and the tenant fails to pay the past due rent and late fees, the court must issue its warrant directed to any official of the county entitled to serve process, ordering the official to give the landlord possession of the premises and to remove, by force if necessary, the personal property of the tenant and anyone claiming or holding by or under the tenant. The tenant also has a right to redeem the leased premises after the landlord is awarded a judgment by giving the landlord all past due amounts, as determined by the court, plus all court awarded costs and fees, at any time before the execution of the eviction order. Neither the landlord nor the person executing the eviction warrant is required to retain possession of the tenant's personal property, although the landlord is typically required by local ordinances to dispose of it properly.

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### **Additional Information**

**Prior Introductions:** HB 1340 of 2007, an identical bill, did not receive a hearing.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 13, 2008  
mcp/jr Revised - House Third Reader - March 18, 2008

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