

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 11-0666

Introduced by: The Council President
At the request of: The Administration (Law Department)
Introduced and read first time: March 7, 2011
Assigned to: Judiciary and Legislative Investigations Committee

Committee Report: Favorable with amendments
Council action: Adopted
Read second time: May 20, 2011

AN ORDINANCE CONCERNING

Eviction Chattels – Foreclosure Chattels

FOR the purpose of deleting certain requirements for certified mail; deleting certain obsolete provisions involving notice by the Sheriff; and clarifying that noncompliance by a landlord or a foreclosure purchaser, as the case may be, with the requirement for notice pending dispossession will cause the court to vacate the warrant of restitution or writ of possession, as the case may be.

BY repealing and reordaining, with amendments

Article 13 - Housing and Urban Renewal

Section(s) ~~8A-2(c)~~ 8A-2(b) and (c), 8A-3, ~~8B-2(b)~~ 8B-2(a) and (c), and 8B-3

Baltimore City Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 13. Housing and Urban Renewal

Subtitle 8A. Eviction Chattels

§ 8A-2. Notice of pending dispossession.

(b) Notice required.

Whenever a judgment is entered in favor of the landlord for possession of a leased dwelling, the landlord shall [: (1)] notify the tenant of the date on which the warrant of restitution is first scheduled to be executed by the Sheriff [; or (2) if the Sheriff has agreed to provide notices of this sort, arrange for the Sheriff to notify the tenant of the date on which the warrant of restitution is first scheduled to be executed] .

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 (c) *How given.*

2 The notice shall be:

3 (1) mailed [both by certified mail and] by first-class mail with certificate of mailing
4 at least 14 days before the first scheduled date of execution; and

5 (2) posted on the premises at least 7 days before the first scheduled date of execution.

6 (e) *Charge for notice.*

7 A landlord may charge the tenant for expenses incurred in providing this notice, up to a
8 maximum of [\$10] \$5.

9 **§ 8A-3. [Postponing] VACATING execution of warrant.**

10 (A) [(b)] *By Sheriff.*

11 [The] IF THE SHERIFF REASONABLY BELIEVES THAT THE LANDLORD DID NOT PROVIDE THE
12 TENANT WITH THE NOTICE REQUIRED BY § 8A-2 OF THIS SUBTITLE, THE Sheriff shall [stay
13 the execution of] NOTIFY THE DISTRICT COURT AND MAY NOT EXECUTE the warrant of
14 restitution [for a period of 15 days] UNTIL FURTHER ORDER OF THE COURT [if the Sheriff
15 reasonably determines that the landlord did not provide the notice to the tenant required
16 by § 8A-2 of this subtitle].

17 (B) [(a)] *By District Court.*

18 [The] IF THE DISTRICT COURT FINDS THAT THE LANDLORD DID NOT PROVIDE THE TENANT
19 WITH THE NOTICE REQUIRED BY § 8A-2 OF THIS SUBTITLE, THE District Court shall [stay
20 the execution of] VACATE the warrant of restitution [for a period of 15 days if the Court
21 finds that the landlord did not provide the notice to the tenant required by § 8A-2 of this
22 subtitle].

23 (c) *Presumption that [notice received] TENANT NOTIFIED.*

24 If the landlord provides a copy of the notice, [a certified mail receipt,] certificate of
25 mailing, and signed affidavit by the person who posted the property, all of which are
26 dated within the proper time periods required by § 8A-2 of this subtitle, there is a
27 REBUTTABLE presumption that the [notice was actually received by the] tenant WAS
28 NOTIFIED.

29 **Subtitle 8B. Foreclosure Chattels**

30 **§ 8B-2. Notice of pending dispossession.**

31 (a) *Notice required.*

32 Whenever a judgment is entered in favor of a foreclosure purchaser for possession of the
33 residential property purchased and the Court has issued a writ of possession, the
34 foreclosure purchaser shall [:(1)] notify any occupant of the property of the date on
35 which the writ of possession is first scheduled to be executed by the Sheriff [; or (2) if the

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1 Sheriff has agreed to provide notices of this sort, arrange for the Sheriff to notify the
2 occupant of the date on which the writ of possession is first scheduled to be executed].

3 (b) *How given.*

4 The notice shall be:

5 (1) mailed [both by certified mail and] by first-class mail with certificate of mailing
6 at least 14 days before the first scheduled date of execution; and

7 (2) posted on the premises at least 7 days before the first scheduled date of execution.

8 **§ 8B-3. [Postponing] VACATING execution of writ.**

9 (A) [(b)] *By Sheriff.*

10 [The] IF THE SHERIFF REASONABLY BELIEVES THAT NEITHER THE SHERIFF NOR THE
11 FORECLOSURE PURCHASER PROVIDED THE OCCUPANT WITH THE NOTICE REQUIRED
12 BY § 8B-2, THE Sheriff shall [stay the execution of] NOTIFY THE CIRCUIT COURT AND MAY
13 NOT EXECUTE the writ of possession [for a period of at least 15 days] UNTIL FURTHER
14 ORDER OF THE COURT [if the Sheriff reasonably determines that the foreclosure purchaser
15 did not provide the notice to the tenant required by § 8B-2 of this subtitle].

16 (B) [(a)] *By Circuit Court.*

17 [The] IF THE CIRCUIT COURT FINDS THAT NEITHER THE FORECLOSURE PURCHASER NOR
18 THE SHERIFF PROVIDED THE OCCUPANT WITH THE NOTICE REQUIRED BY § 8B-2 OF THIS
19 SUBTITLE, THE Circuit Court shall [stay the execution of] VACATE the writ of possession
20 [for a period of at least 15 days if the Court finds that the foreclosure purchaser or the
21 Sheriff did not provide the notice to the occupant required by § 8B-2 of this subtitle].

22 (c) *Presumption that [notice received] OCCUPANT NOTIFIED.*

23 If the foreclosure purchaser provides a copy of the notice, [a certification that the notice
24 was mailed first class and by certified mail (with the certified mail number)] CERTIFICATE
25 OF MAILING, and [a] signed affidavit by the person who posted the property, all of which
26 are dated within the proper time periods required by § 8B-2 of this subtitle, there is a
27 REBUTTABLE presumption that the [notice was actually received by the] occupant WAS
28 NOTIFIED.

29 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
30 are not law and may not be considered to have been enacted as a part of this or any prior
31 Ordinance.

32 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
33 after the date it is enacted.

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City