

**CITY OF BALTIMORE
COUNCIL BILL 11-0666
(First Reader)**

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

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Housing and
Community Development, Sheriff's Office, Department of Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Eviction Chattels – Foreclosure Chattels**

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

7 BY repealing and reordaining, with amendments

8 Article 13 - Housing and Urban Renewal
9 Section(s) 8A-2(c), 8A-3, 8B-2(b), and 8B-3
10 Baltimore City Code
11 (Edition 2000)

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

14 **Baltimore City Code**

15 **Article 13. Housing and Urban Renewal**

16 **Subtitle 8A. Eviction Chattels**

17 **§ 8A-2. Notice of pending dispossession.**

18 (c) *How given.*

19 The notice shall be:

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

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

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 (e) *Charge for notice.*

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

4 **§ 8A-3. [Postponing] VACATING execution of warrant.**

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

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

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

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

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

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

24 **Subtitle 8B. Foreclosure Chattels**

25 **§ 8B-2. Notice of pending dispossession.**

26 (b) *How given.*

27 The notice shall be:

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

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

31 **§ 8B-3. [Postponing] VACATING execution of writ.**

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

33 [The] IF THE SHERIFF REASONABLY BELIEVES THAT NEITHER THE SHERIFF NOR THE
34 FORECLOSURE PURCHASER PROVIDED THE OCCUPANT WITH THE NOTICE REQUIRED

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1 BY § 8B-2, THE Sheriff shall [stay the execution of] NOTIFY THE CIRCUIT COURT AND MAY
2 NOT EXECUTE the writ of possession [for a period of at least 15 days] UNTIL FURTHER
3 ORDER OF THE COURT [if the Sheriff reasonably determines that the foreclosure purchaser
4 did not provide the notice to the tenant required by § 8B-2 of this subtitle].

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

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

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

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

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

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