
Judiciary Committee

HB 1228

Title: An act relating to the disposition of a deceased tenant's personal property.

Brief Description: Concerning the disposition of a deceased tenant's personal property.

Sponsors: Representatives O'Brien and Warnick.

Brief Summary of Bill

- Sets forth procedures for removing, storing, transferring, and disposing of a tenant's personal property upon his or her death and subsequent default in the payment of rent.
- Allows a landlord to take immediate possession of the tenant's personal property upon the tenant's death and subsequent default in the payment of rent, and directs the landlord to follow the abandonment procedures in the Residential Landlord-Tenant Act.

Hearing Date: 2/18/09

Staff: Kate Moeur White (786-5793); Trudes Tango (786-7384)

Background:

The Residential Landlord-Tenant Act (RLTA) governs the relationship between the renter of residential property (tenant) and the property owner or property owner's agent (landlord). The RLTA outlines the specific duties of the landlord and the tenant and establishes procedures for each party to enforce his or her rights.

Under the RLTA, if a tenant abandons the property, indicating to the landlord an intention not to resume tenancy, and subsequently defaults in the payment of rent, the landlord may treat the tenant's personal property as abandoned. Upon determination that the tenant's property is abandoned, the landlord may take immediate possession of the property and may store the property in a reasonably secure place. The landlord is required to notify the tenant of the

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location where the property is stored. If, after 45 days following notice, the tenant does not come forward to claim the property, the landlord may sell or dispose of the property and, in certain cases, may apply any proceeds against moneys due to the landlord by the tenant.

The RLTA does not explicitly address procedures to be followed by the landlord in the case of a tenant's death and subsequent default in the payment of rent. However, the landlord could be found, in some cases, to be under a duty to comply with procedures regarding the disposition of personal property on small estates. For small estates, a successor (a person who is entitled to claimed property under the terms of a will, intestate succession, or community property) may claim possession of the deceased's property after providing certain documentation. Generally, after 40 days from the person's death, any person who has possession of personal property belonging to the decedent must deliver the property to a person claiming to be a successor.

Summary of Bill:

A new section is added to the RLTA addressing the disposition of a deceased tenant's personal property. The landlord may immediately enter a tenant's dwelling and take possession of the tenant's personal property upon the tenant's death and subsequent default in the payment of rent. The landlord must treat the tenant's property as abandoned and may store the property in a reasonably secure place.

A person who is not a landlord is prohibited from entering a deceased tenant's dwelling and removing the tenant's personal property (with a few stated exceptions) unless the person possesses a certified copy of a testamentary letter or an affidavit of successorship.

A landlord, or any other person who has possession of a deceased tenant's personal property, is required to deliver the tenant's property, any time after 40 days following the tenant's death, to a person claiming to be a successor of the decedent's upon receipt of proof of death and an affidavit claiming successorship.

In the case that a successor of the deceased tenant does not come forth to claim the decedent's property, a closest surviving relative may make a written request, complying with certain requirements, to take possession of the property, thus indemnifying the property owner, landlord, and his or her agents.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.