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H.B. 5255 (Sec. 2 and 3) and H.B. 5031 (Secs. 3 and 4)

Municipal duty to protect tenants' possessions after an eviction

Testimony of Raphael L. Podolsky

Recommended legislative action: **REJECTION OF THE PROPOSALS**

Municipalities play a critical role in the last stages of the eviction process by picking up and holding the possessions of evicted tenants for at least 15 days so that they have a chance to get them back. These bills, which would remove the towns from the process, will in the end leave tenants at the mercy of landlords and in practice often result in the loss of every possession they own. The statutes should NOT be changed.

* The existing statute is not an "unfunded state mandate." It is a public health, safety, and welfare responsibility of towns that dates back to **at least 1895**, when the current statute was adopted. It is a way of keeping a buffer between landlords and tenants and a way of preventing violent confrontations.

* Existing law protects the most vulnerable tenants. In about 3,000 evictions per year -- 10% to 15% of all eviction cases -- the tenant or the tenant's possessions must be removed by a marshal. These are often the saddest cases -- tenants with little understanding of the process, no place to go, and no place to store property.

* It isn't just about apartment renters. These bills apply to everyone who rents residential property. For example, they apply to the owners of mobile homes in mobile home parks, who may have an investment of $100,000 or more in their home. They even apply to the "ejectment" of a homeowner at the end of a foreclosure. Passage of these bills puts all of their belongings at greater risk.

* A significant number of cases result in redemptions. A 50-town survey completed in 2006 found that, while redemption rates vary widely from town to town, tenants reclaim their property on average about 20% to 25% of the time.

* Tenant property is not all "junk." This is confirmed by the testimony of marshals in past years and by such towns as New Britain, which conduct their auctions in the form of open, public tag sales. In addition, some property, from photograph albums to personal papers, is irreplaceable.

* The town is the best entity to deal with the situation. It is neutral. It has an interest that its residents not be stripped of all their possessions. It may be willing to waive storage fees or help the tenant with a voluntary move that avoids an eviction by the marshal, saving cost to the landlord and the town and reducing hardship for the tenant.

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* Proper municipal response to notice that an execution has been served can significantly reduce the number of executed evictions through third-party intervention. Towns like West Hartford and Bloomfield have demonstrated that town intervention can produce win-win situations by having a town worker seek out the tenant and actively broker a move-out or other resolution that will necessitate neither the use of a marshal to evict nor pick-up and storage by the town.

* Retention of the property by the landlord is not a suitable alternative. Landlords are likely to throw property away immediately or to refuse to return it, even on demand. Direct confrontation between landlord and tenant is dangerous and creates public safety risks. In practice, leaving the tenant's property in the landlord's control is very likely to result in permanent loss of the property to the tenant.

The present system is, by far, the best of the alternatives and should be retained.