

---

---

## **OLR Bill Analysis**

### **sSB 819**

#### ***AN ACT CONCERNING THE POSSESSIONS OF DECEASED TENANTS.***

#### **SUMMARY:**

This bill modifies the process landlords may use instead of an eviction action to regain possession of a rental unit after the death of the only tenant living there. The modifications include notice to the tenant's emergency contact and a process for removing the tenant's belongings without a judgment.

By law, when the sole tenant in a rental unit dies, and the landlord has complied with any provisions in a lease permitting termination upon the tenant's death, the landlord may take specific actions to remove the deceased tenant's belongings and reclaim possession of the unit. Landlords who follow this process are protected against an action for entering a dwelling unit without consent.

EFFECTIVE DATE: October 1, 2013

#### **NOTICE OF INTENT TO REMOVE POSSESSIONS**

Under current law, landlords must send a notice to the last-known address of the deceased tenant's next of kin. The bill requires the landlord to also send a notice to the last-known address of the tenant's emergency contact, if one is designated. As under current law, the notice must (1) be sent by regular and certified mail, return receipt requested, (2) be in clear and simple language, and (3) include the landlord's telephone number and address.

Under current law, the notice must state that the (1) tenant has died, (2) landlord intends to remove his or her belongings from the rental unit and re-rent the premises, and (3) landlord will dispose of belongings not reclaimed within 60 days. The bill requires the notice to also (1) state that the emergency contact or next of kin should

immediately contact the probate court for information on how to reclaim the possessions and (2) include the phone number for the probate court district in which the unit is located.

### **PROBATE COURT AFFADAVIT**

Landlords must file an affidavit with the probate court regarding the deceased tenant and his or her personal belongings. The affidavit must include the deceased tenant's name and address, the date he or she died, the terms of the lease, and the names and addresses of any known next of kin. The bill requires the landlord to also include the emergency contact's name and address.

As under existing law, if the court receives a request to determine the validity of a will or appoint an administrator of a decedent's estate within 55 days of the date the affidavit is filed, it must immediately notify the landlord. A landlord who receives this notice cannot dispose of the tenant's property or re-rent the dwelling unit as indicated above.

### **LANDLORD'S REMOVAL OF DECEASED TENANT'S PROPERTY**

No sooner than 30 days after filing the affidavit, the landlord must file an inventory of the tenant's belongings, store them, and, after 60 days, dispose of them in the same manner in which he or she would an evicted tenant's property, which requires a state marshal executing an eviction order to remove the possessions and deliver them to a town-designated storage facility for sale at public auction.

The bill instead allows the landlord, at the end of the 60-day period following the filing of the affidavit, to obtain from the probate court a certificate indicating that (1) he or she has filed the inventory and (2) 60 days have elapsed since that filing (see COMMENT). The landlord may file the certificate, at no cost, in the Superior Court for the district where the rental unit is located. The court clerk must use the certificate to open a summary process file. The certificate must be treated in the same manner as a summary process judgment and have the same effect and be subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as the judgment.

The landlord may execute the judgment by having a state marshal deliver the deceased tenant's possessions to a town-designated storage facility for sale at public auction.

The bill requires the state marshal executing the order to generally follow the same steps he or she would follow for removing an evicted tenant's possessions. This means he or she must (1) attempt to notify the deceased tenant's emergency contact and next of kin of the date and time of the removal and possible sale of the property and (2) give the chief executive officer (CEO) of the town where the rental unit is located 24-hours notice of the removal and a general description, if known, of the property to be removed and copy of the filed inventory.

The deceased tenant's property may be reclaimed at any time before the auction by a probate-court appointed executor or administrator, after paying the town's storage expenses. If the property is not reclaimed within 15 days of its removal, the CEO can sell it at a public auction. He or she must make reasonable efforts to locate and notify the next of kin of the sale, including posting a notice (1) one week in advance of the auction on a public sign post located near the deceased tenant's rental unit or (2) at some exterior place near the town clerk's office.

Within 30 days after the auction, the CEO must turn over the proceeds to the (1) deceased tenant's estate or (2) if estate proceedings are not initiated during this period, state treasurer for deposit under the state's escheat laws.

## **COMMENT**

### ***Timeline for Obtaining Probate Court Certificate***

The bill allows a landlord to obtain a certificate from the probate court 60 days after filing the affidavit, indicating that 60 days have elapsed since the landlord filed the inventory. However, since the landlord must wait at least 30 days after filing the affidavit to file the inventory, only 30 days would have elapsed since that filing. Thus, a landlord could not receive a certificate under the bill.

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/13/2013)