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## **OLR Bill Analysis**

### **sSB 52**

#### ***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 (1) providing notice to the tenant's emergency contact, as well as to his or her next of kin, and (2) 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. The bill extends this protection to landlords who follow its process.

EFFECTIVE DATE: October 1, 2014

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

By 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 landlord or 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 AFFIDAVIT**

By law, landlords must file an affidavit with the probate court regarding the deceased tenant and his or her personal belongings. The affidavit must include the (1) deceased tenant's name and address, (2) date he or she died, (3) terms of the lease, and (4) names and addresses of any known next of kin. The bill requires the landlord to also include the emergency contact's name and address.

By 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**

Under current law, no sooner than 30 days after filing the affidavit, the landlord must file an inventory of the tenant's belongings and, after another 15 days, may remove and store them for an additional 15 days. The bill specifies that the storage must be secure.

Current law allows the tenant's next of kin to reclaim the belongings within the 60-day period following the filing of the affidavit. The bill allows a person other than the next of kin (presumably the emergency contact) to reclaim the belongings during this period.

After the 60-day period, current law allows the landlord to dispose of the belongings in the same manner in which he or she would dispose of an evicted tenant's property. This 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,

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 the filing of the affidavit. The landlord may file, at no cost, the certificate and an application, prescribed by the chief court administrator, 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 based on the reason that the named tenant's right to occupy has terminated due to his or her death. 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 bill allows the landlord to execute the judgment after the (1) clerk opens the summary process file and sends a notice of judgment and (2) appropriate stay of execution expires. The landlord may do so 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 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. He or she must 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.

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute Change of Reference

Yea 15 Nay 0 (03/12/2014)

Judiciary Committee

Joint Favorable

Yea 32 Nay 0 (04/01/2014)