

PENNSYLVANIA'S NEW ABANDONED PROPERTY LAW

On July 5, 2012, Pennsylvania Governor Corbett signed into law Senate Bill 887-2011, known as the Abandoned Property Bill. The law, Act 129-2012 (referred to in this article as the "Act"), becomes effective on September 3, 2012 and prescribes how landlords must handle a tenant's abandoned property in certain circumstances. This article will outline your obligations when a tenant abandons property.

Applicability of the Act. Whether the Act applies will depend on the status of your tenant. If your tenant leases the lot and the home from you, the Act will apply to the tenant's belongings in the home. If, however, your tenant leases only the lot and owns his home, the Act will likely not apply at all. Section 505 of the Landlord and Tenant Act contains a specific provision regarding abandoned homes, and the Act does not appear to supersede section 505.

Furthermore, the Act applies in only two situations: (1) when you have executed on an Order for Possession (*i.e.*, when you have evicted a tenant), and (2) when a tenant moves out, removes substantially all of his personal belongings and gives you a forwarding address or a written notice that he has abandoned. Importantly, the Act **does not** apply if the tenant simply "skips out."

Notice to Tenant. When a tenant leaves property behind, you must provide a notice that he/she has abandoned the property and request that he/she notify you of his/her intentions regarding the abandoned property. The notice must also advise the tenant that you may be entitled to relocation and storage charges in certain circumstances.

Service of Notice. The notice can be sent via first class mail to the forwarding address provided to you by the tenant. If the tenant does not provide a forwarding address, then the notice can be sent to the address of the lot in the community that your tenant leased from you. In lieu of mailing, the notice can also be served personally on the tenant. The Act also states that if your lease or a lease addendum does not contain the notices required in the Act, you must also send your notice to any emergency contact the tenant has given to you.

When Notice is not Required. The Act states that if the tenant was evicted and the Court's form Order for Possession contains the notices required by the Act, then you do not have to provide a notice to the tenant. It will likely be some time, however, before the Courts have their forms revised to include the notice. When that is done, however, you will not have to provide any additional notice to the tenant, and the Ten Day Period, described below, would begin on the date of the eviction.

Procedure After Notice.

1. If the tenant fails to notify you of his/her intent with regard to the removal of his/her property within ten days from the date you mail the notice to the tenant (the "Ten Day Period"), you can dispose of the tenant's property in any manner you deem appropriate and have no liability to the tenant.
2. If the tenant notifies you within the Ten Day Period that he/she intends to retrieve his/her property, you must store the prop-

erty for thirty days from the date of the tenant's notice to you.

3. If the tenant notifies you within the Ten Day Period that he/she intends to retrieve his/her property, but fails to retrieve it within thirty days after the tenant's notice to you, you can dispose of the tenant's property in any manner you deem appropriate and have no liability to the tenant.

Storage of Property. You may keep the tenant's property in the home, or you can move it to a location of your choice. The Act requires, however, that the storage location must be within a reasonable proximity of the home. In both the relocation and storage of the tenant's property, you are required to exercise reasonable care to ensure its protection.

Removal/Storage Costs. You are entitled to charge the tenant your reasonable and actual costs incurred in removing and/or storing the tenant's property. However, you can only charge these costs if the tenant retrieves the property after the Ten Day Period but before the expiration of thirty days after the tenant's notice to you that he/she intends to retrieve the property.

Sale of Tenant's Property. If you sell the tenant's property and the proceeds exceed any outstanding monetary obligation to you, including relocation and storage costs, you are obligated to send the excess proceeds to the tenant at the forwarding address provided by the tenant. If the tenant has not provided you a forwarding address, then you must hold the proceeds for thirty days. If the tenant does not claim the proceeds within thirty days, you can keep them.

While the Act is not perfect, and does not address the situation when a tenant skips out, Pennsylvania has finally joined the majority of other states that have abandoned property laws on their books.

There is also a bill pending in the State General Assembly, House Bill 1767, that would change the procedures owners must utilize when a manufactured home is abandoned. HB 1767, if passed, would also address the abandonment of personal property in the abandoned manufactured home.



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