

SENATE BILL 2051

By Ford

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 15; Title 29, Chapter 18, Part 1 and Title 66, Chapter 28, relative to writ of possession.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 29-18-126, is amended by deleting the section in its entirety and by substituting instead the following:

§ 29-18-126.

(a) No execution or writ of possession shall issue against the defendant upon any judgment, under the provisions of this chapter, until after the lapse of ten (10) days from the rendition of the judgment.

(b) The sheriff or any constable to whom the writ of possession is directed and delivered shall give at least twenty-four (24) hours written notice prior to the execution of the writ of possession. The written notice shall be posted on the door of the premises described in the writ of possession and shall specify the date and approximate time of removal of the defendant, defendant's family, and defendant's personal property from the premises described in the writ of possession.

(c) Execution of removal pursuant to a writ of possession shall only occur between the hours of eight o'clock a.m. (8:00 a.m.) and five o'clock p.m. (5:00 p.m.).

(d) At the time of execution of the writ of possession but prior to removal, plaintiff shall:

(1) Compile an inventory list of defendant's personal property remaining in the premises described in the writ of possession;

(2) Provide a description of each item of defendant's personal property and any existing damage to such items on the inventory list; and

(3) Sign the inventory list, along with the sheriff or any constable executing the writ of possession and the defendant, if the defendant is present.

(e) If the plaintiff does not comply with subsection (d), then the plaintiff may be held civilly liable for any damage to the defendant's personal property caused by the removal of such personal property from the premises listed on the writ of possession; provided that the plaintiff shall not be liable for any damage to such personal property occurring subsequent to such removal.

(f) In executing a writ of possession, the defendant's personal property shall either be removed on the day of removal to a local warehouse for storage or be removed from the property, as has been the procedure of sheriffs prior to March 28, 1976 in actions of ejectment, at the discretion of the defendant. All storage fees and transportation costs incurred are to be paid by the defendant.

SECTION 2. Tennessee Code Annotated, Section 29-15-114, is amended by deleting the section in its entirety and by substituting instead the following:

§ 29-15-114.

(a) The judgment is executed by a writ of possession, issued to the sheriff or any constable, and directing the sheriff or any constable to put the plaintiff in possession of the premises.

(b) No execution or writ of possession shall issue against the defendant upon any judgment, under the provisions of this chapter, until after the lapse of ten (10) days from the rendition of the judgment.

(c) The sheriff or any constable to whom the writ of possession is directed and delivered shall give at least twenty-four (24) hours written notice prior to the execution of

the writ of possession. The written notice shall be posted on the door of the premises described in the writ of possession and shall specify the date and approximate time of removal of the defendant, defendant's family, and defendant's personal property from the premises described in the writ of possession.

(d) Execution of removal pursuant to a writ of possession shall only occur between the hours of eight o'clock a.m. (8:00 a.m.) and five o'clock p.m. (5:00 p.m.).

(e) At the time of execution of the writ of possession but prior to removal, plaintiff shall:

(1) Compile an inventory list of defendant's personal property remaining in the premises described in the writ of possession;

(2) Provide a description of each item of defendant's personal property and any existing damage to such items on the inventory list; and

(3) Sign the inventory list, along with the sheriff or any constable executing the writ of possession and the defendant, if the defendant is present.

(f) If the plaintiff does not comply with subsection (e), then the plaintiff may be held civilly liable for any damage to the defendant's personal property caused by the removal of such personal property from the premises listed on the writ of possession; provided that the plaintiff shall not be liable for any damage to such personal property occurring subsequent to such removal.

(g) In executing a writ of possession after judgment in an action of ejectment, the defendant's personal property shall either be removed on the day of removal to a local warehouse for storage or be removed from the property, as has been the procedure of sheriffs prior to March 28, 1976 in actions of ejectment, at the discretion of the defendant. All storage fees and transportation costs incurred are to be paid by the defendant.

SECTION 3. Tennessee Code Annotated, Section 29-15-124, is amended by deleting the section in its entirety.

SECTION 4. This act shall take effect July 1, 2011, the public welfare requiring it and shall apply to any writ of possession executed on or after the effective date of this act.