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Statement to the Municipal Mandates Subcommittee of the M.O.R.E. Commission

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I want to express my thanks to the Municipal Mandates Subcommittee for inviting me to speak today about the storage of tenant possessions after an eviction. The Legal Assistance Resource Center of Connecticut is part of the legal aid programs in Connecticut. Every year, those programs represent hundreds of low-income tenants in eviction cases in the Connecticut courts.

Municipalities play an absolutely critical role in the late stages of the eviction process, and it would be a serious mistake to remove them. Their role is essential to preventing evicted tenants from unnecessarily being left with literally nothing after an eviction. While no system is perfect, the existing structure works better than any other viable alternative and should be retained.

- * 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 original form of the current statute was adopted. It is a way of keeping a buffer between landlords and tenants, even after judgment is entered in an eviction, and a way of preventing violent confrontations between landlords and tenants. It is also a way to try to prevent a tenant household that is losing its place to live from also being stripped of all that it owns. In doing so, it recognizes the importance of a neutral entity to manage the process of reclaiming a tenant's possessions. Every part of the eviction process is buffered -- from service of the notice to quit and court papers, to mediation and trial of the case in court, to physical removal of the tenant from the premises if that becomes necessary. Reclaiming tenant possessions after an eviction is part of a process in which there is always a neutral party between the landlord and the tenant.
- * Existing law protects the most vulnerable tenants. In about 2,500 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 few financial resources, little understanding of the process, no place to go, and no place to store property. These are the cases in which municipal storage plays a role.
- * The current version of the statute is the result of a compromise worked out less than four years ago. It should be allowed to stand. That compromise involved a delicate balance between the interests of tenants, landlords, and municipalities. Historically, the town picked up the possessions of evicted residential tenants and moved them into storage. The 2010 compromise required the landlord, through the marshal who carried out the eviction, to bring the possessions to the town. This significantly reduced municipal costs, preserved the ability of tenants to reclaim property, and accelerated the ability of landlords to free up their property for re-rental. Removal of the municipal role would not only risk throwing redemption into an uncontrolled and possibly dangerous environment but would unnecessarily put significant additional burdens on tenants, landlords, or both.

- * A significant number of cases result in redemptions. A 50-town survey completed in 2006 found that, while redemption rates varied widely from town to town, tenants reclaimed their property on average about 20% of the time. There is reason to believe that the redemption rate has increased since then, and particularly since the 2010 amendments, which appear to have reduced the percentage of evictions in which property is put into town storage. My office is in the midst of updating the 2006 survey, but preliminary responses indicate that the median redemption rate may now be close to 30%.
- * Tenant property is not all "junk." This was confirmed repeatedly in past years by the testimony of marshals at legislative public hearings. It is also clear to from the experience of the City of New Britain, which conducts its auctions in the form of public Saturday morning tag sales that draw a crowd of retail buyers. 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. Some towns waive storage fees so that indigent tenants can get their possessions back. Some actively work with the tenant and landlord so as to avoid an eviction by the marshal, saving cost to the landlord and the town and reducing hardship for the tenant.
- * Proper municipal response significantly reduces the number of executed evictions. By law, the marshal must notify the town before carrying out an eviction. Towns like West Hartford and Bloomfield use that notice to produce win-win situations by having a town worker seek out the tenant and actively broker a move-out or other resolution that avoids the need for the marshal to go through with the eviction or for the town to store the property. West Hartford, for example, reports that over the past three years its system has helped result in avoiding about two-thirds of scheduled evictions (66 out of 98). Its varied techniques -- including direct contact with the tenant and assistance when needed to help the tenant remove and store possessions -- have implemented the existing statute in exactly the way in which it is intended to work.
- * Within the framework of a municipal budget, the cost to municipalities is small while the benefits of municipal involvement are significant. Indeed, for many municipalities there is little out-of-pocket cost, because they store possessions in their own warehouse space. Repealing the existing structure would adversely impact the very poorest residents of the town while producing a minimal savings to municipalities.
- * Retention of the property by the landlord is not a suitable alternative. It is essential that there be a reasonable "redemption" period after an eviction in which a tenant can get possessions back and that the custodian be neutral. Connecticut's redemption period of 15 days is shorter than at least 17 other states (30 days is a common redemption period elsewhere). Landlords are not suitable custodians. Many 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 the best of the alternatives and should be retained.