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By: **Delegate Owings**

Introduced and read first time: February 9, 2004

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant - Residential Leases - Reservation Fees**

3 FOR the purpose of exempting reservation fees required by a landlord under this Act  
4 from a certain requirement to return fees to a tenant; authorizing a landlord to  
5 require a prospective tenant to pay a reservation fee to reserve a dwelling unit  
6 for lease; prohibiting a reservation fee required by a landlord under this Act to  
7 exceed a certain amount; requiring a landlord, if a prospective tenant executes a  
8 lease and takes possession of a dwelling unit for which the prospective tenant  
9 paid a reservation fee, to refund the reservation fee to the tenant or credit the  
10 reservation fee to the tenant's account within a certain amount of time;  
11 authorizing a landlord to withhold a reservation fee or any portion of a  
12 reservation fee under certain circumstances; authorizing a tenant to bring a civil  
13 action against a landlord under certain circumstances; clarifying certain  
14 language relating to fees retained by a landlord; and generally relating to  
15 reservation fees for residential leases.

16 BY repealing and reenacting, with amendments,  
17 Article - Real Property  
18 Section 8-213  
19 Annotated Code of Maryland  
20 (2003 Replacement Volume and 2003 Supplement)

21 BY adding to  
22 Article - Real Property  
23 Section 8-213.1  
24 Annotated Code of Maryland  
25 (2003 Replacement Volume and 2003 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
27 MARYLAND, That the Laws of Maryland read as follows:

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**Article - Real Property**

2 8-213.

3 (a) An application for a lease shall contain a statement which explains:

4 (1) The liabilities which the tenant incurs upon signing the application;

5 and

6 (2) The provisions of subsections (b) and (c) of this section.

7 (b) (1) (i) If a landlord requires from a prospective tenant any fees other  
8 than a security deposit as defined by § 8-203(a) of this subtitle OR A RESERVATION  
9 FEE REQUIRED UNDER § 8-213.1 OF THIS SUBTITLE, and these fees exceed \$25, then  
10 the landlord shall return the fees, subject to the exceptions below, or be liable for  
11 twice the amount of the fees in damages.

12 (ii) The return shall be made not later than 15 days following the  
13 date of occupancy or the written communication, by either party to the other, of a  
14 decision that no tenancy shall occur.

15 (2) The landlord may retain only that portion of the fees actually  
16 expended for a credit check or other expenses arising out of the application PROCESS,  
17 and shall return that portion of the fees not actually expended IN PROCESSING AN  
18 APPLICATION on behalf of [the] A PROSPECTIVE tenant making application FOR A  
19 LEASE.

20 (c) This section does not apply to any landlord who offers four or less dwelling  
21 units for rent on one parcel of property or at one location, or to seasonal or  
22 condominium rentals.

23 8-213.1.

24 (A) (1) A LANDLORD MAY REQUIRE A PROSPECTIVE TENANT TO PAY A  
25 RESERVATION FEE TO RESERVE A DWELLING UNIT FOR LEASE.

26 (2) A RESERVATION FEE REQUIRED BY A LANDLORD UNDER PARAGRAPH  
27 (1) OF THIS SUBSECTION MAY NOT EXCEED THE EQUIVALENT OF 1 MONTH'S RENT OF  
28 THE DWELLING UNIT.

29 (B) IF A PROSPECTIVE TENANT EXECUTES A LEASE AND TAKES POSSESSION  
30 OF A DWELLING UNIT FOR WHICH THE PROSPECTIVE TENANT PAID A RESERVATION  
31 FEE, THE LANDLORD, WITHIN 30 DAYS AFTER THE TENANT TAKES POSSESSION OF  
32 THE DWELLING UNIT, SHALL:

33 (1) REFUND THE RESERVATION FEE TO THE TENANT; OR

34 (2) CREDIT THE RESERVATION FEE TO THE TENANT'S ACCOUNT.

35 (C) IF A LANDLORD DOES NOT APPROVE A PROSPECTIVE TENANT'S  
36 APPLICATION FOR A LEASE, THE LANDLORD SHALL REFUND THE RESERVATION FEE

1 TO THE PROSPECTIVE TENANT WITHIN 30 DAYS AFTER THE DATE THE LANDLORD  
2 NOTIFIES THE PROSPECTIVE TENANT THAT THE APPLICATION HAS NOT BEEN  
3 APPROVED.

4 (D) IF A LANDLORD APPROVES A PROSPECTIVE TENANT'S APPLICATION FOR A  
5 LEASE AND SENDS WRITTEN NOTICE TO THE PROSPECTIVE TENANT WITHIN 5 DAYS  
6 AFTER THE APPROVAL AND THE PROSPECTIVE TENANT FAILS TO EXECUTE THE  
7 LEASE OR REFUSES TO TAKE POSSESSION OF THE DWELLING UNIT WITHIN 5 DAYS  
8 AFTER THE DATE OF THE WRITTEN NOTICE, THE LANDLORD MAY WITHHOLD THE  
9 RESERVATION FEE OR ANY PORTION OF THE RESERVATION FEE FOR ANY LOSS OR  
10 DAMAGE SUSTAINED BY THE LANDLORD AS A RESULT OF THE PROSPECTIVE  
11 TENANT'S FAILURE TO EXECUTE THE LEASE OR REFUSAL TO TAKE POSSESSION OF  
12 THE DWELLING UNIT.

13 (E) IF A LANDLORD FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS  
14 SECTION, A TENANT MAY BRING A CIVIL ACTION AGAINST THE LANDLORD TO  
15 RECOVER UP TO TWICE THE AMOUNT OF THE RESERVATION FEE.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2004.