

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 457

(Senator Forehand)

Judicial Proceedings

Judiciary

Lawyers - Bar Admission Requirement - Exception for Rent Escrow Proceedings

This bill authorizes any individual to represent a landlord, or specified law students or employees of nonprofit organizations to represent a tenant, in a rent escrow proceeding in the District Court of Maryland without having been admitted to the Maryland Bar.

Fiscal Summary

State Effect: The bill does not directly affect State governmental operations or finances.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A person may represent a tenant in a rent escrow proceeding in the District Court of Maryland if the person is:

- a law student participating in a clinical law program at a law school accredited by the American Bar Association (ABA) with a faculty member providing in-court supervision; or
- employed by a nonprofit organization receiving grants from the Maryland Legal Services Corporation (MLSC) and has the specified appropriate training and supervision.

Current Law/Background:

Practice of Law

Generally, an individual must be admitted to the Maryland Bar and have met any requirement that the Court of Appeals may set by rule before the individual may practice law in Maryland. However, any individual may represent a landlord in a summary ejectment proceeding in the District Court. An individual may also represent a tenant in a summary ejectment proceeding in the District Court if the individual is:

- a law student participating in a clinical law program at a law school accredited by ABA with a faculty member providing in-court supervision; or
- employed by a nonprofit organization receiving grants from MLSC and has the specified appropriate training and supervision.

Rent Escrow Proceedings

Under Maryland law, a tenant has the right to pay rent into an escrow account if a landlord fails to repair serious or dangerous defects in a rental unit. Examples of a serious or dangerous defect include lack of heat, light, electricity or water; lack of adequate sewage disposal or rodent infestation in two or more units; lead paint hazards; and any dangerous structural deficiency. A landlord must be given proper notice and adequate time to fix the defect. Prior to the establishment of the escrow account, the District Court must hold a hearing. Once the account has been established, a tenant must make regular rent payments to the account.

Clinics/Nonprofit Organizations

There are eight ABA-accredited law schools located in the state of Maryland and Washington, DC. Each of these law schools offers clinical programs in which students represent clients in housing matters with the assistance of in-court supervision of a faculty member.

MLSC awards grants to nonprofit organizations providing legal assistance to eligible individuals in noncriminal proceedings. There are currently 35 grantees receiving funds from MLSC.

Small Business Effect: The ability to choose lawyers admitted to Bars in states other than Maryland widens the market and could result in significant savings for landlords. Additionally, while it is unlikely that a clinical law program or nonprofit organization would represent a landlord, free legal aid in rent escrow proceedings could have a

meaningful impact for small businesses that are tenants. Tenants in a commercial unit with a serious or dangerous defect might be more willing to bring a proceeding to create a rent escrow account.

Additional Information

Prior Introductions: None.

Cross File: HB 653 (Delegate Niemann) - Judiciary.

Information Source(s): Maryland Attorney General, Maryland Legal Services Corporation, American Bar Association, Department of Legislative Services

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ncs/mcr

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