

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 315 (Delegate Hixson, *et al.*)
Environmental Matters

Residential Leases - Rent Stabilization and Just Cause Evictions

This bill prohibits a landlord of a specified residential rental unit from increasing the rental fee, as defined by the bill, on an occupied unit by an amount greater than 5% of the unit's base rent, unless prompted by increases in specified costs to the landlord. Any part of a rental fee increase that unlawfully exceeds the 5% limit is null and void. The bill prohibits a landlord from evicting a tenant or refusing to renew a lease for the sole purpose of raising the unit's rental fee. The bill also prohibits a specified landlord from evicting a tenant in the absence of just cause, as established in the bill, and using a lease that requires the tenant to carry renter's insurance naming the landlord as beneficiary.

The bill applies prospectively and does not apply to or have any effect on any residential lease agreement entered into before the bill's October 1, 2013 effective date.

Fiscal Summary

State Effect: Any increase in District Court caseloads can likely be handled with existing resources.

Local Effect: Potentially significant reduction in local revenues to the extent counties own rental units that are subject to the requirements of the bill.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Increase in Rental Fees: The bill authorizes a landlord to increase the rental fee by more than 5% if the increase is a proportionate share of the amount of any additional costs to the landlord resulting from (1) any increase in real estate taxes, water and sewerage charges, or utility rates taking effect after the start of the previous lease term or (2) any actual cost of capital improvements incurred after the start of the previous lease term. If the landlord lawfully increases the rental fee by more than 5%, the landlord must notify the tenant of the increase and provide written documentation of the basis for the increase. The bill does not prohibit a landlord from increasing the rental fee for a vacant unit by any amount.

The bill authorizes a tenant to petition the District Court for relief if a landlord violates the bill's provisions relating to an increase in rent. The District Court may make any orders or judgment necessary to prevent the unlawful rent increase or to restore to a tenant any money the landlord wrongfully acquired.

Any ordinance concerning rental fees enacted by the governing body of a county or Baltimore City supersedes the bill's provisions.

Just Cause Evictions: Under the bill, just cause for eviction exists if:

- a tenant fails to pay rent in a timely manner;
- a tenant commits a substantial breach of the lease terms;
- a tenant refuses a landlord's written request to execute an extension or renewal of an expired lease for the same duration and on substantially similar terms;
- a tenant causes substantial damage to the unit or another area of the property and, upon receiving written notice, fails to make a satisfactory correction or pay reasonable repair costs;
- a tenant continues, after receiving notice to cease, to engage in disorderly conduct that disturbs the peace and quiet of other tenants;
- a tenant has engaged in illegal activity on the premises or on a public right-of-way abutting the premises;
- a tenant, without reasonable cause, refuses to grant the landlord access to the unit for the purpose of making repairs or improvements or inspecting the unit, or as otherwise authorized under the lease or applicable law;
- a tenant, without reasonable cause, refuses to provide the landlord with information needed by the landlord to satisfy the conditions of an affordable housing financing agreement;

- a landlord, in good faith, seeks to recover possession of the unit for the use of the landlord's spouse, child, parent, or grandparent;
- a landlord, in good faith, seeks to permanently remove the unit from the rental market; or
- a landlord, after having obtained all necessary permits, seeks to undertake substantial repairs or renovations that cannot be completed while the unit is occupied.

Any notice provided by a landlord in a just cause eviction must be sent by certified mail, return receipt requested.

Current Law: There is no State rent stabilization law. However, generally, a landlord may not evict a tenant of residential property or arbitrarily increase the rent or decrease services to which the tenant is entitled solely because:

- the tenant or the tenant's agent has filed a good faith written complaint with the landlord or with a public agency against the landlord;
- the tenant or agent has filed a lawsuit or lawsuits against the landlord; or
- the tenant is a member or organizer of any tenants' organization.

If a judgment in an eviction proceeding is for the tenant for any of these defenses, the court may enter judgment for reasonable attorney's fees and court costs against the landlord. If the court finds that the tenant's assertion of a retaliatory eviction defense was in bad faith or without substantial justification, the court may enter judgment for reasonable attorney's fees and court costs against the tenant. Relief under these provisions is not available if a specified number of judgments have been entered against the tenant for failing to pay rent within a specified period, depending on the obligation to pay rent under the tenancy.

When a tenant fails to pay rent, the landlord is entitled to repossession of the premises through filing a written complaint with the District Court. The complaint must (1) describe the general terms of the property sought to be repossessed; (2) list the name of each tenant; (3) state the amount of rent and any late fees due and unpaid; and (4) request to repossess the premises, and if requested by the landlord, a judgment for the amount of rent due, costs, and any late fees. The complaint also may contain other specified information. If the court finds in favor of the landlord, the court must order that possession of the premises be given to the landlord within four days after trial. If the judgment is in favor of the landlord and the tenant fails to pay the past-due rent and late fees within specified timeframes, the landlord may apply for a "warrant of restitution," which serves as the eviction order. The sheriff's offices in Baltimore City and the counties are responsible for evictions.

Background: According to the U.S. Census Bureau, approximately 31% of housing in the State was renter-occupied in 2010. The median rent was \$1,139.

As noted above, there is no current State rent stabilization law. However, this was not always the case. In 1974, Chapter 741 (HB 719) established a similar law to the proposed bill. A landlord was generally prohibited from increasing a rental fee that exceeded 5%. Chapter 741 expired July 1, 1975.

Local jurisdictions in Maryland have the authorization to enact stabilization laws. For example, landlords in Takoma Park may only increase rent by a percentage equal to the current year's increase in the Consumer Price Index-All Urban Consumers (CPI-U) in the Baltimore-Washington metropolitan area. Landlords in College Park are also prohibited from increasing rent by more than the annual percentage increase in CPI-U. Additionally, while Montgomery County has no statutory prohibition, the county issues an annual voluntary rent guideline, which is the increase in the rental component of the Consumer Price Index for the previous year for the Baltimore-Washington metropolitan area. The voluntary guideline in 2013 is 4.0%.

In the District of Columbia, a landlord is typically allowed to increase rent by a percentage equal to the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Generally, the maximum amount a landlord can increase rent is the CPI-W percentage plus 2%, but not more than 10%. Landlords of tenants who are elderly or disabled may increase rent by the CPI-W percentage only and never more than 5%.

Local Fiscal Effect: Montgomery County advises that a rent ceiling on rental units owned by the county decreases local rent revenue. Baltimore, Dorchester, and Garrett counties report no impact on revenues or expenditures.

Small Business Effect: The bill has a meaningful impact on landlords. Because there is no current State rent stabilization law, as long as a rent increase does not constitute a retaliatory action, a landlord may increase a rental fee by any amount at the end of a lease. If the existing tenant is unable to pay, the landlord can either reduce the new rental fee to keep the tenant or find a new tenant that is willing to pay the increased amount. A ceiling on a rental fee increase could significantly decrease revenues for landlords.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Dorchester, Garrett, and Montgomery counties; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Takoma Park Municipal Code; College Park City Code; District of Columbia's Department of Housing and Community Development; U.S. Census Bureau; Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2013
ncs/kdm

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