

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 745 (Senator Edwards)
Judicial Proceedings

Landlord and Tenant - Security Deposit - Use for Unpaid Water and Sewer Bills

This bill expands the definition of “security deposit” to include a payment made to protect a landlord against nonpayment of water and sewer bills if water and sewer bills must be paid by the tenant under the lease. Thus, a landlord may withhold all or part of a security deposit under a residential lease to pay outstanding water and sewer bills if water and sewer bills are required to be paid by the tenant under the lease. The bill also authorizes a tenant to purchase a surety bond to protect the landlord against nonpayment of water and sewer bills if water and sewer bills are required to be paid by the tenant under the lease. The bill requires a surety to make specified disclosures in writing including that the surety bond is being purchased to protect the landlord against nonpayment of water and sewer bills, as specified.

Fiscal Summary

State Effect: The bill is not expected to materially affect State operations or finances. Any impact on the workload of the District Court can be handled with existing resources. The Consumer Protection Division of the Office of the Attorney General can handle the bill’s requirements with existing resources, assuming 50 or fewer new complaints are generated by the bill.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Meaningful.

Analysis

Current Law: “Security deposit” means any payment of money, including the last month’s rent in advance, given to a landlord by a tenant under a residential lease to protect the landlord against nonpayment of rent; damage due to breach of lease; or damage to the property, common areas, major appliances, and furnishings. A landlord may not charge a security deposit in excess of two months’ rent. The security deposit, or any portion of the security deposit, may be withheld for unpaid rent, damage due to breach of lease, or for damage that exceeds ordinary wear and tear to the property.

A landlord may not require the tenant to purchase a surety bond, and a landlord is not required to consent to the tenant’s purchase of a surety bond. However, if both parties agree, instead of paying all or part of a security deposit to a landlord, a tenant may purchase a surety bond to protect the landlord against nonpayment of rent, damage due to breach of lease, or damage caused by the tenant that exceeds ordinary wear and tear to the property.

Before a tenant purchases a surety bond instead of paying all or part of a security deposit, a surety must disclose in writing to the tenant that (1) payment for a surety bond is nonrefundable; (2) the surety bond is not insurance for the tenant; (3) the surety bond is being purchased to protect the landlord against loss, as specified; (4) the tenant may be required to reimburse the surety for amounts the surety paid to the landlord; (5) even after a tenant purchases a surety bond, the tenant is responsible for payment of all unpaid rent, damage due to breach of lease, and damage by the tenant to the property.

A surety bond does not represent liquidated damages and may not be used as payment to a landlord for breach of the rental agreement, except in the amount that the landlord is actually damaged by the breach. Except for specified exceptions, a surety may not make any other payment to a landlord.

Small Business Effect: The bill has a beneficial impact on any small business that operates as a landlord or surety company by providing additional protection against loss due to unpaid water or sewer bills or increasing business.

Additional Information

Prior Introductions: None.

Cross File: HB 1082 (Delegate McKay, *et al.*) - Environment and Transportation.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2015
md/kdm

Analysis by: Nathan W. McCurdy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510