
By: **Delegate Krysiak**

Introduced and read first time: February 9, 2001

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant - Rent Escrow Law**

3 FOR the purpose of altering a certain condition to be satisfied for certain tenants to
4 invoke certain rent escrow remedies; and generally relating to the rent escrow
5 law.

6 BY repealing and reenacting, with amendments,
7 Article - Real Property
8 Section 8-211
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 2000 Supplement)

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

13 **Article - Real Property**

14 8-211.

15 (a) The purpose of this section is to provide tenants with a mechanism for
16 encouraging the repair of serious and dangerous defects which exist within or as part
17 of any residential dwelling unit, or upon the property used in common of which the
18 dwelling unit forms a part. The defects sought to be reached by this section are those
19 which present a substantial and serious threat of danger to the life, health and safety
20 of the occupants of the dwelling unit, and not those which merely impair the aesthetic
21 value of the premises, or which are, in those locations governed by such codes,
22 housing code violations of a nondangerous nature. The intent of this section is not to
23 provide a remedy for dangerous conditions in the community at large which exists
24 apart from the leased premises or the property in common of which the leased
25 premises forms a part.

26 (b) It is the public policy of Maryland that meaningful sanctions be imposed
27 upon those who allow dangerous conditions and defects to exist in leased premises,
28 and that an effective mechanism be established for repairing these conditions and
29 halting their creation.

1 (c) This section applies to residential dwelling units leased for the purpose of
2 human habitation within the State of Maryland. This section does not apply to farm
3 tenancies.

4 (d) This section applies to all applicable dwelling units whether they are (1)
5 publicly or privately owned or (2) single or multiple units.

6 (e) This section provides a remedy and imposes an obligation upon landlords
7 to repair and eliminate conditions and defects which constitute, or if not promptly
8 corrected will constitute, a fire hazard or a serious and substantial threat to the life,
9 health or safety of occupants, including, but not limited to:

10 (1) Lack of heat, light, electricity, or hot or cold running water, except
11 where the tenant is responsible for the payment of the utilities and the lack thereof is
12 the direct result of the tenant's failure to pay the charges;

13 (2) Lack of adequate sewage disposal facilities;

14 (3) Infestation of rodents in two or more dwelling units;

15 (4) The existence of any structural defect which presents a serious and
16 substantial threat to the physical safety of the occupants; or

17 (5) The existence of any condition which presents a health or fire hazard
18 to the dwelling unit.

19 (f) This section does not provide a remedy for the landlord's failure to repair
20 and eliminate minor defects or, in those locations governed by such codes, housing
21 code violations of a nondangerous nature. There is a rebuttable presumption that the
22 following conditions, when they do not present a serious and substantial threat to the
23 life, health and safety of the occupants, are not covered by this section:

24 (1) Any defect which merely reduces the aesthetic value of the leased
25 premises, such as the lack of fresh paint, rugs, carpets, paneling or other decorative
26 amenities;

27 (2) Small cracks in the walls, floors or ceilings;

28 (3) The absence of linoleum or tile upon the floors, provided that they are
29 otherwise safe and structurally sound; or

30 (4) The absence of air conditioning.

31 (g) In order to employ the remedies provided by this section, the tenant shall
32 notify the landlord of the existence of the defects or conditions. Notice shall be given
33 by (1) a written communication sent by certified mail listing the asserted conditions
34 or defects, or (2) actual notice of the defects or conditions, or (3) a written violation,
35 condemnation or other notice from an appropriate State, county, municipal or local
36 government agency stating the asserted conditions or defects.

1 (h) The landlord has a reasonable time after receipt of notice in which to make
2 the repairs or correct the conditions. The length of time deemed to be reasonable is a
3 question of fact for the court, taking into account the severity of the defects or
4 conditions and the danger which they present to the occupants. There is a rebuttable
5 presumption that a period in excess of 30 days from receipt of notice is unreasonable.

6 (i) If the landlord refuses to make the repairs or correct the conditions, or if
7 after a reasonable time the landlord has failed to do so, the tenant may bring an
8 action of rent escrow to pay rent into court because of the asserted defects or
9 conditions, or the tenant may refuse to pay rent and raise the existence of the
10 asserted defects or conditions as an affirmative defense to an action for distress for
11 rent or to any complaint proceeding brought by the landlord to recover rent or the
12 possession of the leased premises.

13 (j) (1) Whether the issue of rent escrow is raised affirmatively or
14 defensively, the tenant may request one or more of the forms of relief set forth in this
15 section.

16 (2) In addition to any other relief sought, if within 90 days after the court
17 finds that the conditions complained of by the tenant exist the landlord has not made
18 the repairs or corrected the conditions complained of, the tenant may file a petition of
19 injunction in the District Court requesting the court to order the landlord to make the
20 repairs or correct the conditions.

21 (k) Relief under this section is conditioned upon:

22 (1) Giving proper notice, and where appropriate, the opportunity to
23 correct, as described by subsection (h) of this section.

24 (2) Payment by the tenant, into court, of the amount of rent required by
25 the lease, unless this amount is modified by the court as provided in subsection (m).

26 (3) In the case of tenancies measured by a period of one month or more,
27 the court having not entered against the tenant [more than] 3 PRIOR judgments of
28 possession for rent due and unpaid in the 12-month period immediately prior to the
29 initiation of the action by the tenant or by the landlord.

30 (4) In the case of periodic tenancies measured by the weekly payment of
31 rent, the court having not entered against the tenant more than 5 judgments of
32 possession for rent due and unpaid in the 12-month period immediately prior to the
33 initiation of the action by the tenant or by the landlord, or, if the tenant has lived on
34 the premises six months or less, the court having not entered against the tenant 3
35 judgments of possession for rent due and unpaid.

36 (l) It is a sufficient defense to the allegations of the tenant that the tenant,
37 the tenant's family, agent, employees, or assignees or social guests have caused the
38 asserted defects or conditions, or that the landlord or the landlord's agents were
39 denied reasonable and appropriate entry for the purpose of correcting or repairing the
40 asserted conditions or defects.

1 (m) The court shall make appropriate findings of fact and make any order that
2 the justice of the case may require, including any one or a combination of the
3 following:

4 (1) Order the termination of the lease and return of the leased premises
5 to the landlord, subject to the tenant's right of redemption;

6 (2) Order that the action for rent escrow be dismissed;

7 (3) Order that the amount of rent required by the lease, whether paid
8 into court or to the landlord, be abated and reduced in an amount determined by the
9 court to be fair and equitable to represent the existence of the conditions or defects
10 found by the court to exist; or

11 (4) Order the landlord to make the repairs or correct the conditions
12 complained of by the tenant and found by the court to exist.

13 (n) After rent escrow has been established, the court:

14 (1) Shall, after a hearing, if so ordered by the court or one is requested by
15 the landlord, order that the moneys in the escrow account be disbursed to the
16 landlord after the necessary repairs have been made;

17 (2) May, after an appropriate hearing, order that some or all moneys in
18 the escrow account be paid to the landlord or the landlord's agent, the tenant or the
19 tenant's agent, or any other appropriate person or agency for the purpose of making
20 the necessary repairs of the dangerous conditions or defects;

21 (3) May, after a hearing if one is requested by the landlord, appoint a
22 special administrator who shall cause the repairs to be made, and who shall apply to
23 the court to pay for them out of the moneys in the escrow account;

24 (4) May, after an appropriate hearing, order that some or all moneys in
25 the escrow account be disbursed to pay any mortgage or deed of trust on the property
26 in order to stay a foreclosure;

27 (5) May, after a hearing, if one is requested by the tenant, order, if no
28 repairs are made or if no good faith effort to repair is made within six months of the
29 initial decision to place money in the escrow account, that the moneys in the escrow
30 account be disbursed to the tenant. Such an order will not discharge the right on the
31 part of the tenant to pay rent into court and an appeal will stay the forfeiture; or

32 (6) May, after an appropriate hearing, order that the moneys in the
33 escrow account be disbursed to the landlord if the tenant does not regularly pay, into
34 that account, the rent owed.

35 (o) Except as provided in § 8-211.1(e) of this subtitle, in the event any county
36 or Baltimore City is subject to a public local law or has enacted an ordinance or
37 ordinances comparable in subject matter to this section, commonly referred to as a

1 "Rent Escrow Law", any such ordinance or ordinances shall supersede the provisions
2 of this section.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2001.