

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 449 (Delegate Brown)
Economic Matters

Real Property - Residential Lease - Application Fee and Holding Charge

This bill increases the amount of the fee a landlord may charge a prospective tenant in addition to a security deposit, from \$25 to \$50, without triggering a refund provision. The bill also authorizes a landlord to require a prospective tenant to pay a holding charge.

The bill takes effect July 1, 2002.

Fiscal Summary

State Effect: Assuming that the Consumer Protection Division within the Office of the Attorney General receives fewer than 50 complaints per year stemming from this bill, any additional workload could be handled with existing resources.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill authorizes a landlord to charge a prospective tenant a fee to defray the landlord's cost of processing an application, in addition to a security deposit. If an application fee exceeds \$50, a landlord must return the fee or be liable for twice the amount of the fee in damages, except that portion of the fee actually expended on investigative reports or other expenses arising out of the application.

The bill authorizes a landlord to require a prospective tenant to pay a holding charge of up to 50% of one month's rent to defray any cost to the landlord if the prospective tenant's application is accepted and the prospective tenant fails or refuses to take occupancy. The holding charge is in addition to the security deposit, first month's rent, and application fee. If no loss is sustained by the landlord, the amount of the holding charge must be returned to the tenant within 30 days after the tenant takes possession of the apartment as agreed or may be credited to the tenant's account.

The bill does not apply to: (1) a landlord who offers four or fewer dwelling units for rent on one parcel or at one location; or (2) seasonal or condominium rentals.

The bill applies prospectively and does not apply to residential lease applications made before July 1, 2002.

Current Law: For non-seasonal and non-condominium dwelling units with five or more dwelling units for rent on one parcel or at one location, an application for a lease must contain: (1) a statement that explains the liabilities which the prospective tenant incurs upon signing the application; and (2) a disclosure explaining any fees in addition to a security deposit which the prospective tenant must pay. If a landlord requires a prospective tenant to pay fees that exceed \$25, in addition to a security deposit, the landlord must return the fees or be liable for twice the amount of the fees in damages, except that portion of the fees expended for a credit check or other expenses arising out of the application. A landlord must return any portion of the fees not actually spent on the tenant's behalf. The fees must be returned within 15 days following occupancy or written communication that no tenancy will occur.

Small Business Effect: Landlords that are small businesses could experience an increase in revenues from holding charges because of the bill, up to 50% of each unrented unit's monthly rental rate. Small business landlords who charge fees in addition to security deposits of prospective tenants could receive additional fee income without triggering the statutory refund provision, the difference between \$50 and the greater of \$25 or their actual costs for expenses arising out of each application.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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lsc/jr

Analysis by: Ryan Wilson

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510