

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 872 (Delegate Carter, *et al.*)
Environmental Matters

Landlord and Tenant - Disclosure Requirements and Tenant Remedies

This bill requires a landlord to make specified disclosures and take specified remedial actions for residential rental property. The bill also establishes a cause of action by a tenant for a “wrongful eviction.”

Fiscal Summary

State Effect: Approximately \$21,800 in FY 2004 to revise and produce forms for cases brought in the District Court. Assuming the number of cases brought under the bill is small, any increase in caseload could be handled with the existing resources of the District Court.

Local Effect: None.

Small Business Effect: Minimal

Analysis

Bill Summary: For premises that are an “affected property” (generally, property constructed before 1950 with one or more rental units), the bill requires a residential lease to include a statement that the landlord: (1) has satisfied the appropriate lead hazard reduction standard; and (2) will provide, upon written request by the tenant, a copy of the current verified inspection certificate.

The bill prohibits a landlord from evicting a tenant, arbitrarily increasing the rent, or arbitrarily decreasing services, substantially for filing a good-faith complaint or a lawsuit,

or for being an organizer of a tenants' rights organization under the State's retaliatory eviction provisions. If a court finds in favor of a tenant in an eviction proceeding based on a retaliatory eviction defense and the tenant requests, the court must order that the lease is extended for a period ranging from 6 to 12 months from the lease's then current termination date on the same terms and conditions.

The bill requires a landlord to pay outstanding fines and resolve issues resulting from a failure of the landlord's leased premises to pass State or local housing code inspections under the State's rent escrow provisions. The bill specifies that a court may order, in a case brought under the State's rent escrow provisions, a landlord: (1) to pay outstanding fines and resolve issues resulting from a failure of the landlord's leased premises to pass State or local housing code inspections; or (2) to attend landlord training, counseling, or mediation services provided by local community agencies.

The bill requires a landlord to include a statement that the landlord has satisfied the appropriate lead hazard reduction standard in the landlord's petition in an action for distress for arrears in rent on an affected property. A similar statement must also be included in a landlord's complaint for repossession of the premises for failure to pay rent.

Under the bill, a "wrongful eviction" is any act by the landlord without legal authority that actually or constructively: (1) removes a tenant from rental property; or (2) prevents a tenant's access to the property. If a landlord executes or attempts to execute a wrongful eviction, including an effort to significantly diminish essential services, the tenant may file a complaint in District Court, which has exclusive jurisdiction. The court must direct the local sheriff to serve a copy of the complaint on the landlord within three days after the filing and must hold a hearing on the fifth day after the complaint is filed. Upon filing, the court must conduct an immediate emergency hearing, at which the court may issue a temporary remedial order, under specified circumstances, until a full hearing is held. If the landlord is not present for the emergency hearing, the court may communicate informally with the landlord or the landlord's attorney.

The landlord may file a request for modification or dissolution of any temporary order issued at an emergency hearing, and the court must schedule a modification or dissolution hearing as soon as possible. The tenant has the burden of showing that a temporary order should continue. If the court finds in the tenant's favor in an adversary (nonemergency) hearing under the bill, the court must order appropriate relief, including ceasing the wrongful conduct, immediately permitting the tenant to resume occupancy, attending landlord training, counseling, or mediation services, and abating any rent due.

Current Law: Generally, a landlord who offers five or more rental dwelling units may not rent a residential dwelling unit without using a written lease. Such a lease must

include: (1) a statement that the premises are habitable and reasonably safe, or a statement concerning the premises' condition; and (2) the landlord's and tenant's obligations as to heat, gas, electricity, water, and repair of the premises.

A landlord may not evict a tenant, arbitrarily increase the rent, or arbitrarily decrease services solely for filing a good-faith complaint or a lawsuit, or for being an organizer of a tenants' rights organization. Such an act is a retaliatory eviction entitling a prevailing tenant to reasonable attorney's fees and court costs. If the tenant's assertion of retaliatory eviction is made in bad faith, the court may award the landlord reasonable attorney's fees and court costs.

A landlord of property subject to the State's lead risk reduction provisions may not evict or take other retaliatory action against a tenant for providing information to the landlord under the lead risk reduction provisions. A tenant subject to such a retaliatory eviction or action may recover reasonable attorney's fees and costs.

Under the State's rent escrow provisions, a landlord must repair and eliminate conditions and defects that constitute or will constitute a fire hazard or serious and substantial threat to the life, health, or safety of the rental unit's occupant, including: (1) lack of heat, light, electricity, or hot and cold running water; (2) lack of adequate sewage disposal; (3) rodent infestation; (4) certain structural defects; or (5) conditions that present a health or fire hazard. If a landlord fails within a reasonable time or refuses to meet an obligation under the State's rent escrow provisions, a tenant is authorized, if specified conditions are met, to bring a rent escrow action or withhold the rent and assert the failure to pay a fine or resolve an issue as an affirmative defense in an action brought by the landlord. In addition to other relief sought, a tenant may file a petition of injunction in the District Court requesting the court to order the landlord to make repairs or correct the condition. A tenant may also seek rent escrow remedies for a landlord's failure to remove lead-based paint.

In an action for distress for rent, a landlord's petition must provide: (1) the name and address of the landlord and the tenant; and (2) the specified information about the lease, the premises, and the rent due. The petition must be under oath or affirmation of the plaintiff or the plaintiff's agent. In an action for distress, the court may order the sale of any goods located on the premises to settle past due rent.

In an action for repossession of the premises for failure to pay rent, the landlord's complaint must contain: (1) a description of the property; (2) the name of each tenant, assignee, or subtenant; (3) the amount of rent and any late fees due; and (4) a request for repossession and, if requested by the landlord, a judgment for the amount of the rent due,

costs, and any late fees. Such an action must be filed in the District Court where the property is located.

The District Court has exclusive original civil jurisdiction in cases involving landlord and tenant law, distraint, or wrongful detainer, regardless of the amount involved.

State Expenditures: Many of the parties involved in disputes between landlords and tenants represent themselves, commonly referred to as appearing *pro se*. The District Court provides forms for *pro se* litigants (e.g. complaints and responses) and contracts with an outside vender to produce and print forms for those who appear *pro se*. The cost to revise existing *pro se* forms and produce forms for the new cause of action could be approximately \$21,800 in fiscal 2004. The cost to print *pro se* forms in future years could be handled with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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