

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 976 (Delegates Bobo and James)
Environmental Matters

Residential Landlord and Tenant - Ratio Utility System - Prohibition

This bill prohibits a landlord, on or after January 1, 2004, from using a “ratio utility system” to charge a tenant for water consumption and waste water or sewage use by the tenant. The bill applies to landlords who offer more than four dwelling units for rent on one parcel or in one location.

Fiscal Summary

State Effect: Assuming the number of cases brought under the bill is small, any increase in caseload could be handled with the existing budgeted resources of the District Court.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: Under the bill, a “ratio utility system” is allocating one or more of the landlord’s aggregate utility charges by using one or more of the following methods: (1) per tenant; (2) proportionately by livable square footage; (3) per unit type; (4) per number of water fixtures; or (5) by any other method that allocates the landlord’s aggregate utility charges among the tenants but does not measure actual per tenant usage.

If a landlord charges a tenant separately for water and sewage, the landlord may not charge more than actual cost based on actual use, plus an administrative fee of up to \$2.00. A landlord who violates the actual cost provision is liable to the affected tenant

for: (1) the greater of actual damages proximately caused or \$1,000 per violation; and (2) reasonable attorney's fees. The bill does not prohibit a landlord from recovering the cost of providing water and sewage by including the cost in an undifferentiated rent or lease payment.

Current Law: No provision specifically limits or regulates how a landlord attributes charges for water and sewage usage among tenants.

Background: Montgomery County is currently considering regulations that would limit the use of ratio utility billing systems by landlords for water and sewage usage on rental properties within Montgomery County.

Generally, attorney's fees are not recoverable as damages in a civil action absent a requirement in statute, in a contractual agreement, or under the Maryland Rules. Under the Maryland Rules, a court must find that the conduct of a party in maintaining or defending a proceeding was in bad faith or without substantial justification before the court may require the offending party, the attorney advising the conduct, or both to pay the adverse party's costs, including reasonable attorney's fees.

Small Business Effect: Small business landlords that use ratio utility systems would no longer be able to do so. Such landlords would be required to either fit individual apartments with meters or include the water and sewage charges with the rent. Because the cost of installing individual water metering systems would be cost-prohibitive, it is assumed that landlords would include any water and sewage charges in calculating the rents charged for apartments. Landlords currently using a ratio utility system would experience a decrease in revenue to the extent that they are unable to include these charges in calculating an apartment's rent because a tenant's lease expires after the bill's effective date.

Some landlords use a modified billing system for charging a tenant for water and sewage by estimating the tenant's total water and sewage use based on the apartment's usage of hot water. Those landlords must recoup the capital expenditure of installing the metering systems as well as tenant water and sewage use through higher rent charges.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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Analysis by: Ryan Wilson

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