SB 863

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 863 (Senator Schrader)
Judicial Proceedings

Real Property - Residential Leases - Interest on Security Deposits

This bill alters the amount of interest a landlord must pay a tenant upon return of the tenant's security deposit, for a tenancy of six months or more, from 4% per annum to the Federal Reserve Discount Rate as of January 1 of each year of the tenancy. Interest accrues at 12 month intervals. For tenancies of less than six months, a landlord is not required to pay interest on a tenant's security deposit.

Fiscal Summary

State Effect: Assuming that the Consumer Protection Division receives fewer than 50 complaints as a result of this bill, any additional workload would be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: A landlord is required to pay 4% simple interest on a tenant's security deposit and to maintain all security deposits in branches of federally-insured financial institutions doing business in the State. Interest accrues at six-month intervals. The deposits must be in interest-bearing accounts, and the accounts must be devoted exclusively to security deposits. In lieu of these accounts, a landlord may hold the security deposits in insured certificates of deposit at branches of federally-insured financial institutions doing business in the State or in securities issued by the federal government or the State.

Background: The Federal Reserve discount rate is the interest rate charged to commercial banks and other depository institutions on loans they receive from their regional Federal Reserve Bank's lending facility – the discount window. The Federal Reserve Banks offer three discount window programs to depository institutions: primary credit, secondary credit; and seasonal credit; each with its own interest rate. All discount window loans are fully secured.

Under the primary credit program, loans are extended for a very short term (usually overnight) to depository institutions in generally sound financial condition. Depository institutions that are not eligible for primary credit may apply for secondary credit to meet short-term liquidity needs or to resolve severe financial difficulties. Seasonal credit is extended to relatively small depository institutions that have recurring intra-year fluctuations in funding needs, such as banks in agricultural or seasonal resort communities.

The discount rate charged for primary credit (the primary credit rate) is set above the usual level of short-term market interest rates. (Because primary credit is the Federal Reserve's main discount window program, the Federal Reserve at times uses the term "discount rate" to mean the primary credit rate.) The discount rate on secondary credit is above the rate on primary credit. The discount rate for seasonal credit is an average of selected market rates. Discount rates are established by each Reserve Bank's board of directors, subject to the review and determination of the Board of Governors of the Federal Reserve System. The discount rates for the three lending programs are the same across all Reserve Banks except on days around a change in the rate.

Small Business Effect: Currently, the interest rates for both passbook accounts and certificates of deposit are below 4%. The current interest rate paid on most passbook accounts is less than 1%, and the interest rates for short-term certificates of deposit currently range from 1.25% to 2.25%, with a slightly higher yield. Federal Reserve discount rates are currently 2% for the primary rate and 2.5% for the secondary rate at all Federal Reserve Banks. Because all Federal Reserve discount rates are currently lower than the 4% required under Maryland law, small business landlords would benefit.

Additional Information

Prior Introductions: Similar bills were introduced in the 2003, 2002, 2000, and 1997 sessions. In 2003, SB 57, SB 74, and SB 436 received unfavorable reports from the

Senate Judicial Proceedings Committee; and HB 95, HB 217, and HB 590 received unfavorable reports from the House Environmental Matters Committee. In 2002, HB 996 received an unfavorable report from the House Economic Matters Committee. In 2000, HB 75 was withdrawn, after being heard in the House Economic Matters Committee. In 1997, SB 292 received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: HB 546 (Delegate Bates, *et al.*) – Environmental Matters.

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

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