

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 860 (Delegate Vallario)
Economic Matters

Consumer Protection - Rental Assistance Services - Escrow Accounts

This bill requires a seller of “rental assistance services” to deposit money collected from a tenant into an escrow account for use in paying rent to a landlord. Providing rental assistance services means: (1) renting or leasing a residential rental unit to a tenant for more than three months; (2) collecting money, including the rent for the unit, from the tenant; and (3) paying the rent to the landlord on the tenant’s behalf.

Fiscal Summary

State Effect: Assuming that the Consumer Protection Division 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: Minimal.

Analysis

Bill Summary: Money deposited into an escrow account established under the bill may not be used for any other purpose and must be kept separate from the seller’s other funds. Money in an escrow account for use in paying rent may not be considered part of the bankrupt estate of a seller.

A seller may not impose a collection fee or service charge for maintaining an escrow account and must make timely rent payments to the landlord on the tenant’s behalf.

A seller must designate a contact for the tenant's complaints and inquiries, and the contact must respond to a written complaint or inquiry within 15 days.

If a seller fails to comply with the bill, the seller is liable for any economic damages caused by the violation.

A violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act.

Current Law: Contracts of the sort regulated by the bill are not specifically addressed by statute.

The Consumer Protection Division within the Office of the Attorney General is responsible for pursuing unfair and deceptive trade practice claims under the Maryland Consumer Protection Act. Upon receiving a complaint, the division must determine whether there are "reasonable grounds" to believe that a violation of the Act has occurred. Generally, if the division does find reasonable grounds that a violation has occurred, the division must seek to conciliate the complaint. The division may also issue cease and desist orders, or seek action in court, including an injunction or civil damages, to enforce the Act. Violators of the Act are subject to: (1) civil penalties of \$1,000 for the first violation and \$5,000 for subsequent violations; and (2) criminal sanction as a misdemeanor, with a fine of up to \$1,000 and/or up to one year's imprisonment.

In addition to any action by the Consumer Protection Division, a person may bring a private cause of action to recover for injury or loss resulting from a violation of the Consumer Protection Act. A court may award a prevailing plaintiff reasonable attorney's fees.

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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mp/jr

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