

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 339

(Senator Kelley, *et al.*)

Judicial Proceedings

Environmental Matters

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**Landlord and Tenant - Termination of Lease - Limitation of Liability for Rent**

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This bill limits the liability of a tenant who terminates a lease prior to its stated termination date to two months' rent after the date on which the tenant vacates the premises if the tenant provides the landlord with: (1) a physician's written certification regarding the medical condition of an individual who is a named party in a lease or an authorized occupant under the lease's terms; and (2) a written notice of termination of the lease stating when the tenant will vacate the premises. The bill may not be construed to affect a landlord's duty to mitigate damages, a tenant's obligation under the lease to pay for repairs to the premises, or the rights or obligations of a landlord or tenant under the federal Fair Housing Act. The bill does not apply to a tenant under a lease containing a liquidated damages clause or early termination clause under specified circumstances.

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**Fiscal Summary**

**State Effect:** The bill would not directly affect governmental operations or finances.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** A certification must specify that the physician's patient is no longer able to live at his or her leased premises because the patient has a medical condition that: (1) substantially restricts the patient's mobility within, or entering and exiting, the leased premises; or (2) requires the patient to move to a home, facility, or institution to obtain a higher level of care than can be provided at the leased premises. The certification must also state that the physician certifies that the expected duration of the medical condition

will continue beyond what the patient says is the termination date of the lease. The certification must be: (1) by a physician licensed to practice medicine in Maryland; (2) prepared on the physician's letterhead or printed prescription form; and (3) signed by the physician.

**Current Law:** At common law as followed in Maryland, when a tenant signs a lease and later breaches the lease by abandoning the property, the landlord may hold the tenant liable for the entire amount of the rent due under the lease. By statute, a landlord has a duty to mitigate the damages caused by a tenant's breach of the lease through terminating the occupancy before the end of its stated term. However, the landlord is under no obligation to show or lease the vacated unit in preference to other available units.

If a person who is on active duty with the U. S. military enters into a residential lease and subsequently receives permanent change of station orders or temporary duty orders for a period exceeding three months, the person's liability for rent under the lease may not exceed: (1) 30 days' rent after written notice and proof of the assignment is given to the landlord; and (2) the cost of repairing damage to the property caused by the tenant's act or omission. No provision limits the liability to pay rent of a tenant who moves because of a disability.

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### **Additional Information**

**Prior Introductions:** Similar bills were introduced during the 2004, 2003, and 2002 sessions. SB 133 of 2004, SB 338 of 2003, and SB 601 of 2002 each received an unfavorable report from the Judicial Proceedings Committee. HB 877 of 2004 received an unfavorable report from the Environmental Matters Committee. HB 992 of 2002 received an unfavorable report from the Economic Matters Committee.

**Cross File:** HB 1209 (Delegate Bobo, *et al.*) – Environmental Matters.

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

**Fiscal Note History:** First Reader - February 28, 2005  
ncs/jr Revised - Senate Third Reader - April 5, 2005  
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