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By: **Delegates Stern, Frush, Glassman, Hogan, Lawton, McConkey,  
Montgomery, and Weir**

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 21, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2                                   **Real Property - Residential Leases - Surety Bonds in Lieu of Security**  
3                                   **Deposits**

4 FOR the purpose of authorizing a tenant to purchase a surety bond in lieu of paying  
5 all or part of a security deposit to a landlord for the purpose of providing certain  
6 protection to the landlord; establishing that a landlord may not require a tenant  
7 to purchase a surety bond and a landlord is not required to consent to a tenant  
8 purchasing a surety bond; providing that a tenant shall receive a refund of a  
9 premium or other charges paid in connection with purchasing a surety bond  
10 under certain circumstances; providing that the amount of a surety bond, or the  
11 aggregate amount of a surety bond and a security deposit, may not exceed a  
12 certain amount of money; establishing that a tenant may recover certain  
13 penalties plus certain attorney's fees from a landlord under certain  
14 circumstances; requiring a surety to advise a tenant in writing of the tenant's  
15 rights and responsibilities before the tenant purchases a surety bond; providing  
16 that a tenant who purchases a surety bond has certain rights, including  
17 inspection of the dwelling unit; establishing the claims for which a surety bond  
18 may be paid; providing that a surety bond does not represent certain liquidated  
19 damages; requiring a landlord to send a certain notice to a tenant before making  
20 a claim against the surety bond; allowing a tenant to pay damages directly to a  
21 landlord or require the landlord to use any security deposit before the landlord  
22 makes a claim against the tenant's surety bond; providing that a tenant may  
23 dispute the landlord's claim against the tenant's surety bond; providing that a  
24 tenant retains certain rights and defenses in a proceeding brought by a surety;  
25 establishing certain procedures for a landlord to follow before making a claim  
26 against a surety; establishing that on transfer of the premises, the new landlord

1 may not require a certain additional security deposit or surety bond in excess of  
2 a certain amount from a tenant; providing that a landlord or a surety forfeits  
3 certain rights for failure to comply with this Act; providing that a surety, in an  
4 action against a tenant, may be subject to certain damages and certain  
5 attorney's fees for asserting a claim without reasonable basis; providing that  
6 only admitted carriers licensed by the Maryland Insurance Administration may  
7 issue certain surety bonds; and generally relating to a tenant's right to purchase  
8 a surety bond in lieu of paying all or part of a security deposit.

9 BY repealing and reenacting, with amendments,  
10 Article - Real Property  
11 Section 8-203  
12 Annotated Code of Maryland  
13 (2003 Replacement Volume and 2005 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Real Property**

17 8-203.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) "Landlord" means a landlord or a prospective landlord.

20 (3) "Security deposit" means any payment of money, including payment  
21 of the last month's rent in advance of the time it is due, given to a landlord by a tenant  
22 in order to protect the landlord against nonpayment of rent, damage due to breach of  
23 lease, or damage to the leased premises, common areas, major appliances, and  
24 furnishings.

25 (4) "Tenant" means a tenant or a prospective tenant.

26 (b) (1) A landlord may not impose a security deposit in excess of the  
27 equivalent of two months' rent per dwelling unit, regardless of the number of tenants.

28 (2) If a landlord charges more than the equivalent of two months' rent  
29 per dwelling unit as a security deposit, the tenant may recover up to threefold the  
30 extra amount charged, plus reasonable attorney's fees.

31 (3) An action under this section may be brought at any time during the  
32 tenancy or within two years after its termination.

33 (c) The landlord shall give the tenant a receipt for the security deposit as  
34 specified in § 8-203.1 of this subtitle. The receipt may be included in a written lease.

1 (d) (1) (i) The landlord shall maintain all security deposits in federally  
2 insured financial institutions, as defined in § 1-101 of the Financial Institutions  
3 Article, which do business in the State.

4 (ii) Security deposit accounts shall be maintained in branches of  
5 the financial institutions which are located within the State and the accounts shall be  
6 devoted exclusively to security deposits and bear interest.

7 (iii) A security deposit shall be deposited in an account within 30  
8 days after the landlord receives it.

9 (iv) The aggregate amount of the accounts shall be sufficient in  
10 amount to equal all security deposits for which the landlord is liable.

11 (2) (i) In lieu of the accounts described in paragraph (1) of this  
12 subsection, the landlord may hold the security deposits in insured certificates of  
13 deposit at branches of federally insured financial institutions, as defined in § 1-101 of  
14 the Financial Institutions Article, located in the State or in securities issued by the  
15 federal government or the State of Maryland.

16 (ii) In the aggregate certificates of deposit or securities shall be  
17 sufficient in amount to equal all security deposits for which the landlord is liable.

18 (3) (i) In the event of sale or transfer of the landlord's interest in the  
19 leased premises, including receivership or bankruptcy, the landlord or the landlord's  
20 estate, but not the managing agent or court appointed receiver, shall remain liable to  
21 the tenant and the transferee for maintenance of the security deposit as required by  
22 law, and the withholding and return of the security deposit plus interest as required  
23 by law, as to all or any portion of the security deposit that the landlord fails to deliver  
24 to the transferee together with an accounting showing the amount and date of the  
25 original deposit, the records of the interest rates applicable to the security deposit, if  
26 any, and the name and last known address of the tenant from whom, or on whose  
27 behalf, the deposit was received.

28 (ii) A security deposit under this section may not be attached by  
29 creditors of the landlord or of the tenant.

30 (4) Any successor in interest is liable to the tenant for failure to return  
31 the security deposit, together with interest, as provided in this section.

32 (e) (1) Within 45 days after the end of the tenancy, the landlord shall return  
33 the security deposit to the tenant together with simple interest which has accrued in  
34 the amount of 3 percent per annum, less any damages rightfully withheld.

35 (2) Interest shall accrue at six-month intervals from the day the tenant  
36 gives the landlord the security deposit. Interest is not compounded.

37 (3) Interest shall be payable only on security deposits of \$50 or more.

1 (4) If the landlord, without a reasonable basis, fails to return any part of  
2 the security deposit, plus accrued interest, within 45 days after the termination of the  
3 tenancy, the tenant has an action of up to threefold of the withheld amount, plus  
4 reasonable attorney's fees.

5 (f) (1) (i) The security deposit, or any portion thereof, may be withheld  
6 for unpaid rent, damage due to breach of lease or for damage by the tenant or the  
7 tenant's family, agents, employees, guests or invitees in excess of ordinary wear and  
8 tear to the leased premises, common areas, major appliances, and furnishings owned  
9 by the landlord.

10 (ii) The tenant has the right to be present when the landlord or the  
11 landlord's agent inspects the premises in order to determine if any damage was done  
12 to the premises, if the tenant notifies the landlord by certified mail of the tenant's  
13 intention to move, the date of moving, and the tenant's new address.

14 (iii) The notice to be furnished by the tenant to the landlord shall be  
15 mailed at least 15 days prior to the date of moving.

16 (iv) Upon receipt of the notice, the landlord shall notify the tenant  
17 by certified mail of the time and date when the premises are to be inspected.

18 (v) The date of inspection shall occur within five days before or five  
19 days after the date of moving as designated in the tenant's notice.

20 (vi) The tenant shall be advised of the tenant's rights under this  
21 subsection in writing at the time of the tenant's payment of the security deposit.

22 (vii) Failure by the landlord to comply with this requirement forfeits  
23 the right of the landlord to withhold any part of the security deposit for damages.

24 (2) The security deposit is not liquidated damages and may not be  
25 forfeited to the landlord for breach of the rental agreement, except in the amount that  
26 the landlord is actually damaged by the breach.

27 (3) In calculating damages for lost future rents any amount of rents  
28 received by the landlord for the premises during the remainder if any, of the tenant's  
29 term, shall reduce the damages by a like amount.

30 (g) (1) If any portion of the security deposit is withheld, the landlord shall  
31 present by first-class mail directed to the last known address of the tenant, within 45  
32 days after the termination of the tenancy, a written list of the damages claimed under  
33 subsection (f)(1) of this section together with a statement of the cost actually incurred.

34 (2) If the landlord fails to comply with this requirement, the landlord  
35 forfeits the right to withhold any part of the security deposit for damages.

36 (h) (1) The provisions of subsections (e)(1) and (4) and (g)(1) and (2) of this  
37 section are inapplicable to a tenant who has been evicted or ejected for breach of a

1 condition or covenant of a lease prior to the termination of the tenancy or who has  
2 abandoned the premises prior to the termination of the tenancy.

3 (2) (i) A tenant specified in paragraph (1) of this subsection may  
4 demand return of the security deposit by giving written notice by first-class mail to  
5 the landlord within 45 days of being evicted or ejected or of abandoning the premises.

6 (ii) The notice shall specify the tenant's new address.

7 (iii) The landlord, within 45 days of receipt of such notice, shall  
8 present, by first-class mail to the tenant, a written list of the damages claimed under  
9 subsection (f)(1) of this section together with a statement of the costs actually  
10 incurred and shall return to the tenant the security deposit together with simple  
11 interest which has accrued in the amount of 3 percent per annum, less any damages  
12 rightfully withheld.

13 (3) (i) If a landlord fails to send the list of damages required by  
14 paragraph (2) of this subsection, the right to withhold any part of the security deposit  
15 for damages is forfeited.

16 (ii) If a landlord fails to return the security deposit as required by  
17 paragraph (2) of this subsection, the tenant has an action of up to threefold of the  
18 withheld amount, plus reasonable attorney's fees.

19 (4) Except to the extent specified, this subsection may not be interpreted  
20 to alter the landlord's duties under subsections (e) and (g) of this section.

21 (I) (1) UNDER THIS SUBSECTION, A LANDLORD:

22 (I) MAY NOT REQUIRE THE TENANT TO PURCHASE A SURETY  
23 BOND; AND

24 (II) IS NOT REQUIRED TO CONSENT TO THE TENANT'S PURCHASE  
25 OF A SURETY BOND.

26 (2) (I) INSTEAD OF PAYING ALL OR PART OF A SECURITY DEPOSIT TO  
27 A LANDLORD UNDER THIS SECTION, A TENANT MAY PURCHASE A SURETY BOND TO  
28 PROTECT THE LANDLORD AGAINST:

29 1. NONPAYMENT OF RENT;

30 2. DAMAGE DUE TO BREACH OF LEASE; OR

31 3. DAMAGE CAUSED BY THE TENANT OR THE TENANT'S  
32 FAMILY, AGENTS, EMPLOYEES, GUESTS OR INVITEES IN EXCESS OF ORDINARY WEAR  
33 AND TEAR TO THE LEASED PREMISES, COMMON AREAS, MAJOR APPLIANCES, OR  
34 FURNISHINGS OWNED BY THE LANDLORD.

35 (II) A SURETY SHALL REFUND TO A TENANT ANY PREMIUM OR  
36 OTHER CHARGE PAID BY THE TENANT IN CONNECTION WITH A SURETY BOND IF,

1 AFTER THE TENANT PURCHASES A SURETY BOND, THE LANDLORD REFUSES TO  
2 ACCEPT THE SURETY BOND OR THE TENANT DOES NOT ENTER INTO A LEASE WITH  
3 THE LANDLORD.

4 (3) (I) THE AMOUNT OF A SURETY BOND PURCHASED INSTEAD OF A  
5 SECURITY DEPOSIT MAY NOT EXCEED TWO MONTHS' RENT PER DWELLING UNIT.

6 (II) IF A TENANT PURCHASES A SURETY BOND AND PROVIDES A  
7 SECURITY DEPOSIT IN ACCORDANCE WITH THIS SECTION, THE AGGREGATE AMOUNT  
8 OF BOTH THE SURETY BOND AND SECURITY DEPOSIT MAY NOT EXCEED TWO  
9 MONTHS' RENT PER DWELLING UNIT.

10 (III) 1. IF A LANDLORD CONSENTS TO A SURETY BOND BUT  
11 REQUIRES THE SURETY BOND TO BE IN AN AMOUNT IN EXCESS OF TWO MONTHS'  
12 RENT, THE TENANT MAY RECOVER UP TO THREE TIMES THE EXTRA AMOUNT  
13 CHARGED FOR THE SURETY BOND, PLUS REASONABLE ATTORNEY'S FEES.

14 2. IF A LANDLORD CONSENTS TO BOTH A SURETY BOND AND  
15 A SECURITY DEPOSIT BUT REQUIRES THE SURETY BOND AND THE SECURITY  
16 DEPOSIT TO BE IN AN AGGREGATE AMOUNT IN EXCESS OF TWO MONTHS' RENT, THE  
17 TENANT MAY RECOVER UP TO THREE TIMES THE EXTRA AMOUNT CHARGED FOR THE  
18 SURETY BOND, PLUS REASONABLE ATTORNEY'S FEES.

19 (4) BEFORE A TENANT PURCHASES A SURETY BOND INSTEAD OF PAYING  
20 ALL OR PART OF A SECURITY DEPOSIT, A SURETY SHALL DISCLOSE IN WRITING TO  
21 THE TENANT THAT:

22 (I) PAYMENT FOR A SURETY BOND IS NONREFUNDABLE;

23 (II) THE SURETY BOND IS NOT INSURANCE FOR THE TENANT;

24 (III) THE SURETY BOND IS BEING PURCHASED TO PROTECT THE  
25 LANDLORD AGAINST LOSS DUE TO NONPAYMENT OF RENT, BREACH OF LEASE, OR  
26 DAMAGES CAUSED BY THE TENANT;

27 (IV) THE TENANT MAY BE REQUIRED TO REIMBURSE THE SURETY  
28 FOR AMOUNTS THE SURETY PAID TO THE LANDLORD;

29 ~~(H)~~ (V) EVEN AFTER A TENANT PURCHASES A SURETY BOND, THE  
30 TENANT IS RESPONSIBLE FOR PAYMENT OF:

31 1. ALL UNPAID RENT;

32 2. DAMAGE DUE TO BREACH OF LEASE; AND

33 3. DAMAGE BY THE TENANT OR THE TENANT'S FAMILY,  
34 AGENTS, EMPLOYEES, GUESTS, OR INVITEES IN EXCESS OF ORDINARY WEAR AND  
35 TEAR TO THE LEASED PREMISES, COMMON AREAS, MAJOR APPLIANCES, OR  
36 FURNISHINGS OWNED BY THE LANDLORD;

1                   ~~(III)~~    A TENANT HAS THE RIGHT TO RECEIVE A COPY OF THE SURETY  
2 BOND SIGNED BY THE SURETY AT THE TIME OF THE PURCHASE OF THE SURETY  
3 BOND; AND

4                   ~~(VI)~~    THE TENANT HAS THE RIGHT TO PAY THE DAMAGES DIRECTLY  
5 TO THE LANDLORD OR REQUIRE THE LANDLORD TO USE THE TENANT'S SECURITY  
6 DEPOSIT, IF ANY, BEFORE THE LANDLORD MAKES A CLAIM AGAINST THE SURETY  
7 BOND; AND

8                   ~~(IV)~~    ~~(VII)~~   IF THE SURETY FAILS TO COMPLY WITH THE  
9 REQUIREMENTS OF THIS PARAGRAPH, THE SURETY FORFEITS THE RIGHT TO MAKE  
10 ANY CLAIM AGAINST THE TENANT UNDER THE SURETY BOND.

11                  (5)    (I)    A TENANT WHO PURCHASES A SURETY BOND IN ACCORDANCE  
12 WITH THIS SUBSECTION HAS THE RIGHT TO HAVE THE DWELLING UNIT INSPECTED  
13 BY THE LANDLORD IN THE TENANT'S PRESENCE FOR THE PURPOSE OF MAKING A  
14 WRITTEN LIST OF THE DAMAGES THAT EXIST AT THE COMMENCEMENT OF THE  
15 TENANCY, IF THE TENANT REQUESTS AN INSPECTION BY CERTIFIED MAIL WITHIN 15  
16 DAYS OF THE TENANT'S OCCUPANCY.

17                  (II)   A TENANT WHO PROVIDES A SURETY BOND UNDER THIS  
18 SUBSECTION SHALL HAVE ALL THE RIGHTS PROVIDED UNDER SUBSECTION (F)(1)(II)  
19 THROUGH (V) OF THIS SECTION.

20                  (III)   THE SURETY OR LANDLORD SHALL DELIVER TO A TENANT HAS  
21 THE RIGHT TO RECEIVE A COPY OF THE SURETY BOND ANY AGREEMENTS OR  
22 DOCUMENTS SIGNED BY THE SURETY TENANT AT THE TIME OF THE TENANT'S  
23 PURCHASE OF THE SURETY BOND.

24                  (IV)   A TENANT SHALL BE ADVISED IN WRITING OF ALL OF THE  
25 TENANT'S RIGHTS UNDER THIS PARAGRAPH SUBSECTION PRIOR TO THE PURCHASE  
26 OF A SURETY BOND.

27                  (6)    (I)    A SURETY BOND MAY BE USED TO PAY CLAIMS BY A LANDLORD  
28 FOR:

29                                   1.    UNPAID RENT;

30                                   2.    DAMAGE DUE TO BREACH OF LEASE; OR

31                                   3.    DAMAGE BY THE TENANT OR THE TENANT'S FAMILY,  
32 AGENTS, EMPLOYEES, GUESTS, OR INVITEES IN EXCESS OF ORDINARY WEAR AND  
33 TEAR TO THE LEASED PREMISES, COMMON AREAS, MAJOR APPLIANCES, OR  
34 FURNISHINGS OWNED BY THE LANDLORD.

35                  (II)   A SURETY BOND DOES NOT REPRESENT LIQUIDATED DAMAGES  
36 AND MAY NOT BE USED AS PAYMENT TO A LANDLORD FOR BREACH OF THE RENTAL  
37 AGREEMENT, EXCEPT IN THE AMOUNT THAT THE LANDLORD IS ACTUALLY  
38 DAMAGED BY THE BREACH.

1 (III) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (I) AND (II) OF THIS  
2 PARAGRAPH, A SURETY MAY NOT, DIRECTLY OR INDIRECTLY, MAKE ANY OTHER  
3 PAYMENT TO A LANDLORD.

4 (7) AT LEAST 10 DAYS BEFORE A LANDLORD MAKES A CLAIM AGAINST A  
5 SURETY BOND SUBJECT TO THIS SUBSECTION, THE LANDLORD SHALL SEND TO THE  
6 TENANT BY FIRST-CLASS MAIL DIRECTED TO THE LAST KNOWN ADDRESS OF THE  
7 TENANT, A WRITTEN LIST OF THE DAMAGES TO BE CLAIMED AND A STATEMENT OF  
8 THE COSTS ACTUALLY INCURRED BY THE LANDLORD.

9 (8) (I) A TENANT SHALL ~~RETAIN THE OPTION~~ HAVE THE RIGHT TO PAY  
10 ANY DAMAGES DIRECTLY TO THE LANDLORD OR REQUIRE THE LANDLORD TO USE  
11 THE TENANT'S SECURITY DEPOSIT, IF ANY, BEFORE THE LANDLORD MAKES A CLAIM  
12 AGAINST THE SURETY BOND.

13 (II) IF A TENANT PAYS ANY DAMAGES DIRECTLY TO THE LANDLORD  
14 OR REQUIRES THE LANDLORD TO USE THE TENANT'S SECURITY DEPOSIT UNDER  
15 SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THE PAYMENT FULLY SATISFIES THE  
16 CLAIM, THE LANDLORD SHALL FORFEIT THE RIGHT TO MAKE A CLAIM UNDER THE  
17 SURETY BOND FOR ANY DAMAGES COVERED BY THE TENANT'S PAYMENT OR THE  
18 AMOUNT DEDUCTED FROM THE TENANT'S SECURITY DEPOSIT IN ACCORDANCE WITH  
19 SUBPARAGRAPH (I) OF THIS PARAGRAPH.

20 (9) (I) THE TENANT MAY DISPUTE THE LANDLORD'S CLAIM TO THE  
21 SURETY BY SENDING A WRITTEN RESPONSE BY FIRST-CLASS MAIL TO THE SURETY  
22 WITHIN 10 DAYS AFTER RECEIVING THE LANDLORD'S CLAIM ON THE SURETY.

23 (II) IF THE TENANT DISPUTES THE CLAIM, THE SURETY MAY NOT  
24 REPORT THE CLAIM TO A CREDIT REPORTING AGENCY PRIOR TO OBTAINING A  
25 JUDGMENT FOR THE CLAIM AGAINST THE TENANT.

26 ~~(9)~~ (10) IN ANY PROCEEDING BROUGHT BY THE SURETY AGAINST THE  
27 TENANT ON A SURETY BOND UNDER THIS SUBSECTION:

28 (I) THE TENANT SHALL RETAIN ALL RIGHTS AND DEFENSES  
29 OTHERWISE AVAILABLE IN A PROCEEDING BETWEEN A TENANT AND A LANDLORD  
30 UNDER THIS SECTION; AND

31 (II) DAMAGES MAY ONLY BE AWARDED TO THE SURETY TO THE  
32 EXTENT THAT THE TENANT WOULD HAVE BEEN LIABLE TO THE LANDLORD UNDER  
33 THIS SECTION.

34 ~~(10)~~ (11) (I) IF A LANDLORD'S INTEREST IN THE LEASED PREMISES IS  
35 SOLD OR TRANSFERRED, THE NEW LANDLORD SHALL ACCEPT THE TENANT'S SURETY  
36 BOND AND MAY NOT REQUIRE:

37 1. DURING THE CURRENT LEASE TERM, AN ADDITIONAL  
38 SECURITY DEPOSIT FROM THE TENANT; OR



1                         2.           AT ANY LEASE RENEWAL, A SURETY BOND ~~AND OR~~ A  
2 SECURITY DEPOSIT FROM THE TENANT THAT, IN ADDITION TO ANY EXISTING  
3 SURETY BOND OR SECURITY DEPOSIT, IS IN ~~THE~~ AN AGGREGATE AMOUNT, IS  
4 AMOUNT IN EXCESS OF TWO MONTHS' RENT PER DWELLING UNIT.

5                         (II)       IF THE AGGREGATE AMOUNT DESCRIBED IN SUBPARAGRAPH  
6 (I) ~~2~~ OF THIS PARAGRAPH IS IN EXCESS OF TWO MONTHS' RENT, THE TENANT MAY  
7 RECOVER UP TO THREE TIMES THE EXTRA AMOUNT CHARGED, PLUS REASONABLE  
8 ATTORNEY'S FEES.

9                         ~~(11)~~   (12)   (I)       IF A LANDLORD FAILS TO COMPLY WITH THE  
10 REQUIREMENTS OF THIS SUBSECTION, THE LANDLORD FORFEITS THE RIGHT TO  
11 MAKE ANY CLAIM AGAINST THE SURETY BOND.

12                       (II)       IF A SURETY FAILS TO COMPLY WITH THE REQUIREMENTS OF  
13 THIS SUBSECTION, THE SURETY FORFEITS THE RIGHT TO MAKE ANY CLAIM AGAINST  
14 A TENANT UNDER THE SURETY BOND.

15                       ~~(12)~~   (13)   IF A SURETY, IN AN ACTION AGAINST THE TENANT, ASSERTS A  
16 CLAIM UNDER THE SURETY BOND WITHOUT HAVING A REASONABLE BASIS TO  
17 ASSERT THE CLAIM, THE COURT MAY GRANT THE TENANT DAMAGES OF UP TO  
18 THREE TIMES THE AMOUNT CLAIMED PLUS REASONABLE ATTORNEY'S FEES.

19                       ~~(13)~~   (14)   A SURETY BOND ISSUED UNDER THIS SUBSECTION MAY ONLY  
20 BE ISSUED BY AN ADMITTED CARRIER LICENSED BY THE MARYLAND INSURANCE  
21 ADMINISTRATION.

22   [(i)]       (J)       No provision of this section may be waived in any lease.

23   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 July 1, 2006.