

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1445 (Delegate Oaks, *et al.*)
Environmental Matters

Real Property - Residential Lease - Tenant Release

This bill requires an owner of an “affected property” under the State’s lead paint laws, if the owner fails to comply with the applicable risk reduction standards, to: (1) immediately release the tenant from the lease; and (2) pay the tenant all reasonable relocation expenses, up to \$2,500, directly related to permanent relocation. The right of a tenant to request the release does not preclude the tenant from pursuing any other right or remedy available to the tenant at law or in equity.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: A landlord is not generally required to pay a tenant’s relocation expenses, even when a hazardous condition exists.

Generally, a landlord must repair and eliminate conditions and defects that constitute, or if not promptly corrected will constitute, a fire hazard or a serious and substantial threat to the life, health, or safety of the occupants. A tenant must notify a landlord of the existence of the condition or defect, and the landlord has a reasonable time to make repairs. If a landlord refuses to make repairs, the tenant may bring a rent escrow action in

court and pay the rent to the court under specified criteria. A tenant may also pay rent into escrow if a landlord fails to comply with applicable risk reduction standards under the State's lead paint abatement laws.

In a rent escrow action, the court may make appropriate findings and make any order or orders that justice requires, including an order terminating the lease, dismissing the action, abating the rent, or requiring the landlord to make repairs. Money placed in a rent escrow account is distributed according to the rent escrow statute.

Generally, under the State's lead paint laws, at each change in occupancy, before the next tenant occupies the property, an owner must satisfy the risk reduction standard by passing the test for lead contaminated dust or performing specified lead hazard reduction treatments.

On and after October 1, 1999, an owner of affected properties must ensure that at least 50% of the owner's affected properties have satisfied the risk reduction standard, regardless of turnover in occupancy. On or after October 1, 2004, an owner of affected properties must ensure that 100% of the owner's affected properties in which a person at risk resides, and of whom the owner has been notified in writing, have satisfied the risk reduction standards. An owner must pay temporary relocation expenses to bring properties in compliance with these provisions.

If an owner has complied with the abatement, notice, and other requirements under the lead paint laws, a person may not bring a liability action against the owner for damages arising from alleged injury or loss to a person at risk caused by ingestion of lead with specified levels unless the owner has been given written notice of the elevated blood level and an opportunity to make a "qualified offer." A qualified offer in such instances covers up to \$7,500 for all medically necessary treatments and up to \$9,500 for relocation benefits. Relocation benefits include relocation expenses, incidental expenses, and a rent subsidy of up to 150% of the existing rent each month for the period until the person at risk reaches the age of six years, or in the case of a pregnant woman, until the child born reaches the age of six years.

Small Business Effect: Small business landlords that must pay relocation expenses for multiple tenants under the bill could face substantial expenditures related to tenant relocation, up to \$2,500 for each tenant.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 6, 2006
ncs/jr

Analysis by: T. Ryan Wilson

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