

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1382

(Delegate Glenn, *et al.*)

Environmental Matters

Judicial Proceedings

Rental Housing - Protection for Victims of Domestic Violence and Sexual Assault

The bill affords a residential tenant or legal occupant who is a victim of domestic violence or sexual assault certain protections including the ability to terminate the lease or change the locks under specified circumstances.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: Potential minimal revenue loss for residential landlords to the extent a victim of domestic violence or victim of sexual assault may be able to terminate a lease or tenancy in advance of its expiration.

Analysis

Bill Summary: A “victim of domestic violence” is defined as a victim of domestic abuse or a person eligible for relief under provisions of the Family Law Article governing the issuance of protective orders. A “victim of sexual assault” means a person who is a victim of a sexual crime, child sexual abuse, or sexual abuse of a vulnerable adult under the Criminal Law Article.

A tenant or legal occupant (who resides on the premises with the knowledge and permission of the landlord) who is a victim of domestic violence or a victim of sexual assault may terminate a residential lease within 30 days of providing the landlord with (1) written notice by first-class mail or hand delivery of an intent to vacate the premises;

and (2) notice of the individual's status as a victim of domestic violence or sexual assault. The notice requirement is satisfied by providing a copy of a protective or peace order issued for the benefit of the tenant or legal occupant. A vacating tenant is responsible for the rent for the 30-day period following the date that the notice of intent to vacate was provided to the landlord.

The bill prohibits a landlord from bringing an action for possession of the property against a victim because an act of domestic violence or sexual assault occurred. A tenant is deemed to have raised a rebuttable presumption that the alleged breach does not warrant an eviction if the tenant provides the court with a copy of the specified peace or protective order. If the tenant does not provide a copy of the peace or protective order, the court, in its discretion, may enter a judgment in favor of the tenant.

A residential tenant who is a victim of domestic violence or sexual assault may request that the landlord change locks of the leased premises if the protective order or peace order issued for the benefit of the tenant or legal occupant requires the respondent to refrain from entering or to vacate the residence of the tenant or legal occupant. The landlord must change the locks by the close of the next business day upon receiving a written request to change the locks. In the event the landlord does not change the locks within that time period, the tenant may have the locks changed by a certified locksmith and must give a duplicate key to the landlord by the close of the next business day. If the landlord changes the locks, he or she may charge a fee not exceeding the reasonable cost of changing the locks. The landlord is authorized to withhold the fee from the tenant's security deposit or charge the fee as additional rent if the tenant fails to pay the fee, as specified.

Current Law: "Abuse" is defined for purposes of Title 4, Subtitle 5 of the Family Article (Domestic Violence) to mean (1) an act that causes serious bodily harm; (2) an act that places a person eligible for relief in fear of imminent serious bodily harm; (3) assault in any degree; (4) rape or sexual offense or attempted rape or sexual offense in any degree; (5) false imprisonment; or (6) stalking. "Person eligible for relief" includes (1) the current or former spouse of the respondent (the person alleged to have committed the abuse); (2) a cohabitant of the respondent; (3) a person related to the respondent by blood, marriage, or adoption; (4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition; (5) a vulnerable adult; or (6) an individual who has a child in common with the respondent.

A petition for an interim protective order may be filed with a District Court commissioner if the clerk of the circuit court or clerk of the District Court is not open for business. If

the commissioner finds there are reasonable grounds to believe that the respondent has abused a person eligible for relief, the commissioner may issue an interim protective order. If, after a hearing on a petition, whether *ex parte* or otherwise, a judge finds that there are reasonable grounds to believe a person eligible for relief has been abused, the judge may issue a temporary protective order.

In a domestic violence proceeding, if a judge finds, by clear and convincing evidence, that abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse. The relief that may be granted in a protective order includes ordering the respondent to vacate the home immediately and awarding temporary use and possession of the home to the person eligible for relief. The maximum duration of a final protective order is generally one year.

Additional Information

Prior Introductions: None.

Cross File: SB 554 (Senator Gladden) - Judicial Proceedings.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Department of Housing and Community Development, Department of Legislative Services

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