

# HOUSE BILL 785

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CF SB 715

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By: **Delegate Wells**

Introduced and read first time: February 8, 2019

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Residential Lease – Repair of Dangerous Defects – Relief**

3 FOR the purpose of expanding the means by which a tenant may provide written notice to  
4 a landlord of certain defects or conditions affecting a residential dwelling unit;  
5 authorizing a tenant to bring certain actions against a landlord for refusing to make  
6 certain repairs; repealing provisions of law that prohibit a court from ordering  
7 certain relief for tenants against a landlord for failure to repair certain dangerous  
8 defects if the court finds that a court entered a certain number of judgments within  
9 a certain period of time against the tenant; expanding the remedies available to a  
10 tenant in an action against a landlord for failure to repair certain dangerous defects  
11 or conditions; repealing a provision of law that waived State preemption of certain  
12 local rent escrow laws; providing that certain provisions of law do not limit remedies  
13 that may be available to a tenant; making stylistic changes; and generally relating  
14 to tenants and the repair of dangerous defects.

15 BY repealing and reenacting, with amendments,  
16 Article – Real Property  
17 Section 8–211  
18 Annotated Code of Maryland  
19 (2015 Replacement Volume and 2018 Supplement)

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

22 **Article – Real Property**

23 8–211.

24 (a) **(1)** The purpose of this section is to provide tenants with a mechanism for  
25 encouraging the repair of serious and dangerous defects which exist within or as part of

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 any residential dwelling unit, or upon the property used in common of which the dwelling  
2 unit forms a part.

3           **(2)** The defects sought to be reached by this section are those which present  
4 a substantial and serious threat of danger to the life, health and safety of the occupants of  
5 the dwelling unit, and not those which merely impair the aesthetic value of the premises,  
6 or which are, in those locations governed by such codes, housing code violations of a  
7 nondangerous nature.

8           **(3)** The intent of this section is not to provide a remedy for dangerous  
9 conditions in the community at large which exists apart from the leased premises or the  
10 property in common of which the leased premises forms a part.

11           (b) It is the public policy of Maryland that meaningful sanctions be imposed upon  
12 those who allow dangerous conditions and defects to exist in leased premises, and that an  
13 effective mechanism be established for repairing these conditions and halting their  
14 creation.

15           (c) **(1)** This section applies to residential dwelling units leased for the purpose  
16 of human habitation within the State of Maryland.

17           **(2)** This section does not apply to farm tenancies.

18           (d) This section applies to all applicable dwelling units whether they are:

19           (1) [publicly] **PUBLICLY** or privately owned; or

20           (2) [single] **SINGLE** or multiple units.

21           (e) [This section provides a remedy and imposes an obligation upon landlords to]  
22 **A LANDLORD SHALL** repair and eliminate conditions and defects which constitute, or if  
23 not promptly corrected will constitute, a fire hazard or a serious and substantial threat to  
24 the life, health or safety of occupants, including, but not limited to:

25           (1) Lack of heat, light, electricity, or hot or cold running water, except  
26 where the tenant is responsible for the payment of the utilities and the lack thereof is the  
27 direct result of the tenant's failure to pay the charges;

28           (2) Lack of adequate sewage disposal facilities;

29           (3) Infestation of rodents [in two or more dwelling units];

30           (4) The existence of any structural defect which presents a serious and  
31 substantial threat to the physical safety of the occupants; or

32           (5) The existence of any condition which presents a health or fire hazard to

1 the dwelling unit.

2 (f) (1) This section does not provide a remedy for the landlord's failure to  
3 repair and eliminate minor defects or, in those locations governed by such codes, housing  
4 code violations of a nondangerous nature.

5 (2) There is a rebuttable presumption that the following conditions, when  
6 they do not present a serious and substantial threat to the life, health and safety of the  
7 occupants, are not covered by this section:

8 [(1)] (I) Any defect which merely reduces the aesthetic value of the leased  
9 premises, such as the lack of fresh paint, rugs, carpets, paneling or other decorative  
10 amenities;

11 [(2)] (II) Small cracks in the walls, floors or ceilings;

12 [(3)] (III) The absence of linoleum or tile upon the floors, provided that they  
13 are otherwise safe and structurally sound; or

14 [(4)] (IV) The absence of air conditioning.

15 (g) (1) In order to employ the remedies provided by this section, the tenant  
16 shall notify the landlord of the existence of the defects or conditions.

17 (2) Notice shall be given by:

18 [(1)] (I) [a] A written communication sent by certified mail, E-MAIL,  
19 TEXT MESSAGE, OR OTHER MEANS listing the asserted conditions or defects[, or];

20 [(2)] (II) [actual] ACTUAL notice of the defects or conditions[.]; or

21 [(3)] (III) [a] A written violation, condemnation or other notice from an  
22 appropriate State, county, municipal or local government agency stating the asserted  
23 conditions or defects.

24 (h) (1) The landlord has a reasonable time after receipt of notice in which to  
25 make the repairs or correct the conditions.

26 (2) The length of time deemed to be reasonable is a question of fact for the  
27 court, taking into account the severity of the defects or conditions and the danger which  
28 they present to the occupants.

29 (3) There is a rebuttable presumption that a period in excess of 30 days  
30 from receipt of notice is unreasonable.

31 (i) If the landlord refuses to make the repairs or correct the conditions, or if after

1 a reasonable time the landlord has failed to do so, the tenant may [bring]:

2           **(1) BRING** an action of rent escrow to pay rent into court because of the  
3 asserted defects or conditions[, or the tenant may refuse];

4           **(2) REFUSE** to pay rent and raise the existence of the asserted defects or  
5 conditions as an affirmative defense to an action for distress for rent or to any complaint  
6 proceeding brought by the landlord to recover rent or the possession of the leased premises;

7           **(3) MAKE THE REPAIRS OR CORRECT THE CONDITIONS AND BRING AN**  
8 **ACTION AGAINST THE LANDLORD FOR THE COSTS INCURRED BY THE TENANT FOR**  
9 **THE REPAIRS;**

10           **(4) OBTAIN TEMPORARY OR PERMANENT ALTERNATIVE HOUSING**  
11 **AND BRING AN ACTION AGAINST THE LANDLORD FOR THE COSTS INCURRED BY THE**  
12 **TENANT IN SEEKING ALTERNATIVE HOUSING; OR**

13           **(5) BRING AN ACTION AGAINST THE LANDLORD FOR THE TENANT'S**  
14 **LOSS OF USE AND ENJOYMENT OF THE LEASED PREMISES.**

15           (j) (1) Whether the issue of rent escrow is raised affirmatively or defensively,  
16 the tenant may request one or more of the forms of relief set forth in this section.

17           (2) In addition to any other relief sought, if within 90 days after the court  
18 finds that the conditions complained of by the tenant exist the landlord has not made the  
19 repairs or corrected the conditions complained of, the tenant may file a petition of injunction  
20 in the District Court requesting the court to order the landlord to make the repairs or  
21 correct the conditions.

22           (k) Relief under this section is conditioned upon:

23           (1) Giving proper notice, and where appropriate, the opportunity to correct,  
24 as described by subsection (h) of this section[.]; **AND**

25           (2) Payment by the tenant, into court, of the amount of rent required by  
26 the lease **AS THE RENT BECOMES DUE**, unless this amount is modified by the court as  
27 provided in subsection (m) of this section.

28           **[(3) In the case of tenancies measured by a period of one month or more, the**  
29 **court having not entered against the tenant 3 prior judgments of possession for rent due**  
30 **and unpaid in the 12-month period immediately prior to the initiation of the action by the**  
31 **tenant or by the landlord.**

32           (4) In the case of periodic tenancies measured by the weekly payment of  
33 rent, the court having not entered against the tenant more than 5 judgments of possession

1 for rent due and unpaid in the 12-month period immediately prior to the initiation of the  
2 action by the tenant or by the landlord, or, if the tenant has lived on the premises six  
3 months or less, the court having not entered against the tenant 3 judgments of possession  
4 for rent due and unpaid.]

5 (l) It is a sufficient defense to the allegations of the tenant that the tenant, the  
6 tenant's family, agent, employees, or assignees or social guests have caused the asserted  
7 defects or conditions, or that the landlord or the landlord's agents were denied reasonable  
8 and appropriate entry for the purpose of correcting or repairing the asserted conditions or  
9 defects.

10 (m) The court shall make appropriate findings of fact and make any order that the  
11 justice of the case may require, including any one or a combination of the following:

12 (1) Order the termination of the lease and return of the leased premises to  
13 the landlord, subject to the tenant's right of redemption;

14 (2) Order that the action for rent escrow be dismissed;

15 (3) Order that the amount of rent required by the lease, whether paid into  
16 court or to the landlord, be abated and reduced in an amount determined by the court to be  
17 fair and equitable to represent the existence of the conditions or defects found by the court  
18 to exist; [or]

19 (4) Order the landlord to make the repairs or correct the conditions  
20 complained of by the tenant and found by the court to exist;

21 **(5) ORDER THE LANDLORD TO COMPENSATE THE TENANT FOR THE**  
22 **COSTS INCURRED BY THE TENANT TO MAKE THE REPAIRS OR CORRECT THE**  
23 **CONDITIONS COMPLAINED OF BY THE TENANT AND FOUND BY THE COURT TO EXIST;**

24 **(6) ORDER THE LANDLORD TO COMPENSATE THE TENANT FOR COSTS**  
25 **INCURRED BY THE TENANT IN SEEKING ALTERNATIVE PERMANENT OR TEMPORARY**  
26 **HOUSING;**

27 **(7) ORDER THE LANDLORD TO COMPENSATE THE TENANT FOR THE**  
28 **TENANT'S LOSS OF USE AND ENJOYMENT OF THE LEASED PREMISES, IN AN AMOUNT**  
29 **DETERMINED BY THE COURT TO BE FAIR AND EQUITABLE; AND**

30 **(8) AWARD THE TENANT REASONABLE COURT COSTS AND**  
31 **ATTORNEY'S FEES.**

32 (n) After rent escrow has been established, the court:

33 (1) Shall, after a hearing, if so ordered by the court or one is requested by  
34 the landlord, order that the money in the escrow account be disbursed to the landlord after

1 the necessary repairs have been made;

2 (2) May, after an appropriate hearing, order that some or all money in the  
3 escrow account be paid to the landlord or the landlord's agent, the tenant or the tenant's  
4 agent, or any other appropriate person or agency for the purpose of making the necessary  
5 repairs of the dangerous conditions or defects;

6 (3) May, after a hearing if one is requested by the landlord, appoint a  
7 special administrator who shall cause the repairs to be made, and who shall apply to the  
8 court to pay for them out of the money in the escrow account;

9 (4) May, after an appropriate hearing, order that some or all money in the  
10 escrow account be disbursed to pay any mortgage or deed of trust on the property in order  
11 to stay a foreclosure;

12 (5) May, after a hearing, if one is requested by the tenant, order, if no  
13 repairs are made or if no good faith effort to repair is made within six months of the initial  
14 decision to place money in the escrow account, that the money in the escrow account be  
15 disbursed to the tenant. Such an order will not discharge the right on the part of the tenant  
16 to pay rent into court and an appeal will stay the forfeiture; or

17 (6) May, after an appropriate hearing, order that the money in the escrow  
18 account be disbursed to the landlord if the tenant does not regularly pay, into that account,  
19 the rent owed.

20 [(o) Except as provided in § 8-211.1(e) of this subtitle, in the event any county or  
21 Baltimore City is subject to a public local law or has enacted an ordinance or ordinances  
22 comparable in subject matter to this section, commonly referred to as a "Rent Escrow Law",  
23 any such ordinance or ordinances shall supersede the provisions of this section.]

24 **(O) NOTHING IN THIS SECTION IS INTENDED TO LIMIT ANY OTHER**  
25 **REMEDIES AVAILABLE TO THE TENANT AT LAW OR IN EQUITY.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2019.