

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 473 (Delegate Lafferty, *et al.*)
Environment and Transportation

Residential Leases - Definition of "Rent"

This bill specifies that, for a premises subject to a residential lease, “rent” (1) is defined as the fixed periodic sum for use and possession of the leased premises and (2) does not include any additional payments due from the tenant to the landlord under the lease. The bill also requires the provisions of any local law enacted by the General Assembly that are of comparable subject matter to the bill to yield to the bill’s definition of rent, in order to avoid inconsistency or conflict.

Fiscal Summary

State Effect: The bill’s requirements can be handled with the existing resources of the District Court, as discussed below. Revenues are not affected.

Local Effect: The bill is not anticipated to have a material fiscal or operational impact on the circuit courts.

Small Business Effect: Potential meaningful.

Analysis

Current Law: With respect to residential leases, no statute specifically defines “rent.” Additionally, no statute prohibits a landlord from recovering fees or charges as rent.

Failure to Pay Rent

Whenever the tenant fails to pay the rent when due, the landlord may file a complaint for repossession for failure to pay rent. Generally, the landlord must file the written complaint

in the District Court of the county where the property is located. Among other specified items, that complaint must include (1) the amount of rent and any late fees due and unpaid, *less the amount* of any utility bills, fees, or security deposits paid by a tenant under specified provisions of the Public Utilities Article and (2) a request to repossess the premises and, if desired, a judgment for the amount of rent due, costs, and any late fees, *less the amount* of any utility bills, fees, or security deposits paid by a tenant under specified provisions of the Public Utilities Article.

Background: The Administrative Office of the Courts (AOC) advises that, in fiscal 2018, there were a total of 653,739 actions for repossession for failure to pay rent filed in the District Court. In total, 661,319 landlord-tenant actions were filed in the District Court in fiscal 2018.

Whether a tenant's rent payments are current is a central question in many landlord-tenant proceedings. A landlord must show that a tenant has failed to pay rent to succeed in a summary ejectment proceeding, and a tenant cannot sue a landlord concerning the condition of a rental unit if the tenant is delinquent in paying rent.

A recent Court of Appeals decision, *Lockett v. Blue Ocean Bristol, LLC*, 446 Md. 397 (2016), calls into question the types of payments that may be considered rent. In *Lockett*, the court held that – for purposes of Maryland's anti-retaliation provisions under § 8-208.1 of the Real Property Article – the term “rent” denotes periodic charges for the use or occupancy of a rental unit. Accordingly, “rent” does not include various other payments (such as utility charges) that a tenant may owe his or her landlord, even if the tenant's lease characterizes such payments as “deemed rent” or “additional rent.” The decision applies narrowly to actions brought under the anti-retaliation statute, but it has potential implications for other landlord-tenant proceedings where the payment of rent is at issue.

State Expenditures: AOC advises that the bill may require changes to landlord/tenant forms, brochures, and the District Court website. However, the costs of making the changes and reprinting can be absorbed with existing resources.

Small Business Effect: The bill prohibits landlords who qualify as small businesses from collecting additional charges and fees as rent, thereby preventing them from filing a complaint for repossession for failure to pay rent or for breach of lease to collect such additional charges and fees.

Additional Information

Prior Introductions: HB 1346 of 2017, a similar bill, was withdrawn.

Cross File: SB 941 (Senator Lee) - Rules.

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

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an/kdm

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