

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 715 (Senator Washington)
Judicial Proceedings

Residential Lease - Repair of Dangerous Defects - Relief

This bill makes multiple changes to statute related to the repair of dangerous defects in residential dwelling units that are leased. The bill repeals a provision that waives State preemption of local rent escrow laws but specifies that nothing in the bill is intended to limit any other remedies available to the tenant at law or in equity. The bill also makes numerous technical and stylistic changes.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill is not anticipated to affect local government operations finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law:

Notice

The bill expands the means by which a tenant may provide written notice to a landlord of certain defects or conditions affecting a residential dwelling unit to include email, text message, or other means.

Under current law, in order to use specified remedies, the tenant must notify the landlord of the existence of the defects or conditions. Notice must be given by (1) a written

communication sent by certified mail, listing the asserted conditions or defects; (2) actual notice of the defects or conditions; or (3) written violation, condemnation or other notice from an appropriate State, county, municipal, or local government agency stating the asserted conditions or defects.

Remedies/Action of Rent Escrow

The bill specifies that (in addition to current authorizations discussed below), if the landlord refuses to make the repairs or correct the conditions, or if after a reasonable time the landlord has failed to do so, the tenant may (1) make the repairs or correct the conditions and bring an action against the landlord for the costs incurred by the tenant for the repairs; (2) obtain temporary or permanent alternative housing and bring an action against the landlord for the costs incurred by the tenant in seeking alternative housing; or (3) bring an action against the landlord for the tenant's loss of use and enjoyment of the leased premises.

Under current law, if the landlord refuses to make the repairs or correct the conditions, or if after a reasonable time the landlord has failed to do so, the tenant may (1) bring an action of rent escrow to pay rent into court because of the asserted defects or conditions or (2) refuse to pay rent and raise the existence of the asserted defects or conditions as an affirmative defense to an action for distress for rent or to any complaint proceeding brought by the landlord to recover rent or the possession of the leased premises.

Prerequisites to Relief

The bill clarifies that relief for a tenant is conditioned upon (1) giving proper notice and opportunity to correct by the landlord and (2) payment by the tenant, into court, of the amount of rent required by the lease *as the rent becomes due*, unless this amount is modified by the court.

The bill also repeals provisions of current law that limit the ability of a tenant to pay rent into court if multiple judgments of possession for rent due and unpaid were entered by the court in the 12-month period immediately prior to the initiation of the action by the tenant or by the landlord.

Orders of the Court

The bill expands the list of examples of orders that the court may make to include (1) ordering the landlord to compensate the tenant for the costs incurred by the tenant to make the repairs or correct the conditions complained of by the tenant and found by the court to exist; (2) ordering the landlord to compensate the tenant for costs incurred by the tenant in seeking alternative permanent or temporary housing; (3) ordering the landlord to compensate the tenant for the tenant's loss of use and enjoyment of the leased premises, in

an amount determined by the court to be fair and equitable; and (4) awarding the tenant reasonable court costs and attorney's fees.

Under current law, the court must make appropriate findings of fact and make any order that the justice of the case may require, including an order (1) terminating the lease and returning the leased premises to the landlord, subject to the tenant's right of redemption; (2) that the action for rent escrow be dismissed; (3) that the amount of rent required by the lease, whether paid into court or to the landlord, be abated and reduced in an amount determined by the court to be fair and equitable to represent the existence of the conditions or defects found by the court to exist; or (4) that the landlord make the repairs or correct the conditions complained of by the tenant and found by the court to exist.

Infestation of Rodents

The bill repeals the specification that two or more dwelling units must be infested by rodents on a list of examples of conditions and defects which constitute, or if not promptly corrected will constitute, a fire hazard or a serious and substantial threat to the life, health, or safety of occupants.

Reasonable Time for Repair

Under current law, a landlord has a reasonable time after receipt of notice to make the repairs or correct the conditions. The length of time deemed to be reasonable is a question of fact for the court, taking into account the severity of the defects or conditions and the danger which they present to the occupants. Generally, there is a rebuttable presumption that a period longer than 30 days from receipt of notice is unreasonable.

Background: According to the Judiciary, in fiscal 2018, 2,029 rent escrow cases were filed in the District Court.

Small Business Effect: Landlords that qualify as small businesses may be newly required to reimburse tenants for repairs performed by the tenant, reimburse tenants for temporary or alternative living arrangements obtained by the tenant, or compensate the tenant for the tenant's loss of use and enjoyment of the leased premises.

Additional Information

Prior Introductions: None.

Cross File: HB 785 (Delegate Wells) - Environment and Transportation.

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

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