

HOUSE BILL 31

D1

1lr1370

(PRE-FILED)

By: **Delegate Clippinger**

Requested: October 30, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 6, 2021

CHAPTER _____

1 AN ACT concerning

2 **Courts – Surcharges and Payment to ~~Rental Assistance Programs~~ Special Funds**
3 **– Prohibited Lease Provisions**

4 FOR the purpose of increasing certain surcharges on certain fees, charges, and costs in
5 certain civil cases in the circuit courts and the District Court; requiring that certain
6 surcharges collected be ~~equally~~ deposited into the Maryland Legal Services
7 Corporation Fund and directed to certain ~~rental assistance programs~~ special funds
8 in the State; prohibiting a certain surcharge from being passed on to a tenant in
9 certain civil proceedings under certain circumstances; prohibiting a landlord from
10 including in a residential lease a provision that provides that a tenant is responsible
11 for, or requires a tenant to agree to be responsible for, payment of a certain surcharge
12 under certain circumstances; prohibiting a landlord from seeking a certain surcharge
13 under certain circumstances in the landlord's written complaint to repossess
14 residential property filed in the District Court; establishing the Rental Assistance
15 Special Fund as a special, nonlapsing fund; specifying the purpose of the Fund;
16 requiring the Maryland Department of Housing and Community Development to
17 administer the Fund; requiring the State Treasurer to hold the Fund and the
18 Comptroller to account for the Fund; specifying the contents of the Fund; specifying
19 the purpose for which the Fund may be used; providing for the investment of money
20 in and expenditures from the Fund; requiring interest earnings of the Fund to be
21 credited to the Fund; exempting the Fund from a certain provision of law requiring
22 interest earnings on State money to accrue to the General Fund of the State; defining
23 a certain term; and generally relating to court surcharges and payment to ~~rental~~
24 ~~assistance programs~~ special funds.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



- 1 BY repealing and reenacting, with amendments,
2 Article – Courts and Judicial Proceedings
3 Section 7–202(d) and 7–301(c)
4 Annotated Code of Maryland
5 (2020 Replacement Volume)
- 6 BY repealing and reenacting, with amendments,
7 Article – Real Property
8 Section 8–208(d)(7) and (8) and 8–401(b)(1)
9 Annotated Code of Maryland
10 (2015 Replacement Volume and 2020 Supplement)
- 11 BY adding to
12 Article – Real Property
13 Section 8–208(d)(9) and 8–217
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2020 Supplement)
- 16 BY repealing and reenacting, without amendments,
17 Article – Real Property
18 Section 8–401(a)
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2020 Supplement)
- 21 BY repealing and reenacting, without amendments,
22 Article – State Finance and Procurement
23 Section 6–226(a)(2)(i)
24 Annotated Code of Maryland
25 (2015 Replacement Volume and 2020 Supplement)
26 (As enacted by Chapter 20 of the Acts of the General Assembly of 2020 and Chapters
27 4, 8, 25, 28, 33, and 36 of the Acts of the General Assembly of 2021)
- 28 BY repealing and reenacting, with amendments,
29 Article – State Finance and Procurement
30 Section 6–226(a)(2)(ii)128. and 129.
31 Annotated Code of Maryland
32 (2015 Replacement Volume and 2020 Supplement)
33 (As enacted by Chapter 20 of the Acts of the General Assembly of 2020 and Chapters
34 4, 8, 25, 28, 33, and 36 of the Acts of the General Assembly of 2021)
- 35 BY adding to
36 Article – State Finance and Procurement
37 Section 6–226(a)(2)(ii)130.
38 Annotated Code of Maryland
39 (2015 Replacement Volume and 2020 Supplement)

1 (As enacted by Chapter 20 of the Acts of the General Assembly of 2020 and Chapters
 2 4, 8, 25, 28, 33, and 36 of the Acts of the General Assembly of 2021)

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

5 **Article – Courts and Judicial Proceedings**

6 7–202.

7 (d) The State Court Administrator, as part of the Administrator’s determination
 8 of the amount of court costs and charges in civil cases, shall assess a surcharge that:

9 (1) May not be more than [~~\$55~~] **\$85** per case; and

10 (2) Shall be ~~EQUALLY~~ deposited into the Maryland Legal Services
 11 Corporation Fund established under § 11–402 of the Human Services Article ~~AND~~
 12 ~~DIRECTED TOWARD RENTAL ASSISTANCE PROGRAMS IN THE STATE.~~

13 7–301.

14 (c) (1) The filing fees and costs in a civil case are those prescribed by law
 15 subject to modification by law, rule, or administrative regulation.

16 (2) The Chief Judge of the District Court shall assess a surcharge that:

17 (i) May not be more than:

18 1. [~~\$8~~] **\$68** per summary ejectment case; ~~and~~ WHICH SHALL
 19 BE DEPOSITED AS FOLLOWS:

20 A. \$30 INTO THE RENTAL ASSISTANCE SPECIAL FUND;

21 B. \$30 INTO THE RIGHT TO COUNSEL IN EVICTIONS
 22 SPECIAL FUND; AND

23 C. \$8 INTO THE MARYLAND LEGAL SERVICES
 24 CORPORATION FUND ESTABLISHED UNDER § 11–401 OF THE HUMAN SERVICES
 25 ARTICLE; OR

26 2. ~~\$18~~ **\$28** per case for all other civil cases; ~~and~~ WHICH
 27 SHALL BE DEPOSITED INTO THE MARYLAND LEGAL SERVICES CORPORATION FUND
 28 ESTABLISHED UNDER § 11–402 OF THE HUMAN SERVICES ARTICLE; AND

1 **(ii) IF ASSESSED UNDER ITEM (I)1 OF THIS PARAGRAPH, SHALL**
 2 **BE ASSESSED AGAINST A LANDLORD AND MAY NOT BE AWARDED OR ASSIGNED BY**
 3 **THE DISTRICT COURT AS A FEE OR COST AGAINST A RESIDENTIAL TENANT FOR THE**
 4 **FIRST THREE SURCHARGES ASSESSED IN A YEAR.**

5 (ii) ~~Shall be [deposited] EQUALLY:~~

6 ~~1. DEPOSITED into the Maryland Legal Services~~
 7 ~~Corporation Fund established under § 11-402 of the Human Services Article; AND~~

8 ~~2. DIRECTED TOWARD RENTAL ASSISTANCE PROGRAMS~~
 9 ~~IN THE STATE.~~

10 (3) (i) In addition to the surcharge assessed under paragraph (2) of this
 11 subsection, the Chief Judge of the District Court shall assess a surcharge that may not be
 12 more than \$10 per case for the following cases filed in Baltimore City:

- 13 1. Summary ejectment;
- 14 2. Tenant holding over;
- 15 3. Breach of lease; and
- 16 4. Warrant of restitution.

17 (ii) The revenue generated from the surcharge on filing fees collected
 18 by the District Court in Baltimore City under subparagraph (i) of this paragraph shall be:

- 19 1. Remitted quarterly to the Baltimore City Director of
 20 Finance; and
- 21 2. Used to fund the enhancement of sheriff benefits and the
 22 increase in sheriff personnel to enhance the service of domestic violence orders.

23 (4) In addition to the surcharge assessed under paragraphs (2) and (3) of
 24 this subsection, the Chief Judge of the District Court shall assess a surcharge that:

25 (i) May not be more than:

- 26 1. \$3 per summary ejectment case; and
- 27 2. \$8 per case for all other civil cases; and

28 (ii) Shall be deposited into the Circuit Court Real Property Records
 29 Improvement Fund established under § 13-602 of this article.

~~(5) THE SURCHARGE FOR A SUMMARY EJECTMENT CASE UNDER § 8-401 OF THE REAL PROPERTY ARTICLE MAY NOT BE PASSED ON TO A TENANT BY THE COURT OR BY A LANDLORD.~~

~~[(5)] (6)~~ The Court of Appeals may provide by rule for waiver of prepayment of filing fees and other costs in cases of indigency.

Article – Real Property

8-208.

(d) A landlord may not use a lease or form of lease containing any provision that:

(7) Is against public policy and void pursuant to § 8-105 of this title; [or]

(8) Permits a landlord to commence an eviction proceeding or issue a notice to quit solely as retaliation against any tenant for planning, organizing, or joining a tenant organization with the purpose of negotiating collectively with the landlord; OR

(9) PROVIDES THAT A TENANT IS, OR REQUIRES A TENANT TO AGREE TO BE, RESPONSIBLE FOR THE FIRST THREE PAYMENTS OF A FILING SURCHARGE ASSESSED IN A YEAR AGAINST THE LANDLORD BY THE DISTRICT COURT UNDER § 7-301(C)(2)(I)1 OF THE COURTS ARTICLE.

8-217.

(A) IN THIS SECTION, “FUND” MEANS THE RENTAL ASSISTANCE SPECIAL FUND.

(B) THERE IS A RENTAL ASSISTANCE SPECIAL FUND.

(C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING TO NONPROFIT ORGANIZATIONS THAT WORK IN THE AREA OF RENT ASSISTANCE TO PAY THE BACK RENT FOR INDIVIDUALS FACING A POTENTIAL RESIDENTIAL RENTAL PROPERTY EVICTION.

(D) THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

1 **(F) THE FUND CONSISTS OF:**

2 **(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

3 **(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
4 **THE BENEFIT OF THE FUND; AND**

5 **(3) INTEREST EARNINGS OF THE FUND.**

6 **(G) THE FUND MAY BE USED ONLY FOR RENTAL ASSISTANCE AND PAYING**
7 **BACK RENT FOR INDIVIDUALS FACING A POTENTIAL RESIDENTIAL RENTAL**
8 **PROPERTY EVICTION.**

9 **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**
10 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

11 **(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO**
12 **THE FUND.**

13 **(I) EXPENDITURES FROM THE FUND MAY ONLY BE MADE IN ACCORDANCE**
14 **WITH THE STATE BUDGET.**

15 **(J) MONEY EXPENDED FROM THE FUND FOR THE ASSISTANCE DESCRIBED**
16 **UNDER SUBSECTION (G) OF THIS SECTION IS SUPPLEMENTAL TO AND IS NOT**
17 **INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE**
18 **APPROPRIATED FOR THE ASSISTANCE.**

19 8-401.

20 **(a) Whenever the tenant or tenants fail to pay the rent when due and payable, it**
21 **shall be lawful for the landlord to have again and repossess the premises.**

22 **(b) (1) Whenever any landlord shall desire to repossess any premises to which**
23 **the landlord is entitled under the provisions of subsection (a) of this section, the landlord**
24 **or the landlord's duly qualified agent or attorney shall file the landlord's written complaint**
25 **under oath or affirmation, in the District Court of the county wherein the property is**
26 **situated:**

27 **(i) Describing in general terms the property sought to be**
28 **repossessed;**

29 **(ii) Setting forth the name of each tenant to whom the property is**
30 **rented or any assignee or subtenant;**

1 (iii) Stating the amount of rent and any late fees due and unpaid, less
2 the amount of any utility bills, fees, or security deposits paid by a tenant under § 7-309 of
3 the Public Utilities Article;

4 (iv) Requesting to repossess the premises and, if requested by the
5 landlord, a judgment for the amount of rent due, costs, **EXCLUDING THE FIRST THREE**
6 **SURCHARGES ASSESSED IN A YEAR AGAINST THE LANDLORD UNDER §**
7 **7-301(C)(2)(I)1 OF THE COURTS ARTICLE,** and any late fees, less the amount of any
8 utility bills, fees, or security deposits paid by a tenant under § 7-309 of the Public Utilities
9 Article;

10 (v) If applicable, stating that, to the best of the landlord's knowledge,
11 the tenant is deceased, intestate, and without next of kin; and

12 (vi) If the property to be repossessed is an affected property as
13 defined in § 6-801 of the Environment Article, stating that the landlord has registered the
14 affected property as required under § 6-811 of the Environment Article and renewed the
15 registration as required under § 6-812 of the Environment Article and:

16 1. A. If the current tenant moved into the property on or
17 after February 24, 1996, stating the inspection certificate number for the inspection
18 conducted for the current tenancy as required under § 6-815(c) of the Environment Article;
19 or

20 B. On or after February 24, 2006, stating the inspection
21 certificate number for the inspection conducted for the current tenancy as required under
22 § 6-815(c), § 6-817(b), or § 6-819(f) of the Environment Article; or

23 2. Stating that the owner is unable to provide an inspection
24 certificate number because:

25 A. The owner has requested that the tenant allow the owner
26 access to the property to perform the work required under Title 6, Subtitle 8 of the
27 Environment Article;

28 B. The owner has offered to relocate the tenant in order to
29 allow the owner to perform work if the work will disturb the paint on the interior surfaces
30 of the property and to pay the reasonable expenses the tenant would incur directly related
31 to the relocation; and

32 C. The tenant has refused to allow access to the owner or
33 refused to vacate the property in order for the owner to perform the required work.

34 **Article – State Finance and Procurement**

35 6-226.

1 (a) (2) (i) Notwithstanding any other provision of law, and unless
 2 inconsistent with a federal law, grant agreement, or other federal requirement or with the
 3 terms of a gift or settlement agreement, net interest on all State money allocated by the
 4 State Treasurer under this section to special funds or accounts, and otherwise entitled to
 5 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
 6 Fund of the State.

7 (ii) The provisions of subparagraph (i) of this paragraph do not apply
 8 to the following funds:

9 128. the Michael Erin Busch Sports Fund; [and]

10 129. the Coordinated Community Supports Partnership Fund;

11 AND

12 130. THE RENTAL ASSISTANCE SPECIAL FUND.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 14 October 1, 2021.

Approved:

_____ Governor.

_____ Speaker of the House of Delegates.

_____ President of the Senate.