

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 49
(Delegate Rosenberg)
Environment and Transportation

Landlord and Tenant - Repossession for Failure to Pay Rent - Lead Risk Reduction Compliance

This bill alters the procedures by which a landlord may repossess property for failure to pay rent in the State and in Baltimore City. Under the bill, if the property is required by local law or regulation to operate under a valid registration or license issued by a State, county, or municipal organization, the landlord's complaint must state that the property is registered or licensed and state the registration or license number for the property to be repossessed. The bill also requires the Maryland Department of the Environment (MDE) to submit specified reports regarding the Lead Registration Compliance and Accreditation (LRCA) database. **The bill takes effect June 1, 2021; however, the bill's provisions regarding altered procedures and requirements in failure to rent cases take effect January 31, 2022, and are contingent on the accessibility of the LRCA database by the public.**

Fiscal Summary

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

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

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law:

Required Contents of a Complaint to Repossess Residential Property

Under current law, an “affected property” is one that is at risk for lead paint contamination, as specified and defined in the Environment Article. If the property to be repossessed is an affected property, the complaint is required to state that the landlord has registered the affected property as required under the Environment Article and kept the registration current. The complaint must also provide the inspection certificate number for the inspection conducted for the current tenancy, or state that the owner is unable to provide an inspection certificate number because:

- the owner has requested that the tenant allow the owner access to the property to perform the work required under the Environment Article;
- the owner has offered to relocate the tenant in order to allow the owner to perform work if the work will disturb the paint on the interior surfaces of the property and to pay the reasonable expenses the tenant incurs directly related to the relocation; and
- the tenant has refused to allow access to the owner or refused to vacate the property in order for the owner to perform the required work.

The bill also clarifies if the property to be repossessed is an affected property as described above, the landlord’s complaint must state that the *property is an affected property*.

Adjournment to Enable Procurement of Witnesses

The bill expands the authority of the court to adjourn the proceedings to enable either party to obtain documents or other proof of a claim or defense. Existing provisions authorize the court to adjourn the trial only to allow either party to procure necessary witnesses. The bill also extends the maximum length of the adjournment from 1 to 10 days.

Issues of Fact at Trial

Under current law, the information provided by the landlord regarding an affected property’s status may not be an issue of fact at trial. The bill repeals this prohibition and instead specifies that a landlord *must* provide direct evidence of compliance with provisions related to (1) the registration of leased residential property as required in the jurisdiction where the property is situated and (2) the property’s status as an affected property. The bill also specifies that, before the court determines whether any amount of

rent and late fees are due, the court must be satisfied that the landlord met the burden of providing direct evidence of compliance with these provisions.

Provisions Applicable Only in Baltimore City

Similar to the statewide provisions, the bill requires a rental property in Baltimore City to be in compliance with specified registration, permit, or license requirements in the Baltimore City Code and the Environment Article before a landlord may file a complaint for repossession of the property for failure to pay rent.

The bill also expands the authority of a judge in Baltimore City to adjourn the proceedings by enabling either party to procure necessary witnesses or obtain documents or other proof of a claim or defense, or for any other purposes of the judge's discretion, and authorizes the judge to adjourn the trial for up to 10 days. Existing provisions authorize the judge to adjourn the trial in the interest of justice for up to 7 days.

Contingency Provisions and Lead Registration Compliance and Accreditation Database Reporting

The above provisions are effective January 31, 2022, contingent on the accessibility of the LRCA database by the public.

MDE must report to the General Assembly by July 1, 2021, on the status of the implementation of the LRCA database. If the report does not indicate that the database is accessible to the public, MDE must report on September 1, 2021, and quarterly thereafter on the status of the database until the database is accessible. MDE must notify the Department of Legislative (DLS) if the database is accessible to the public on or before January 31, 2022. If DLS does not receive notice, the bill's provisions altering procedures and requirements in failure to rent cases are null and void.

Small Business Effect: Small business landlords may be required to provide additional documentation when filing a complaint to repossess residential property for failure to pay rent. The bill's extension of the length of time the court or judge may adjourn the proceedings to allow a party to procure documents or other proof may also delay the final disposition of a case, resulting in lost revenue.

Additional Comments: MDE advises that the agency continues to develop the LRCA database (including a component that will be available to the public). As of January 2021, the LRCA project remains on schedule to be implemented by October 2021.

Additional Information

Prior Introductions: Similar legislation has been considered recently. HB 491 of 2020 received a hearing in the House Environment and Transportation Committee, but no further action was taken. HB 1068 of 2019 received a hearing in the House Environment and Transportation Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Montgomery, Washington, and Worcester counties; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Department of Legislative Services

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