

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 703
Judiciary

(Delegate Lehman)

Rules

Real Property – Actions to Repossess – Judgment for Tenants and Proof of
Rental Licensure

This bill requires a landlord (in a jurisdiction that requires licensure) to plead and demonstrate when filing a written complaint to repossess residential property that the property is either (1) licensed in compliance with applicable local rental licensing requirements or (2) exempt from applicable local rental licensing requirements. These requirements are generally applicable upon the filing of a failure to pay rent, tenant holding over, or breach of lease action (subject to limited exception, including in circumstances involving a clear and imminent danger). At trial, the landlord must demonstrate to the satisfaction of the court that the property is licensed or exempt. A landlord may provide electronic proof of licensure to satisfy the requirement.

Fiscal Summary

State Effect: The Judiciary can absorb any minimal programming costs within existing budgeted resources. The bill is not otherwise anticipated to materially affect State operations or finances.

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

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill's requirements do not apply in a breach of lease or tenant holding over action if the landlord shows that the actions of the tenant caused the licensing authority to suspend, revoke, or refuse to grant or renew the rental license. If a landlord asserts that

rental property is not licensed as required due to the actions of a tenant, the landlord may file a breach of lease or tenant holding over action only after the landlord provides the tenant with written notice of the assertion at least 30 days prior to filing the action.

Current Law:

Breach of Lease

If an unexpired lease authorizes the landlord to repossess the premises prior to the expiration of the term of the lease if the tenant breaches the lease, then the landlord may file a complaint for breach of lease. The complaint must be in writing, filed in the District Court of the county where the property is located, and based on the following circumstances: (1) the tenant breaches the lease; (2) the landlord meets specified notice requirements or the breach “demonstrates a clear and imminent danger” and meets additional specified notice requirements; and (3) the tenant or person in actual possession of the premises refuses to comply. After specified procedural requirements are satisfied, if the court determines that the tenant breached the terms of the lease and that the breach was substantial and warrants an eviction, the court must give judgment for the restitution of the possession of the premises and issue its warrant to a sheriff/constable commanding the tenant to deliver possession to the landlord. The court must give judgment for costs against the tenant or person in possession.

Licensing of Rental Property

Statute does not include statewide requirements for rental property licensure. However, several jurisdictions require such licensing. For example, in Anne Arundel County, a person may not operate a multiple dwelling or rooming house without a license. A separate license is required for each multiple dwelling or rooming house. In Prince George’s County, licenses are generally required to operate (as an owner, lessee, agent, or in another capacity) single-family rental facilities or multi-family rental facilities, subject to specified exceptions.

Under the Baltimore City Code, an individual is prohibited from (1) renting or offering to rent to another all or any part of any rental dwelling without a currently effective license from the Housing Commissioner or (2) charging, accepting, retaining, or seeking to collect any rental payment or other compensation for providing to another the occupancy of all or any part of any rental dwelling unless the person is licensed, as specified. A license is not required for any rental dwelling that is owned and operated by the Housing Authority of Baltimore City.

In *McDaniel v. Baranowski*, 419 Md. 560 (2011), the Maryland Court of Appeals held that a landlord is not entitled to use specified statutory remedies upon a tenant's failure to pay rent if the landlord has not complied with applicable residential licensing requirements.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 563 (Senator Hettleman) - Judicial Proceedings.

Information Source(s): Kent, Montgomery, and Worcester counties; Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2022
rh/jkb Third Reader - April 11, 2022
Revised - Amendment(s) - April 11, 2022

Analysis by: Donovan A. Ham

Direct Inquiries to:
(410) 946-5510
(301) 970-5510