

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 367 (Delegate Williams, *et al.*)  
Environment and Transportation

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Landlord and Tenant – Repossession for Failure to Pay Rent – Rental Assistance Programs

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This emergency bill establishes specified procedures for filing a failure to pay rent action against a tenant directly or indirectly affected, as specified, by the COVID-19 pandemic. In addition to existing requirements, a landlord must (1) provide specified notice regarding rent relief programs to tenants before a complaint may be filed; (2) within 14 days of providing notice, apply for a rent relief program on behalf of the tenant, unless the tenant has taken specified actions; and (3) provide the tenant with necessary information during the application process for rent relief. Landlords are exempt from these additional requirements if specific conditions are applicable. The bill terminates June 30, 2023.

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Fiscal Summary

**State Effect:** The bill is not anticipated to materially affect State operations or finances, as discussed below.

**Local Effect:** Local expenditures for rental assistance may increase as a result of additional individuals applying for rent relief, as discussed below. Revenues are not materially affected.

**Small Business Effect:** Meaningful.

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Analysis

**Bill Summary:** The bill's provisions are applicable only to an action to repossess residential property for failure to pay rent against a tenant that either directly or indirectly,

due to or during the COVID-19 pandemic (1) qualified for unemployment benefits; (2) experienced a reduction in household income; (3) incurred significant costs; or (4) experienced other financial hardship.

Within 14 days after the date on which a landlord provides the required notice regarding rent relief programs, the landlord must apply on behalf of the tenant for rent relief, unless the tenant (1) pays in full the amount of rent due; (2) enters into a specified payment plan; or (3) informs the landlord that the tenant has applied for rental assistance.

The bill authorizes a landlord to file a complaint to repossess residential property under existing procedures if:

- within 45 days after submitting an initial application for rent relief – or 14 days for a second or subsequent application – the tenant or landlord has not received written approval from a rent relief program;
- after the landlord provided notice to the tenant of available rent relief programs, the tenant refuses to (1) apply for a rent relief program or (2) provide the information necessary for the landlord to apply for rent relief on behalf of the tenant;
- a tenant is ineligible to receive rental assistance from a rent relief program; or
- there are no remaining funds through the federal CARES act or the American Rescue Plan of 2021 dedicated for rental assistance through rent relief programs in the State.

**Current Law:** In general, a landlord seeking to evict a tenant must file the appropriate action (*e.g.*, failure to pay rent, breach of lease, *etc.*) in the District Court. If awarded a judgment by the court, the landlord files a warrant of restitution, which, once reviewed and signed by the court, authorizes an eviction. The warrants of restitution are forwarded to the local sheriff's office who is then authorized to carry out the evictions. Statute sets forth numerous specific requirements for such actions, including those related to written notice prior to filing certain actions. Before filing a failure to pay rent action, the landlord must provide the tenant with written notice of the landlord's intent to file a claim in the District Court to recover possession of the premises if the tenant does not cure within 10 days. Statute sets forth additional requirements regarding such notice.

**State/Local Fiscal Effect:** The COVID-19 pandemic exacerbated housing insecurity in the nation due to high levels and extended periods of unemployment, and many renters fell behind on rent payments. In response, Congress created the Emergency Rental Assistance Program (ERAP 1.0) in December 2020 and added a second round of funding (ERAP 2.0) through the American Rescue Plan Act in March 2021. Maryland's total ERAP funding (including that allocated directly to local jurisdictions) totals over \$753 million. Prior to

this funding, the State and local jurisdictions used other funding, including that from the Coronavirus Aid, Relief, and Economic Security Act, to provide rental assistance.

The majority of the State-allocated ERAP money distributed thus far has been to local jurisdictions to support local rental assistance programs. While the bill does not alter the amount of funding available, many states, including Maryland, have struggled to expend all of the available funding. Accordingly, local expenditures related to such funding may increase to the extent that the bill's provisions increase the number of individuals applying for and utilizing available rental assistance. The Maryland Association of Counties advises that local jurisdictions may experience operational impacts if emergency rental assistance caseloads increase; however, these impacts should be absorbable using existing resources made possible through the federal and State funding. The Department of Legislative Services notes that the bill's provisions are only in effect through fiscal 2023, and do not require local jurisdictions (or the State) to provide additional rental assistance relief beyond available funding.

While the bill may result in fewer filings for failure to pay rent actions, any potential minimal decrease in filing fee revenues is not anticipated to materially affect the operations or finances of the Judiciary. Although a surcharge is imposed on landlord-tenant actions filed in Baltimore City (and remitted to the city to enhance the service of domestic violence protective orders), any potential decrease in filings is likewise not anticipated to materially affect Baltimore City revenues.

**Small Business Effect:** During the time in which the bill is in effect, landlords are subject to more stringent requirements prior to filing failure to pay rent actions as well as increased waiting periods before property may be repossessed. However, landlords may also benefit to the extent that more tenants utilize programs that provide rental assistance.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Baltimore, Charles, Frederick, and Somerset counties; Maryland Association of Counties; Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Department of Human Services; Department of Legislative Services

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