

**Department of Legislative Services**  
Maryland General Assembly  
2023 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 807

(Senator A. Washington)

Judicial Proceedings

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**Landlord and Tenant - Failure to Repair Serious and Dangerous Defects -  
Tenant Remedies (Tenant Safety Act)**

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This bill (1) generally establishes that a landlord that offers a dwelling unit for rent is deemed to warrant the dwelling fit for human habitation and (2) establishes additional remedies if a landlord fails to repair serious and dangerous defects. The bill's provisions supersede any local law or ordinance comparable in subject matter to the extent that the local law or ordinance is more stringent or provides broader applicability.

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**Fiscal Summary**

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

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

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary/Current Law:**

*Repair of Serious and Dangerous Defects – In General*

Statutory provisions under current law provide tenants with a mechanism for encouraging the repair of serious and dangerous defects that exist within or as part of any residential dwelling unit, or upon common property, as specified. The defects are those in which a substantial and serious threat of danger to the life, health, and safety of the occupants is

present. Current statutory provisions provide a remedy and impose an obligation upon landlords to repair and eliminate the serious and dangerous conditions and defects. The bill establishes that by offering a residential dwelling unit for rent, whether by written or oral lease or agreement, the landlord must be deemed to warrant that the unit is fit for human habitation and that the landlord is obligated to repair and eliminate serious/dangerous conditions and defects.

### *Available Remedies and Notice Requirements*

Under current law, in order to use specified remedies available when serious and dangerous defects are present, a tenant must notify the landlord of the existence of the defects or conditions using specified methods. The bill extends this requirement to groups of tenants or tenants' organizations that bring actions, as authorized by the bill.

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. The bill also authorizes a tenant to bring an action for money damages against the landlord for breach of the warranty of habitability.

Furthermore, the bill authorizes an action of rent escrow or for money damages to be brought by a tenants' organization on behalf of a group of tenants and a single tenant as a lead petitioner joined by a group of tenants. A group of tenants or a tenants' organization may be incorporated or unincorporated. An action under these provisions must be limited to dwelling units in a single building or multiple buildings in a single complex or development that is owned or operated by the same landlord.

Pleadings filed by a tenants' organization or a single tenant as lead petitioner must meet specified requirements, including alleging that a threat to life, health, or safety exists or existed in a substantially similar or related manner in more than one dwelling unit and describing the facts on which the claim is based. A tenant other than a tenant identified in the petition may join an action by filing a request with the court within 30 days of the court establishing rent escrow, as specified. Prior to the entry of a judgment, any tenant joined in the action may request to leave and pursue any remedy individually without prejudice.

If rent escrow is established, the petitioner's landlord must allow the petitioner to post a notice at the property with information about the action and a tenant's ability to join. Once a judgment is entered, no tenant joined in a petition may initiate a separate action to seek the same remedy concerning the same threats to life, health, or safety.

A group of tenants or a tenants' organization that prevails in an action is entitled to reasonable attorney's fees, actual damages, and any other available remedies.

#### *Failure to Make Repairs or Correct Conditions*

Under current law (in addition to any other relief sought), if, within 90 days after the court finds that the conditions complained of by the tenant exist, the landlord has not made repairs or corrections, the tenant may file a petition of injunction in the District Court requesting the court to order the landlord to make the repairs or correct the conditions. The bill extends this authorization to a group of tenants or a tenants' organization.

The bill also authorizes the tenant (or a group/organization) to file an action for money damages against the landlord and any other party that has control over the elements affected by the asserted defects or conditions, such as a property management company. If a court orders relief, a tenant, group of tenants, or tenants' organization is also entitled to reasonable attorney's fees, expenses, and costs under these provisions.

The bill establishes that relief based on a breach of the warranty of habitability may not be conditioned on payment by the tenant of rent into the court.

**Small Business Effect:** Among other effects, landlords and other entities with control over residential property (including property management companies) are subject to awards for monetary damages and attorney's fees.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** HB 691 (Delegate Stewart) - Environment and Transportation.

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

**Fiscal Note History:** First Reader - February 24, 2023  
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