Article - Real Property

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§8–203.

(a) (1) In this section the following words have the meanings indicated.

(2) "Landlord" means a landlord or a prospective landlord.

(3) "Security deposit" means any payment of money, including payment of the last month's rent in advance of the time it is due, given to a landlord by a tenant in order to protect the landlord against nonpayment of rent, damage due to breach of lease, or damage to the leased premises, common areas, major appliances, and furnishings.

(4) "Tenant" means a tenant or a prospective tenant.

(b) (1) Except as provided in paragraph (2) of this subsection, a landlord may not impose a security deposit in excess of the equivalent of 1 month's rent per dwelling unit, regardless of the number of tenants.

(2) A landlord may impose a security deposit in an amount equivalent to up to 2 months' rent if:

(i) The tenant is eligible and has qualified for utility assistance through the Department of Human Services;

(ii) The lease agreement requires that the tenant make payments for utility services directly to the landlord; and

(iii) The tenant and landlord agree in writing to the amount of the security deposit.

(3) If a landlord violates paragraph (1) of this subsection, the tenant may recover up to three times the extra amount charged, plus reasonable attorney's fees.

(4) An action under this section may be brought at any time during the tenancy or within 2 years after its termination.

(c) (1) The landlord shall give the tenant a receipt for the security deposit as specified in § 8–203.1 of this subtitle.

(2) The receipt shall be included in a written lease.

(d) (1) (i) The landlord shall maintain all security deposits in federally insured financial institutions, as defined in § 1–101 of the Financial Institutions Article, which do business in the State.

(ii) Security deposit accounts shall be maintained in branches of the financial institutions which are located within the State and the accounts shall be devoted exclusively to security deposits and bear interest.

(iii) A security deposit shall be deposited in an account within 30 days after the landlord receives it.

(iv) The aggregate amount of the accounts shall be sufficient in amount to equal all security deposits for which the landlord is liable.

(2) (i) In lieu of the accounts described in paragraph (1) of this subsection, the landlord may hold the security deposits in insured certificates of deposit at branches of federally insured financial institutions, as defined in § 1–101 of the Financial Institutions Article, located in the State or in securities issued by the federal government or the State of Maryland.

(ii) In the aggregate certificates of deposit or securities shall be sufficient in amount to equal all security deposits for which the landlord is liable.

(3) (i) In the event of sale or transfer of the landlord's interest in the leased premises, including receivership or bankruptcy, the landlord or the landlord's estate, but not the managing agent or court appointed receiver, shall remain liable to the tenant and the transferee for maintenance of the security deposit as required by law, and the withholding and return of the security deposit plus interest as required by law, as to all or any portion of the security deposit that the landlord fails to deliver to the transferee together with an accounting showing the amount and date of the original deposit, the records of the interest rates applicable to the security deposit, if any, and the name and last known address of the tenant from whom, or on whose behalf, the deposit was received.

(ii) A security deposit under this section may not be attached by creditors of the landlord or of the tenant.

(4) Any successor in interest is liable to the tenant for failure to return the security deposit, together with interest, as provided in this section.

(e) (1) Within 45 days after the end of the tenancy, the landlord shall return the security deposit to the tenant together with simple interest which has

accrued at the daily U.S. Treasury yield curve rate for 1 year, as of the first business day of each year, or 1.5% a year, whichever is greater, less any damages rightfully withheld.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, interest shall accrue at monthly intervals from the day the tenant gives the landlord the security deposit. Interest is not compounded.

(ii) No interest is due or payable:

1. Unless the landlord has held the security deposit for at least 6 months; or

2. For any period less than a full month.

(3) Interest shall be payable only on security deposits of $50 or more.

(4) If the landlord, without a reasonable basis, fails to return any part of the security deposit, plus accrued interest, within 45 days after the termination of the tenancy, the tenant has an action of up to threefold of the withheld amount, plus reasonable attorney's fees.

(f) (1) (i) The security deposit, or any portion thereof, may be withheld for unpaid rent, damage due to breach of lease or for damage by the tenant or the tenant's family, agents, employees, guests or invitees in excess of ordinary wear and tear to the leased premises, common areas, major appliances, and furnishings owned by the landlord.

(ii) The tenant has the right to be present when the landlord or the landlord's agent inspects the premises in order to determine if any damage was done to the premises, if the tenant notifies the landlord by certified mail of the tenant's intention to move, the date of moving, and the tenant's new address.

(iii) The notice to be furnished by the tenant to the landlord shall be mailed at least 15 days prior to the date of moving.

(iv) Upon receipt of the notice, the landlord shall notify the tenant by certified mail of the time and date when the premises are to be inspected.

(v) The date of inspection shall occur within five days before or five days after the date of moving as designated in the tenant's notice.

(vi) The tenant shall be advised of the tenant's rights under this subsection in writing at the time of the tenant's payment of the security deposit.

(vii) Failure by the landlord to comply with this requirement forfeits the right of the landlord to withhold any part of the security deposit for damages.

(2) The security deposit is not liquidated damages and may not be forfeited to the landlord for breach of the rental agreement, except in the amount that the landlord is actually damaged by the breach or the amount of a surcharge authorized under § 7–301(c)(5)(ii) of the Courts Article.

(3) In calculating damages for lost future rents any amount of rents received by the landlord for the premises during the remainder if any, of the tenant's term, shall reduce the damages by a like amount.

(g) (1) Subject to subsection (j) of this section, if any portion of the security deposit is withheld, the landlord shall present by first–class mail directed to the last known address of the tenant, within 45 days after the termination of the tenancy, a written list of the damages claimed under subsection (f)(1) of this section together with an itemized statement of the cost incurred.

(2) If the landlord fails to comply with this requirement, the landlord forfeits the right to withhold any part of the security deposit for damages.

(h) (1) The provisions of subsections (e)(1) and (4) and (g)(1) and (2) of this section are inapplicable to a tenant who has been evicted or ejected for breach of a condition or covenant of a lease prior to the termination of the tenancy or who has abandoned the premises prior to the termination of the tenancy.

(2) (i) A tenant specified in paragraph (1) of this subsection may demand return of the security deposit by giving written notice by first–class mail to the landlord within 45 days of being evicted or ejected or of abandoning the premises.

(ii) The notice shall specify the tenant's new address.

(iii) Subject to subsection (j) of this section, the landlord, within 45 days of receipt of such notice, shall present, by first–class mail to the tenant, a written list of the damages claimed under subsection (f)(1) of this section together with an itemized statement of the costs incurred and shall return to the tenant the security deposit together with simple interest which has accrued at the daily U.S. Treasury yield curve rate for 1 year, as of the first business day of each year, or 1.5% a year, whichever is greater, less any damages rightfully withheld.

(3) (i) If a landlord fails to send the list of damages required by paragraph (2) of this subsection, the right to withhold any part of the security deposit for damages is forfeited.

(ii) If a landlord fails to return the security deposit as required by paragraph (2) of this subsection, the tenant has an action of up to threefold of the withheld amount, plus reasonable attorney's fees.

(4) Except to the extent specified, this subsection may not be interpreted to alter the landlord's duties under subsections (e) and (g) of this section.

(i) (1) Under this subsection, a landlord:

(i) May not require the tenant to purchase a surety bond; and

(ii) Is not required to consent to the tenant's purchase of a surety bond.

(2) (i) Instead of paying all or part of a security deposit to a landlord under this section, a tenant may purchase a surety bond to protect the landlord against:

1. Nonpayment of rent;

2. Damage due to breach of lease; or

3. Damage caused by the tenant or the tenant's family, agents, employees, guests or invitees in excess of ordinary wear and tear to the leased premises, common areas, major appliances, or furnishings owned by the landlord.

(ii) A surety shall refund to a tenant any premium or other charge paid by the tenant in connection with a surety bond if, after the tenant purchases a surety bond, the landlord refuses to accept the surety bond or the tenant does not enter into a lease with the landlord.

(3) (i) The amount of a surety bond purchased instead of a security deposit may not exceed two months' rent per dwelling unit.

(ii) If a tenant purchases a surety bond and provides a security deposit in accordance with this section, the aggregate amount of both the surety bond and security deposit may not exceed two months' rent per dwelling unit.

(iii) 1. If a landlord consents to a surety bond but requires the surety bond to be in an amount in excess of two months' rent, the tenant may

recover up to three times the extra amount charged for the surety bond, plus reasonable attorney's fees.

2. If a landlord consents to both a surety bond and a security deposit but requires the surety bond and the security deposit to be in an aggregate amount in excess of two months' rent, the tenant may recover up to three times the extra amount charged for the surety bond, plus reasonable attorney's fees.

(4) Before a tenant purchases a surety bond instead of paying all or part of a security deposit, a surety shall disclose in writing to the tenant that:

(i) Payment for a surety bond is nonrefundable;

(ii) The surety bond is not insurance for the tenant;

(iii) The surety bond is being purchased to protect the landlord against loss due to nonpayment of rent, breach of lease, or damages caused by the tenant;

(iv) The tenant may be required to reimburse the surety for amounts the surety paid to the landlord;

(v) Even after a tenant purchases a surety bond, the tenant is responsible for payment of:

1. All unpaid rent;

2. Damage due to breach of lease; and

3. Damage by the tenant or the tenant's family, agents, employees, guests, or invitees in excess of ordinary wear and tear to the leased premises, common areas, major appliances, or furnishings owned by the landlord;

(vi) The tenant has the right to pay the damages directly to the landlord or require the landlord to use the tenant's security deposit, if any, before the landlord makes a claim against the surety bond; and

(vii) If the surety fails to comply with the requirements of this paragraph, the surety forfeits the right to make any claim against the tenant under the surety bond.

(5) (i) A tenant who purchases a surety bond in accordance with this subsection has the right to have the dwelling unit inspected by the landlord in the tenant's presence for the purpose of making a written list of the damages that

exist at the commencement of the tenancy, if the tenant requests an inspection by certified mail within 15 days of the tenant's occupancy.

(ii) A tenant who provides a surety bond under this subsection shall have all the rights provided under subsection (f)(1)(ii) through (v) of this section.

(iii) The surety or landlord shall deliver to a tenant a copy of any agreements or documents signed by the tenant at the time of the tenant's purchase of the surety bond.

(iv) A tenant shall be advised in writing of all of the tenant's rights under this subsection prior to the purchase of a surety bond.

(6) (i) A surety bond may be used to pay claims by a landlord for:

1. Unpaid rent;

2. Damage due to breach of lease;

3. Damage by the tenant or the tenant's family, agents, employees, guests, or invitees in excess of ordinary wear and tear to the leased premises, common areas, major appliances, or furnishings owned by the landlord; or

4. The amount of a surcharge authorized under § 7–301(c)(5)(ii) of the Courts Article.

(ii) A surety bond does not represent liquidated damages and may not be used as payment to a landlord for breach of the rental agreement, except in the amount that the landlord is actually damaged by the breach.

(iii) Except as provided in subparagraphs (i) and (ii) of this paragraph, a surety may not, directly or indirectly, make any other payment to a landlord.

(7) Subject to subsection (j) of this section, at least 10 days before a landlord makes a claim against a surety bond subject to this subsection, the landlord shall send to the tenant by first–class mail directed to the last known address of the tenant, a written list of the damages to be claimed and an itemized statement of the costs incurred by the landlord.

(8) (i) A tenant shall have the right to pay any damages directly to the landlord or require the landlord to use the tenant's security deposit, if any, before the landlord makes a claim against the surety bond.

(ii) If a tenant pays any damages directly to the landlord or requires the landlord to use the tenant's security deposit under subparagraph (i) of this paragraph and the payment fully satisfies the claim, the landlord shall forfeit the right to make a claim under the surety bond for any damages covered by the tenant's payment or the amount deducted from the tenant's security deposit in accordance with subparagraph (i) of this paragraph.

(9) (i) The tenant may dispute the landlord's claim to the surety by sending a written response by first–class mail to the surety within 10 days after receiving the landlord's claim on the surety.

(ii) If the tenant disputes the claim, the surety may not report the claim to a credit reporting agency prior to obtaining a judgment for the claim against the tenant.

(10) In any proceeding brought by the surety against the tenant on a surety bond under this subsection:

(i) The tenant shall retain all rights and defenses otherwise available in a proceeding between a tenant and a landlord under this section; and

(ii) Damages may only be awarded to the surety to the extent that the tenant would have been liable to the landlord under this section.

(11) (i) If a landlord's interest in the leased premises is sold or transferred, the new landlord shall accept the tenant's surety bond and may not require:

1. During the current lease term, an additional security deposit from the tenant; or

2. At any lease renewal, a surety bond or a security deposit from the tenant that, in addition to any existing surety bond or security deposit, is in an aggregate amount in excess of two months' rent per dwelling unit.

(ii) If the aggregate amount described in subparagraph (i)2 of this paragraph is in excess of two months' rent, the tenant may recover up to three times the extra amount charged, plus reasonable attorney's fees.

(12) (i) If a landlord fails to comply with the requirements of this subsection, the landlord forfeits the right to make any claim against the surety bond.

(ii) If a surety fails to comply with the requirements of this subsection, the surety forfeits the right to make any claim against a tenant under the surety bond.

(13) If a surety, in an action against the tenant, asserts a claim under the surety bond without having a reasonable basis to assert the claim, the court may grant the tenant damages of up to three times the amount claimed plus reasonable attorney's fees.

(14) A surety bond issued under this subsection may only be issued by an admitted carrier licensed by the Maryland Insurance Administration.

(j) (1) An itemized statement of costs provided under subsection (g)(1), (h)(2)(iii), or (i)(7) of this section shall include supporting documentation that identifies the materials or services provided.

(2) Subject to subsection (k) of this section, a landlord may satisfy the requirement under paragraph (1) of this subsection by providing an estimate of the costs to be incurred by the landlord.

(k) (1) This subsection applies only if a landlord provides an estimate as documentation to support an itemized statement of costs provided under subsection (g)(1), (h)(2)(iii), or (i)(7) of this section.

(2) (i) The landlord shall notify the tenant in writing when the repairs have been completed.

(ii) The notice required under subparagraph (i) of this paragraph shall include a copy of the final invoice for any repairs made by the landlord.

(3) If the actual costs incurred by the landlord are less than the estimate provided to the tenant under subsection (j)(2) of this section, the landlord shall return to the tenant within 30 days after completing the repairs the amount of the security deposit withheld by the landlord that is in excess of the actual costs incurred by the landlord.

(l) No provision of this section may be waived in any lease.

(m) The Department of Housing and Community Development shall maintain on its website:

(1) A list of daily U.S. Treasury yield curve rates for 1 year, as of the first business day of each year, to be used in calculating the interest on a security deposit; or

(2) A customized calculator that calculates the interest due on a security deposit by allowing a user to enter the date that the security deposit was given to the landlord, a tenancy end date, and the amount of the security deposit.

(n) A landlord is entitled to rely on the list of yield curve rates or the customized calculator maintained by the Department of Housing and Community Development under subsection (m) of this section when calculating the interest on a security deposit.

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