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HB 50 - Landlord and Tenant - Residential Leases - Tenant Rights and Protections (Tenant Protection Act of 2021)

Hearing before the House Environment and Transportation Committee, Jan. 26, 2021

Position: SUPPORT

Public Justice Center (PJC) is a non-profit, civil legal services provider that provides advice and representation to over 700 tenants throughout Maryland each year. The array of measures in the Tenant Protection Act HB 50 are salutary and meet the “common sense” test. Yet, they are also long needed and meaningfully fill gaps in current Maryland law. HB 50 reincorporates amendments and compromises achieved in the 2020 session. Public Justice Center supports the Tenant Protection Act as reintroduced.

Documentation of security deposit deductions

The return of a security deposit should be an ordinary transaction. In Maryland, it is fraught with tension and uncertainty. For 45 days after a tenant moves out of the property, the landlord has no obligation to release the deposit. Particularly for lower-income renters in Maryland, this delay imposes economic hardship that can destabilize the renter’s new tenancy. After making payments for moving, for establishing a new security deposit, and for one or two months of rent, a renting household is additionally missing funds from the prior deposit for nearly two months. This predictable financial dilemma is often exacerbated by surprising deductions from that prior security deposit. Whereas current law requires landlords only to itemize the amounts withheld from the released security deposit, HB 50 creates an additional obligation by which landlords would provide documentation for those withheld amounts. For instance, for the typical instance in which a landlord withholds hundreds of dollars for carpet cleaning or other cosmetic improvements, HB 50 would require that landlords, as practicable, provide their former tenant an invoice or other documentation that substantiates the itemized costs. Renters rely on the return of their security deposit and deserve to know, with the added certainty of documentation, why their former landlord deducted from the full deposit amount.

Broader grounds for early lease termination by survivors of DV, sexual assault, and stalking

HB 50 adds stalking, as defined in the Criminal Law Article, as basis for early lease termination in

Real Property, alongside the existing grounds of domestic violence and sexual assault. HB 50 also solves a common shortcoming of the current lease termination statute. The existing law requires the tenant to provide notice the landlord of the intent to vacate, as well as evidence of a peace or protective order to substantiate their status as a victim. Because for many renters facing such circumstances the peace or protective order may be unattainable, HB 50 expands the law so that the report of a “qualified third party” (physician, psychologist, social worker) would suffice as documentation the supports the renter’s assertion of domestic violence, sexual assault, or stalking. Additionally, HB 50 specifies that a tenant in one of these emergency circumstances is responsible for payment of rent only for the period between their delivery of notice to the landlord and the date on which they vacate, up to a maximum of 30 days.

Access to utility billing information at master-meter buildings

HB 50 also sets forth new transparency provisions for renters in Ratio Utility Billing System (“RUBS”) properties. These properties are typically multi-family buildings on a master meter serviced by the local utility company. The owner then contracts with a third party to allocate utility charges to each unit in the building. Under current law (outside Montgomery County and Baltimore City), tenants have no statutory rights to access the allocation calculations or to see the underlying billing and consumption data for the building. As one former PJC client put it, “you have to blindly trust that the landlord is fairly distributing the costs.” In one such building, tenants across the board received erratic, seemingly inaccurate gas charges. Yet, when their complaints and demands to the property managers were ignored, there was little else these renters could do to find out why utility charges had increased – even as many resorted to not heating their units throughout the winter. Even complaints to the Attorney General did not help shed light on the RUBS calculations.

HB 50 addresses this information gap. It requires that tenants have written notice explaining exactly which utilities they will be expected to pay and the exact method or formula for how these costs will be allocated. In addition, the bill requires landlords to provide tenants with the average monthly cost for each utility in the prior calendar year. Importantly, too, HB 50 provides incumbent tenants the right to request information that would verify the accuracy of allocated utility bills – including past bills. All of these components of HB 50 afford tenants the opportunity to understand fluctuating utility charges over time and to aid their knowledge of such costs whenever a dispute over billing accuracy arises. These measures would assist tenants with budgeting and empower them to dispute excessive or confusing utility costs.

Public Justice Center opposes amendments that would weaken these transparency measures by limiting them temporally to a set number of days after an initial billing occurs. Additionally, we highlight the utilities-related section of HB 50 allows local laws of comparable subject matter to supersede the bill’s provisions. We recommend that this provision be amended to limit local provisions as superseding HB 50 *to the extent they afford a stronger right or protection.*

Please issue a report of FAVORABLE on HB 50. If you have any questions, please contact Zafar Shah, shahz@publicjustice.org, (410) 625-9409 Ext. 237.