

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Environment and Transportation Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1076
Real Property – Residential Leases – Fee in Lieu of Security
Deposit
DATE: February 15, 2023
(3/7)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes House Bill 1076, as drafted. House Bill 1076 establishes Real Property § 8-203.2 which states that a landlord may offer a fee in lieu of a security deposit. A county or municipality may not require a landlord to offer a fee in lieu of a security deposit. An agreement to pay a fee in lieu of a security deposit is not a defense in an action brought by a landlord under RP § 8-401 for a tenant’s failure to pay rent.

The Judiciary takes no position on the policy aims of the legislation but has concerns in the bill’s drafting. This bill creates a burdensome statutory process to incorporate insurance policies of landlords for nonpayment by tenants, while creating the possibility of inconsistent interpretations of the statute by courts around the State. In addition, the bill provides on page six that any fee paid by a tenant shall be credited toward the security deposit. Yet, on page two, the bill indicates that a security deposit does not include a fee in lieu of a security deposit. These provisions are confusing.

Additionally, on page 8, line 27 through and including page 9, line 2, the bill references debts that are “declared void” by the Court. This is not a legal term of art with which the Judiciary is familiar and there are no provisions within the bill to determine how such a declaration is to be made.

cc. Hon. Melissa Wells
Judicial Council
Legislative Committee
Kelley O’Connor