



Testimony to the Senate Judicial Proceedings Committee
SB 603: Real Property – Residential Leases – Fee in Lieu of Security
Deposit
Position: Unfavorable

March 7, 2023

The Honorable Will Smith, Chair
Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401
cc: Members, Senate Judicial Proceedings Committee

Honorable Chair Smith and Members of the Committee:

Economic Action Maryland is a nonprofit organization that works to advance economic justice and equity statewide through direct-service, research, education, and advocacy.

We write in opposition to SB 603.

Economic Action Maryland's Tenant Advocacy Program provides information to renters and property owners about their rights and responsibilities. In 2022 we received 1,396 client intakes. A common concern is housing affordability, and security deposits can exist as a barrier to finding safe, stable, and affordable housing. But this solution may have unintended negative consequences for renters.

Under Maryland law, security deposits exist to protect landlords from specific types of damages. They can withhold deposits if they experience losses from unpaid rent, a breach of the lease, or physical damage to the property more than "normal wear and tear."¹

Security deposits also protect renters. Because deposits cover unpaid rent and damages, they can reduce claims against renters if they can't pay the rent or property damage occurs. Maryland's laws define what deposits can cover, the maximum amount that can be charged, and procedures to prevent disputes or mitigate their effects. While they aren't perfect, security deposits are regulated to provide protection while reducing opportunities for exploitation.

¹ <https://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=grp§ion=8-203&enactments=false>

Fees in lieu of security deposits are not security deposits. Fees in-lieu-of security deposits insure property owners against the renters paying for them, but they don't protect renters from claims the way deposits would. Renters would be paying monthly fees that expose them to liability instead of reducing it. Renters are entitled to have their deposits returned with deductions for actual damages to the landlord, but there's no guarantee fees paid under this alternative would be returned.

The fee structures provided by SB603 threaten renters. Currently, Maryland's security deposit law caps deposits at the equivalent of two (2) months' rent. But as it stands there is no limit on the amount these proposed fees could add up to, and landlords can charge even more to "effectuate" obtaining the insurance. Thus, renters could easily end up paying more than the maximum amount allowed for security deposits, all for far less protection than deposits provide.

In our current housing crisis, finding ways to reduce burdens on renters is necessary. Security deposits can be a barrier to obtaining safe, stable, affordable housing. But we must weigh the effects of proposed alternatives. Fees in-lieu of security deposits would protect landlords, but not the renters paying for them.

Instead, these fees would open renters up to greater liability. Because the fees aren't capped and aren't necessarily refundable, they could serve to extract from renters already struggling to assemble a security deposit. This housing crisis demands solutions, but exposing lower-income households to extraction and increased liability could make the situation far worse.

Finally, we are generally concerned that we do not yet understand the full implications of this financial product and how it will affect renters in the marketplace. We suggest further study on this matter including whether this will lead to an increase in third-party debt collection. In other words, Lease Lock may be more likely than a landlord to sell off purported tenant debts to a third-party debt collector, making it more difficult for tenants to later dispute the validity of the purported debt.

Other ways of addressing the housing choice barrier posed by security deposits include requiring landlords to allow tenants to pay the security deposit in installments over the course of the tenancy, e.g., allowing the tenant to pay the security deposit in three installments over the course of 6 months. This policy would promote housing mobility and housing choice without the use of complex financial products that have not been adequately studied.

For these reasons, we respectfully urge an unfavorable report on SB 603.

Best,

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Executive Director

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