

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 130 (Senator Ellis)
 Judicial Proceedings

Landlord and Tenant – Failure to Pay Rent – Fee Limit During Emergencies

This bill establishes that a landlord may not demand or be entitled to a late fee for the failure to pay rent if a tenant is an “impacted tenant” who provides written notice to the landlord. The bill’s provisions apply during the course of a declared state of emergency, catastrophic public health emergency, or other similar event, as specified, and for nine months thereafter. **The bill takes effect June 1, 2021, and expresses the intent of the General Assembly for the bill to apply retroactively, to the extent authorized by law, to all failure to pay rent actions arising after March 5, 2020.**

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$69,900 in FY 2021 only for programming changes. Otherwise, the bill is not anticipated to materially affect State operations or finances.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	69,900	0	0	0	0
Net Effect	(\$69,900)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially affect local operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Impacted tenant” means a residential tenant who suffers a job loss or a reduction in household income of at least 50% at a time when the State is under a proclamation issued under Title 14 of the Public Safety Article. An impacted tenant must provide written notice to the landlord each time a rent payment is due and the tenant is unable to pay. A landlord is permitted to make a reasonable request for the following information from an impacted tenant:

- a notice from the tenant’s former employer indicating that the tenant’s employment has ended;
- a notice from the tenant’s current employer indicating reduced hours of employment;
- bank statements, with account numbers redacted by the tenant; and
- any other document that demonstrates that the tenant is an impacted tenant under this section.

A landlord is authorized to verify the information provided to confirm the tenant’s status as an impacted tenant.

The bill’s provisions apply for the entire duration of a declared state of emergency, catastrophic health emergency, or other similar declared event that is renewed, uninterrupted, for at least four months, and for a period of nine months thereafter.

The bill makes conforming changes to statutory provisions regarding failure to pay rent actions, including specifying that if a judgment is issued in favor of the landlord, the determination of late fees included in the judgment must be reduced by any late fees that may not be charged to the tenant pursuant to the bill’s provisions.

Current Law:

Failure to Pay Rent

Generally, whenever the tenant fails to pay the rent when due and payable, the landlord may repossess the leased premises. Statute contains specific requirements related to filing a complaint, issuing a summons, adjourning the proceedings to procure a witness, executing judgment in favor of the landlord, surrendering the premises by the tenant, and the effect of tender of rent by the tenant. Specified information, including the amount of any rent and late fees due and unpaid (less the amount of any utility bills, fees, or security deposits paid by a tenant) must be included in the complaint. If the court issues a judgment

in favor of the landlord for possession of the premises, the court must determine the rent and late fees, as specified.

States of Emergency and Related Gubernatorial Powers

Under Subtitle 3 of Title 14 of the Public Safety Article (Governor's Emergency Powers), the General Assembly recognizes the Governor's broad authority in the exercise of the police power of the State to provide adequate control over persons and conditions during impending or actual public emergencies. The subtitle must be broadly construed to carry out its purpose. The Governor also has various powers to issue orders relating to catastrophic health emergencies.

Small Business Effect: Landlords that qualify as small businesses may be affected by a decrease in revenues from tenants that are now classified as impacted tenants and, therefore, not subject to late fees during specified times.

Additional Comments: On March 5, 2020, Governor Lawrence J. Hogan, Jr., declared a state of emergency and catastrophic health emergency in an effort to control and prevent the spread of COVID-19. The state of emergency was most recently renewed on January 21, 2020.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2021
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