

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1068 (Delegate Rosenberg)
Environment and Transportation

**Landlord Tenant - Repossession for Failure to Pay Rent - Lead Risk Reduction
Compliance**

This bill alters the procedures by which a landlord may repossess property for failure to pay rent in the State and in Baltimore City. Under the bill, if the property is required by local law or regulation to operate under a valid registration or license issued by a State, county, or municipal organization, the landlord's complaint must state that the property is registered or licensed and state the registration or license number for the property to be repossessed. The bill also makes other technical, stylistic, and conforming changes.

Fiscal Summary

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

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

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law:

Required Contents of a Complaint to Repossess Residential Property

The bill also clarifies if the property to be repossessed is an affected property as defined in the Environment Article, the landlord's complaint must state that the *property is an affected*

property and that the landlord has registered the affected property and renewed the registration as required under specified provisions of the Environment Article.

Under current law, an “affected property” is one that is at risk for lead paint contamination, as specified. If the property to be repossessed is an affected property, the complaint is required to state that the landlord has registered the affected property as required under the Environment Article and kept the registration current. The complaint must also provide the inspection certificate number for the inspection conducted for the current tenancy, or state that the owner is unable to provide an inspection certificate number because:

- the owner has requested that the tenant allow the owner access to the property to perform the work required under the Environment Article;
- the owner has offered to relocate the tenant in order to allow the owner to perform work if the work will disturb the paint on the interior surfaces of the property and to pay the reasonable expenses the tenant incurs directly related to the relocation; and
- the tenant has refused to allow access to the owner or refused to vacate the property in order for the owner to perform the required work.

The validity of the information provided by the landlord may not be an issue of fact at trial.

Adjournment to Enable Procurement of Witnesses

The bill expands the authority of the court to adjourn the proceedings to enable either party to obtain documents or other proof of a claim or defense. Existing provisions authorize the court to adjourn the trial only to allow either party to procure necessary witnesses. The bill also extends the maximum length of the adjournment from 1 to 10 days.

Issues of Fact at Trial

The bill repeals the prohibition against raising at trial, as an issue of fact, information related to the property’s status as an affected property. Instead, the bill specifies that a landlord *must* provide direct evidence of compliance with provisions related to (1) the registration of leased residential property as required in the jurisdiction where the property is situated and (2) the property’s status as an affected property.

The bill also specifies that, before the court determines whether any amount of rent and late fees are due, the court must be satisfied that the landlord met the burden of providing direct evidence of compliance with provisions related to (1) the registration of leased residential property as required in the jurisdiction where the property is situated and (2) the property’s status as an affected property.

Provisions Applicable Only in Baltimore City

Similar to the statewide provisions, the bill requires a rental property in Baltimore City to be in compliance with specified registration, permit, or license requirements in the Baltimore City Code and the Environment Article before a landlord may file a complaint for repossession of the property for failure to pay rent.

The bill also expands the authority of a judge in Baltimore City to adjourn the proceedings by enabling either party to procure necessary witnesses or obtain documents or other proof of a claim or defense, or for any other purposes of the judge's discretion, and authorizes the judge to adjourn the trial for up to 10 days. Existing provisions authorize the judge to adjourn the trial in the interest of justice for up to 7 days.

Background: During the 2016 interim, a workgroup was convened at the request of members of the Baltimore City legislative delegation to consider and make recommendations as to needed changes in legislation, judicial policy, and procedures, as well as local government programs, particularly in Baltimore City, to fairly and effectively adjudicate the rights and responsibilities of both landlords and tenants.

In the final report of the workgroup, which included both legislative and nonlegislative recommendations, the workgroup made several recommendations, including repealing language prohibiting the status of a lead certificate being an issue at trial and authorizing the court to adjourn proceedings to obtain documents or other proof.

The Administrative Office of the Courts advises that, in fiscal 2018, there were a total of 653,739 actions for failure to pay rent filed in the District Court, including 138,399 actions for failure to pay rent filed in Baltimore City.

Small Business Effect: Small business landlords may be required to provide additional documentation when filing a complaint to repossess residential property for failure to pay rent. The bill's extension of the length of time the court or judge may adjourn the proceedings to allow a party to procure documents or other proof may also delay the final disposition of a case, resulting in lost revenue.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery and Prince George's counties; Maryland Municipal League; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Department of Legislative Services

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Analysis by: Nathan W. McCurdy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510