

HOUSE BILL 1372

N1

0lr2726
CF 0lr3483

By: **Delegates Wells, Boyce, Lehman, and Lierman**

Introduced and read first time: February 7, 2020

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Residential Leases – Repair of Dangerous Defects and Failure**
3 **to Pay Rent**

4 FOR the purpose of establishing that a landlord is deemed to warrant a residential dwelling
5 unit in a certain manner and holds a certain obligation by offering the unit for rent;
6 authorizing a tenant to bring a certain action for money damages under certain
7 circumstances; establishing that a certain method of relief is conditioned on certain
8 payments by a tenant into court; establishing that a certain method of relief is not
9 conditioned by certain payments by a tenant; repealing certain provisions of law
10 conditioning certain relief for certain periodic tenancies; prohibiting certain
11 allegations from being used as grounds to deny certain relief; requiring certain
12 allegations to be heard by the court after a certain adjudication and together with
13 certain claims; establishing a certain method of calculating certain damages;
14 authorizing a court to award certain attorney's fees and costs under certain
15 circumstances; establishing that a certain public local law or ordinance supersedes
16 certain provisions of State law only under certain circumstances; establishing that
17 certain parties in certain actions are entitled to an adjournment of a certain period
18 of time under certain circumstances for certain purposes; establishing a certain
19 intent of certain provisions of law; clarifying the application of certain provisions of
20 law; making stylistic and conforming changes; and generally relating to repair of
21 dangerous defects and failure to pay rent.

22 BY repealing and reenacting, with amendments,
23 Article – Real Property
24 Section 8–211 and 8–401(c)(1)
25 Annotated Code of Maryland
26 (2015 Replacement Volume and 2019 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
28 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Real Property**

2 8–211.

3 (a) **(1)** The purpose of this section is to provide tenants with [a mechanism]
4 **MECHANISMS** for encouraging the repair of serious and dangerous defects which exist
5 within or as part of any residential dwelling unit, or upon the property used in common of
6 which the dwelling unit forms a part. [The defects sought to be reached by this section are
7 those which present a substantial and serious threat of danger to the life, health and safety
8 of the occupants of the dwelling unit, and not those which merely impair the aesthetic value
9 of the premises, or which are, in those locations governed by such codes, housing code
10 violations of a nondangerous nature.]

11 **(2)** The intent of this section is not to provide a remedy for dangerous
12 conditions in the community at large which exists apart from the leased premises or the
13 property in common of which the leased premises forms a part.

14 (b) It is the public policy of Maryland that meaningful sanctions be imposed upon
15 those who allow dangerous conditions and defects to exist in leased premises, and that an
16 effective mechanism be established for repairing these conditions and halting their
17 creation.

18 (c) **(1)** This section applies to residential dwelling units leased for the purpose
19 of human habitation within the State of Maryland, **REGARDLESS OF WHETHER THEY**
20 **ARE:**

21 **(I) PUBLICLY OR PRIVATELY OWNED; OR**

22 **(II) SINGLE FAMILY DWELLING UNITS OR MULTIFAMILY**
23 **DWELLING UNITS.**

24 **(2)** This section does not apply to farm tenancies.

25 [(d) This section applies to all applicable dwelling units whether they are (1)
26 publicly or privately owned or (2) single or multiple units.]

27 [(e) **(D)** [This section provides a remedy and imposes an obligation upon
28 landlords to] **BY OFFERING A RESIDENTIAL DWELLING UNIT FOR RENT, WHETHER BY**
29 **WRITTEN OR ORAL LEASE OR AGREEMENT, THE LANDLORD SHALL BE DEEMED TO**
30 **WARRANT THAT THE RESIDENTIAL DWELLING UNIT IS FIT FOR HUMAN HABITATION**
31 **AND THAT THE LANDLORD HOLDS THE OBLIGATION TO** repair and eliminate conditions
32 and defects [which] **THAT** constitute, or if not promptly corrected will constitute, a fire
33 hazard or a serious and substantial threat to the life, health, or safety of occupants,
34 including[, but not limited to]:

1 (1) Lack of heat, light, electricity, or hot or cold running water, except
2 where the tenant is responsible for the payment of the utilities and the lack thereof is the
3 direct result of the tenant's failure to pay the charges;

4 (2) Lack of adequate sewage disposal facilities;

5 (3) Infestation of rodents in two or more dwelling units;

6 (4) The existence of any structural defect which presents a serious and
7 substantial threat to the physical safety of the occupants; or

8 (5) The existence of any condition which presents a health or fire hazard to
9 the dwelling unit.

10 ~~[(f)] (E)~~ (1) This section does not provide a remedy for the landlord's failure
11 to repair and eliminate minor defects, **DEFECTS THAT MERELY IMPAIR THE AESTHETIC**
12 **VALUE OF THE PREMISES**, or, in those locations governed by such codes, housing code
13 violations of a nondangerous nature.

14 (2) There is a rebuttable presumption that the following conditions, when
15 they do not present a serious and substantial threat to the life, health and safety of the
16 occupants, are not covered by this section:

17 ~~[(1)] (I)~~ Any defect which merely reduces the aesthetic value of the leased
18 premises, such as the lack of fresh paint, rugs, carpets, paneling or other decorative
19 amenities;

20 ~~[(2)] (II)~~ Small cracks in the walls, floors or ceilings;

21 ~~[(3)] (III)~~ The absence of linoleum or tile upon the floors, provided that they
22 are otherwise safe and structurally sound; or

23 ~~[(4)] (IV)~~ The absence of air conditioning.

24 ~~[(g)] (F)~~ In order to employ the remedies provided by this section, the tenant
25 shall notify the landlord of the existence of the defects or conditions~~]. Notice shall be given]~~
26 by:

27 (1) ~~[a] A~~ written communication sent by certified mail listing the asserted
28 conditions or defects~~], or];~~

29 ~~[actual] ACTUAL~~ notice of the defects or conditions~~],];~~ or

30 (3) ~~[a] A~~ written violation, condemnation, or other notice from an
31 appropriate State, county, municipal, or local government agency stating the asserted

1 conditions or defects.

2 **[(h)] (G) (1)** The landlord has a reasonable time after receipt of notice **UNDER**
3 **SUBSECTION (F) OF THIS SECTION** in which to make the repairs or correct the conditions.

4 **(2)** The length of time deemed to be reasonable is a question of fact
5 for the court, taking into account the severity of the defects or conditions and the danger
6 which they present to the occupants.

7 **(3)** There is a rebuttable presumption that a period in excess of 30
8 days from receipt of notice is unreasonable.

9 **[(i)] (H)** If the landlord refuses to make the repairs or correct the conditions, or
10 if after a reasonable time the landlord has failed to do so, the tenant may **[bring]:**

11 **(1) BRING** an action of rent escrow to pay rent into court because of
12 the asserted defects or conditions**[, or the tenant may refuse];**

13 **(2) BRING AN ACTION FOR MONEY DAMAGES AGAINST THE**
14 **LANDLORD FOR BREACH OF THE WARRANTY OF HABITABILITY; OR**

15 **(3) REFUSE** to pay rent and raise the existence of the asserted
16 defects or conditions as an affirmative defense to an action for distress for rent or to any
17 complaint proceeding brought by the landlord to recover rent or the possession of the leased
18 premises.

19 **[(j)] (I) (1)** Whether the issue of rent escrow is raised affirmatively or
20 defensively, the tenant may request one or more of the forms of relief set forth in this
21 section.

22 **(2)** In addition to any other relief sought, if within 90 days after the court
23 finds that the conditions complained of by the tenant exist the landlord has not made the
24 repairs or corrected the conditions complained of, the tenant may file a petition of injunction
25 in the District Court requesting the court to order the landlord to make the repairs or
26 correct the conditions.

27 **[(k)] (J) (1)** Relief under this section is conditioned **[upon:**

28 **(1) Giving] ON GIVING** proper notice, and where appropriate, the
29 opportunity to correct, as described by subsection **[(h)] (G)** of this section.

30 **(2) [Payment by the tenant,] RELIEF BY ESCROW OF RENT UNDER**
31 **SUBSECTION (L) OF THIS SECTION IS CONDITIONED ON THE TENANT'S PAYMENT** into
32 court, of the amount of **PERIODIC** rent required by the lease **FOR THE PERIODS OF THE**
33 **TENANCY OCCURRING CONCURRENTLY WITH THE TENANT'S ASSERTION OF THE**

1 CLAIM, unless this amount is modified by the court as provided in subsection [(m)] (L) of
2 this section.

3 [(3) In the case of tenancies measured by a period of one month or more, the
4 court having not entered against the tenant 3 prior judgments of possession for rent due
5 and unpaid in the 12-month period immediately prior to the initiation of the action by the
6 tenant or by the landlord.

7 (4) In the case of periodic tenancies measured by the weekly payment of
8 rent, the court having not entered against the tenant more than 5 judgments of possession
9 for rent due and unpaid in the 12-month period immediately prior to the initiation of the
10 action by the tenant or by the landlord, or, if the tenant has lived on the premises six
11 months or less, the court having not entered against the tenant 3 judgments of possession
12 for rent due and unpaid.]

13 (3) RELIEF FOR BREACH OF THE WARRANTY OF HABITABILITY IS NOT
14 CONDITIONED ON THE TENANT'S PAYMENT OF PERIODIC RENT INTO COURT.

15 (4) WHEN THE ASSERTION OF RENT ESCROW IS MADE DEFENSIVELY,
16 THE ALLEGATION OF PAST DUE RENT OWING FROM PERIODS OF THE TENANCY THAT
17 PRECEDE THE TENANT'S ASSERTION OF CLAIMS UNDER THIS SECTION:

18 (I) MAY NOT BE GROUNDS TO DENY RELIEF THROUGH ESCROW
19 UNDER THIS SECTION; AND

20 (II) SHALL BE HEARD BY THE COURT:

21 1. AFTER THE FINAL ADJUDICATION OF THE TENANT'S
22 RENT ESCROW DEFENSE; AND

23 2. TOGETHER WITH ANY ADDITIONAL DEFENSES OR
24 CLAIMS BY THE TENANT.

25 [(l)] (K) It is a sufficient defense to the allegations of the tenant that the tenant,
26 the tenant's family, agent, employees, or assignees or social guests have caused the asserted
27 defects or conditions, or that the landlord or the landlord's agents were denied reasonable
28 and appropriate entry for the purpose of correcting or repairing the asserted conditions or
29 defects.

30 [(m)] (L) The court shall make appropriate findings of fact and make any order
31 that the justice of the case may require, including any one or a combination of the following:

32 (1) Order the termination of the lease and return of the leased premises to
33 the landlord, subject to the tenant's right of redemption;

1 (2) Order that the action for rent escrow be dismissed;

2 (3) Order that the amount of rent required by the lease, whether paid into
3 court or to the landlord, be abated and reduced in an amount determined by the court to be
4 fair and equitable to represent the existence of the conditions or defects found by the court
5 to exist; or

6 (4) Order the landlord to make the repairs or correct the conditions
7 complained of by the tenant and found by the court to exist.

8 **(M) IN A CLAIM FOR BREACH OF THE WARRANTY OF HABITABILITY MADE**
9 **UNDER SUBSECTION (D) OF THIS SECTION, DAMAGES SHALL BE CALCULATED**
10 **RETROACTIVELY STARTING ON THE DATE ON WHICH THE LANDLORD ACTUALLY**
11 **KNEW OR SHOULD HAVE KNOWN OF THE BREACH OF WARRANTY AND CALCULATED**
12 **AS THE TOTAL OF:**

13 **(1) THE RENT PAID BY THE TENANT DURING THE TIME THAT**
14 **DANGEROUS CONDITIONS OR DEFECTS CONTINUED, LESS THE REASONABLE**
15 **RENTAL VALUE OF THE DWELLING UNIT IN ITS DETERIORATED CONDITION; AND**

16 **(2) THE COST, IF ANY, INCURRED AND DEMONSTRATED BY THE**
17 **TENANT, OF:**

18 **(I) REPAIRS TO CORRECT THE ALLEGED CONDITIONS OR**
19 **DEFECTS;**

20 **(II) RELOCATION FROM THE LEASED PROPERTY PROXIMATELY**
21 **CAUSED BY THE ALLEGED CONDITIONS OR DEFECTS; AND**

22 **(III) OTHER ECONOMIC LOSSES PROXIMATELY CAUSED BY THE**
23 **ALLEGED CONDITIONS OR DEFECTS.**

24 (n) After rent escrow has been established, the court:

25 (1) Shall, after a hearing, if so ordered by the court or one is requested by
26 the landlord, order that the money in the escrow account be disbursed to the landlord after
27 the necessary repairs have been made;

28 (2) May, after an appropriate hearing, order that some or all money in the
29 escrow account be paid to the landlord or the landlord's agent, the tenant or the tenant's
30 agent, or any other appropriate person or agency for the purpose of making the necessary
31 repairs of the dangerous conditions or defects;

32 (3) May, after a hearing if one is requested by the landlord, appoint a
33 special administrator who shall cause the repairs to be made, and who shall apply to the

1 court to pay for them out of the money in the escrow account;

2 (4) May, after an appropriate hearing, order that some or all money in the
3 escrow account be disbursed to pay any mortgage or deed of trust on the property in order
4 to stay a foreclosure;

5 (5) May, after a hearing, if one is requested by the tenant, order, if no
6 repairs are made or if no good faith effort to repair is made within six months of the initial
7 decision to place money in the escrow account, that the money in the escrow account be
8 disbursed to the tenant. Such an order will not discharge the right on the part of the tenant
9 to pay rent into court and an appeal will stay the forfeiture; or

10 (6) May, after an appropriate hearing, order that the money in the escrow
11 account be disbursed to the landlord if the tenant does not regularly pay, into that account,
12 the rent owed.

13 **(O) IF A COURT ORDERS ANY RELIEF IN FAVOR OF THE TENANT UNDER**
14 **SUBSECTIONS (L), (M), OR (N) OF THIS SECTION, THE COURT MAY ALSO AWARD TO**
15 **THE TENANT REASONABLE ATTORNEY'S FEES AND COSTS.**

16 **[(o)] (P)** Except as provided in § 8–211.1(e) of this subtitle, in the event any
17 county or Baltimore City is subject to a public local law or has enacted an ordinance [or
18 ordinances] comparable in subject matter to this section, commonly referred to as a “Rent
19 Escrow Law”, any such **PUBLIC LOCAL LAW OR** ordinance [or ordinances] shall supersede
20 the provisions of this section **IF THE PUBLIC LOCAL LAW OR ORDINANCE PROVIDES**
21 **MORE PROTECTION OR RELIEF TO A TENANT.**

22 **(Q) NOTHING IN THIS SECTION IS INTENDED TO LIMIT ANY OTHER REMEDY**
23 **AVAILABLE TO A TENANT AT LAW OR IN EQUITY.**

24 8–401.

25 (c) (1) If, at [the trial on the fifth day indicated in] **A TRIAL HELD UNDER**
26 subsection (b) of this section, the [court is satisfied that the interests of justice will be better
27 served by an adjournment to enable either party to procure their necessary witnesses, the
28 court may adjourn the trial] **TENANT APPEARS AND THE COURT IS SATISFIED THAT**
29 **THE TENANT MAY HAVE A DEFENSE TO THE LANDLORD'S CLAIM OR THE TENANT MAY**
30 **HAVE A COUNTERCLAIM AGAINST THE LANDLORD, EITHER PARTY IS ENTITLED TO**
31 **AN ADJOURNMENT** for a period not exceeding [1 day, except] **14 DAYS, OR LONGER** with
32 the consent of all parties, [the trial may be adjourned for a longer period of time] **TO FILE**
33 **A PLEADING, PROCURE NECESSARY WITNESSES OR EVIDENCE, OR PREPARE FOR A**
34 **TRIAL ON THE MERITS.**

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 2020.