

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 691

(Delegate Stewart)

Environment and Transportation

Judicial Proceedings

**Landlord and Tenant - Failure to Repair Serious and Dangerous Defects -
 Tenant Remedies (Tenant Safety Act)**

This bill (1) generally establishes that a landlord that offers a dwelling unit for rent is deemed to warrant the dwelling fit for human habitation; (2) explicitly adds the existence of mold in a dwelling unit that presents a serious and substantial threat to the health of the occupants to the list of dangerous conditions and defects for which a tenant can obtain specified relief; and (3) establishes additional remedies if a landlord fails to repair serious and dangerous defects. The bill also establishes a process by which multiple tenants (with one designated as lead petitioner) may bring a cause of action for rent escrow. The bill’s provisions generally supersede any local law or ordinance comparable in subject matter except to the extent that the local law or ordinance provides more protection or broader applicability, as specified.

Fiscal Summary

State Effect: General fund expenditures increase by \$33,500 in FY 2024 only for one-time programming costs for the Judiciary and may increase minimally to reflect an increased workload for the District Court, as discussed below. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	33,500	0	0	0	0
Net Effect	(\$33,500)	\$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 government operations of finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law:

Repair of Serious and Dangerous Defects – In General

Statutory provisions under current law provide tenants with a mechanism for encouraging the repair of serious and dangerous defects that exist within or as part of any residential dwelling unit, or upon common property, as specified. The defects are those in which a substantial and serious threat of danger to the life, health, and safety of the occupants is present. Current statutory provisions provide a remedy and impose an obligation upon landlords to repair and eliminate the serious and dangerous conditions and defects. The bill establishes that by offering a residential dwelling unit for rent, whether by written or oral lease or agreement, the landlord must be deemed to warrant that the unit is fit for human habitation and that the landlord is obligated to repair and eliminate serious/dangerous conditions and defects. The bill also explicitly adds the existence of mold in a dwelling unit that presents a serious and substantial threat to the health of the occupants to the list of dangerous conditions and defects for which a tenant can obtain relief.

Available Remedies and Notice Requirements

Under current law, in order to use specified remedies available when serious and dangerous defects are present, a tenant must notify the landlord of the existence of the defects or conditions using specified methods. The bill extends this requirement to actions involving multiple tenants, as authorized by the bill.

Under current law, if the landlord refuses to make the repairs or correct the conditions, or if after a reasonable time the landlord has failed to do so, the tenant may (1) bring an action of rent escrow to pay rent into court because of the asserted defects or conditions or (2) refuse to pay rent and raise the existence of the asserted defects or conditions as an affirmative defense to an action for distress for rent or to any complaint proceeding brought by the landlord to recover rent or the possession of the leased premises. The bill also authorizes a tenant to bring an action for damages against the landlord for breach of the warranty of habitability.

Furthermore, the bill authorizes an action of rent escrow to be brought by a tenant serving as a lead petitioner joined by one or more tenants. An action under these provisions must be limited to dwelling units in a single building or multiple buildings in a single complex or development that is owned or operated by the same landlord.

Pleadings filed by a lead petitioner must meet specified requirements, including alleging that a threat to life, health, or safety exists in a substantially similar or related manner in

more than one dwelling unit and describing the facts on which the claim is based. A tenant other than a tenant identified in the petition may join an action by filing a request with the court within 30 days of the court establishing rent escrow, as specified. Prior to the entry of a judgment, any tenant joined in the action may request to leave and pursue any remedy individually without prejudice.

The bill requires the court to establish separate escrow accounts for each tenant who joins the action. Any funds paid by a tenant to the court must be credited to the tenant's individual escrow account. A tenant who joins a rent escrow action initiated under the bill's provisions but who does not pay rent into the court may not raise the rent escrow action as a defense. Failure of a tenant participating in a group action for rent escrow to pay into the tenant's individual escrow account does not limit the rights or remedies available to any other tenant participating under the same group action.

If rent escrow is established, the petitioner's landlord must allow the petitioner, in a manner determined by the court, to notify other tenants at the property with information about the action and any other tenant's ability to join.

If the lead petitioner requests to leave the action prior to entry of a judgment, the court may appoint another tenant who has joined the action to serve as the lead petitioner. The bill also (1) specifies the circumstances under which the court may remove the lead petitioner and (2) establishes that the bill's provisions may not be construed as authorizing the lead petitioner to represent the other tenants in the action or engage in the practice of law, as specified.

Once a judgment is entered, no tenant joined in a petition may initiate a separate action to seek the same remedy concerning the same threats to life, health, or safety.

Failure to Make Repairs or Correct Conditions

Under current law (in addition to any other relief sought), if, within 90 days after the court finds that the conditions complained of by the tenant exist, the landlord has not made repairs or corrections, the tenant may file a petition of injunction in the District Court requesting the court to order the landlord to make the repairs or correct the conditions. The bill specifies that a tenant acting as the lead petitioner in an action that raises the issue of rent escrow affirmatively may also request specified relief.

The bill also authorizes the court to award reasonable attorney's fees, expenses, and costs to a tenant, lead petitioner, or group of tenants if a court orders any relief to those parties.

The bill establishes that relief based on a breach of the warranty of habitability may not be conditioned on payment by the tenant of rent into the court.

State Expenditures: General fund expenditures increase by \$33,497 in fiscal 2024 only for programming changes. Because the bill requires changes in the way the District Court currently handles accounts in rent escrow cases, the Judiciary anticipates a significant operational impact. For example, the court is required to establish separate rent escrow accounts for each tenant, thereby increasing the administrative work associated with such cases (under current practice, each judicial district has one escrow bank account for all litigants, with deposits and disbursements tied to individual case numbers). Accordingly, general fund expenditures *may* also increase minimally (in addition to the programming costs noted above) to reflect the increased workload for various District Court personnel.

Small Business Effect: Among other effects, landlords and other entities with control over residential property (including property management companies) are subject to more complex litigation in rent escrow cases (*e.g.*, single causes of action from multiple tenants) and awards of attorney’s fees.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 807 (Senator A. Washington) - Judicial Proceedings.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2023
km/jkb Third Reader - April 3, 2023
Revised - Amendment(s) - April 3, 2023

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