

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 681
Real Property – Residential Leases – Fee in Lieu of Deposit
DATE: February 16, 2022
(2/22)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes Senate Bill 681, as drafted. Senate Bill 681 adds Real Property Article § 8-203.2 which authorizes a landlord to offer a fee in lieu of a security deposit. A landlord may not require a tenant to pay a fee in lieu of a security deposit and may not consider a prospective tenant's choice to pay a fee in lieu of a security deposit in determining whether to approve a tenant's application for tenancy.

The Judiciary takes no position on the policy aims of the legislation but has two specific concerns in the bill's drafting. This bill creates a burdensome statutory process to incorporate insurance policies of landlords for nonpayment by tenants, while creating the possibility of inconsistent interpretations of the statute by courts around the State. Also, at Real Property § 8-203.2(t)(2), the bill includes a mandatory provision that courts award tenants' damages of not less than 2 months' rent and reasonable attorney's fees for violations of the section by a landlord or insurer. The Judiciary traditionally opposes mandatory provisions that take away judicial discretion in crafting judgments.

cc. Hon. Joanne Benson
Judicial Council
Legislative Committee
Kelley O'Connor