

SENATE BILL 807

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3lr2264
CF HB 691

By: **Senator A. Washington**

Introduced and read first time: February 6, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant – Failure to Repair Serious and Dangerous Defects –**
3 **Tenant Remedies**
4 **(Tenant Safety Act)**

5 FOR the purpose of establishing that a landlord that offers a dwelling for rent is deemed to
6 warrant the dwelling fit for human habitation; authorizing a single tenant or
7 tenants' organization to seek remedies on behalf of a group of tenants for a landlord's
8 failure to repair serious and dangerous defects on the leased premises; authorizing
9 a tenant, group of tenants, or tenants' organization to bring a civil action for money
10 damages if a landlord fails to repair certain defects within a certain time period;
11 requiring the award of reasonable attorney's fees to a tenant, group of tenants, or
12 tenants' organization who prevails in a certain action; establishing that certain local
13 laws are preempted by the provisions of this Act; and generally relating to remedies
14 for a landlord's failure to repair serious and dangerous defects.

15 BY repealing and reenacting, with amendments,
16 Article – Real Property
17 Section 8–211 and 8–211.1
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2022 Supplement)

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

22 **Article – Real Property**

23 8–211.

24 (a) **(1)** The purpose of this section is to provide tenants with a mechanism for
25 encouraging the repair of serious and dangerous defects which exist within or as part of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



any residential dwelling unit, or upon the property used in common of which the dwelling unit forms a part.

(2) The defects sought to be reached by this section are those which present a substantial and serious threat of danger to the life, health, and safety of the occupants of the dwelling unit, and not those which merely impair the aesthetic value of the premises, or which are, in those locations governed by such codes, housing code violations of a nondangerous nature.

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

(b) It is the public policy of [Maryland] **THE STATE** that meaningful sanctions be imposed [upon those who] **ON A LANDLORD THAT** allow dangerous conditions and defects to exist in leased premises, and that an effective mechanism be established for repairing these conditions and halting their creation.

(c) (1) [This] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS** section applies to **ALL** residential dwelling units leased for the purpose of human habitation within the State [of Maryland. This section does not apply to farm tenancies.

(d) This section applies to all applicable dwelling units] whether they are [(1) publicly]:

(I) **PUBLICLY** or privately owned; or [(2) single]

(II) **SINGLE** or multiple units.

(2) **THIS SECTION DOES NOT APPLY TO FARM TENANCIES.**

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

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

(2) Lack of adequate sewage disposal facilities;

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

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

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

[(f)] (E) (1) This section does not **[provide a remedy for the]** **APPLY TO A** landlord's failure to repair and eliminate minor defects or, in those locations governed by such codes, housing code violations of a nondangerous nature.

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

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

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

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

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

[(g)] (F) (1) In order to employ the remedies provided by this section, **[the] A** tenant, **OR A GROUP OF TENANTS OR TENANTS' ORGANIZATION UNDER SUBSECTION (J) OF THIS SECTION**, shall notify the landlord of the existence of the defects or conditions.

(2) Notice shall be given by **[(1) a]**:

(I) A written communication sent by certified mail listing the asserted conditions or defects**[, or (2) actual]**;

(II) **ACTUAL** notice of the defects or conditions**[,]**; or **[(3) a]**

(III) A written violation, condemnation or other notice from an appropriate State, county, municipal, or local government agency stating the asserted conditions or defects.

[(h)] (G) (1) The landlord has a reasonable time after receipt of notice in which to make the repairs or correct the conditions.

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

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

~~[(i)]~~ (H) 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 [bring]:

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

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

(3) **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.

(I) (1) **IN ADDITION TO AN INDIVIDUAL TENANT, AND SUBJECT TO THE NOTICE REQUIREMENTS OF SUBSECTION (F) OF THIS SECTION, THE FOLLOWING PARTIES MAY BRING AN ACTION UNDER SUBSECTION (H)(1) OR (2) OF THIS SECTION:**

(I) **A TENANTS' ORGANIZATION ON BEHALF OF A GROUP OF TENANTS; AND**

(II) **A SINGLE TENANT AS A LEAD PETITIONER JOINED BY A GROUP OF TENANTS.**

(2) **FOR PURPOSES OF THIS SECTION, A GROUP OF TENANTS OR A TENANTS' ORGANIZATION MAY BE INCORPORATED OR UNINCORPORATED.**

(3) **AN ACTION UNDER THIS SUBSECTION SHALL 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.**

(4) **A PETITION FILED BY A TENANTS' ORGANIZATION OR A SINGLE TENANT AS LEAD PETITIONER SHALL:**

(I) **ALLEGE THAT A THREAT TO LIFE, HEALTH, OR SAFETY EXISTS OR EXISTED IN A SUBSTANTIALLY SIMILAR OR RELATED MANNER IN MORE**

1 THAN ONE DWELLING UNIT;

2 (II) DESCRIBE EACH DWELLING UNIT THAT IS THE SUBJECT OF
3 THE ACTION;

4 (III) INCLUDE THE NAME OF EACH TENANT ON WHOSE BEHALF
5 THE ACTION IS MAINTAINED OR WHO HAS JOINED IN THE ACTION; AND

6 (IV) DESCRIBE THE FACTS ON WHICH THE CLAIM IS BASED.

7 (5) (I) AFTER A PETITION IS FILED UNDER PARAGRAPH (1) OF THIS
8 SUBSECTION, A TENANT OTHER THAN A TENANT IDENTIFIED IN THE PETITION MAY
9 JOIN THE ACTION BY FILING A REQUEST WITH THE COURT WITHIN 30 DAYS OF THE
10 COURT ESTABLISHING RENT ESCROW IN THE ACTION.

11 (II) A REQUEST FILED UNDER SUBPARAGRAPH (I) OF THIS
12 PARAGRAPH SHALL DESCRIBE THE TENANT'S SPECIFIC UNIT AND STATE THE FACTS
13 ON WHICH THE TENANT IS BASING A CLAIM.

14 (6) PRIOR TO THE ENTRY OF A JUDGMENT UNDER THIS SUBSECTION,
15 ANY TENANT JOINED IN THE ACTION MAY REQUEST TO LEAVE THE ACTION AND MAY
16 PURSUE ANY REMEDY INDIVIDUALLY WITHOUT PREJUDICE.

17 (7) IF RENT ESCROW IS ESTABLISHED IN AN ACTION FILED UNDER
18 PARAGRAPH (1) OF THIS SUBSECTION, THE PETITIONER'S LANDLORD SHALL ALLOW
19 THE PETITIONER TO POST A NOTICE AT THE PROPERTY WITH INFORMATION ABOUT
20 THE ACTION AND A TENANT'S ABILITY TO JOIN THE ACTION.

21 (8) FOLLOWING THE ENTRY OF JUDGMENT IN THE PETITIONER'S
22 ACTION, NO TENANT JOINED IN A PETITION UNDER THIS SUBSECTION MAY INITIATE
23 A SEPARATE ACTION TO SEEK THE SAME REMEDY CONCERNING THE SAME THREATS
24 TO LIFE, HEALTH, OR SAFETY.

25 (9) A GROUP OF TENANTS OR A TENANTS' ORGANIZATION THAT
26 PREVAILS IN AN ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION IS ENTITLED
27 TO REASONABLE ATTORNEY'S FEES, ACTUAL DAMAGES, AND ANY OTHER REMEDIES
28 AVAILABLE UNDER THIS SECTION.

29 (j) (1) Whether the issue of rent escrow OR WARRANTY OF HABITABILITY is
30 raised affirmatively or defensively, the tenant, TENANTS, OR TENANTS' ORGANIZATION
31 may request one or more of the forms of relief set forth in this section.

32 (2) In addition to any other relief sought, if within 90 days after the court
33 finds that the conditions complained of by the tenant, GROUP OF TENANTS, OR TENANTS'

ORGANIZATION exist **AND** the landlord has not made the repairs or corrected the conditions complained of, the tenant may file [a]:

(I) A petition of injunction in the District Court requesting the court to order the landlord to make the repairs or correct the conditions; **OR**

(II) **AN ACTION FOR MONEY DAMAGES AGAINST THE LANDLORD AND ANY OTHER PARTY THAT HAS CONTROL OVER THE ELEMENTS AFFECTED BY THE ASSERTED DEFECTS OR CONDITIONS, SUCH AS A PROPERTY MANAGEMENT COMPANY.**

(3) **IF A COURT ORDERS ANY RELIEF UNDER THIS SECTION, A TENANT, GROUP OF TENANTS, OR TENANTS' ORGANIZATION IS ENTITLED TO REASONABLE ATTORNEY'S FEES, EXPENSES, AND COSTS.**

(k) (1) Relief under this section is conditioned [upon:

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

(2) [Payment] **RELIEF BY ESCROW OF RENT UNDER SUBSECTION (N) OF THIS SECTION IS CONDITIONED ON PAYMENT** by the tenant, into court, of the amount of rent required by the lease, unless this amount is modified by the court as provided in subsection (m) of this section.

(3) **RELIEF BASED ON BREACH OF THE WARRANTY OF HABITABILITY MAY NOT BE CONDITIONED ON PAYMENT BY THE TENANT OF RENT INTO THE COURT.**

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

[(4)] (5) In the case of periodic tenancies measured by the weekly payment of rent, the court having not entered against the tenant more than 5 judgments of possession for rent due and unpaid in the 12-month period immediately prior to the initiation of the action by the tenant or by the landlord, or, if the tenant has lived on the premises [six] 6 months or less, the court having not entered against the tenant 3 judgments of possession for rent due and unpaid.

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

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

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

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

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

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

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

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

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

20 (3) May, after a hearing if one is requested by the landlord, appoint a
21 special administrator who shall cause the repairs to be made, and who shall apply to the
22 court to pay for them out of the money in the escrow account;

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

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

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

34 (o) [Except as provided in § 8–211.1(e) of this subtitle, in the event any county or

Baltimore City is subject to a public local law or has enacted an ordinance or ordinances comparable in subject matter to this section, commonly referred to as a “Rent Escrow Law”, any such ordinance or ordinances shall supersede the provisions of this section] **THIS SECTION SHALL SUPERSEDE ANY LOCAL LAW OR ORDINANCE COMPARABLE IN SUBJECT MATTER TO THIS SECTION TO THE EXTENT THAT THE LOCAL LAW OR ORDINANCE IS MORE STRINGENT OR PROVIDES BROADER APPLICABILITY THAN THIS SECTION.**

8–211.1.

(a) Notwithstanding any provision of law or any agreement, whether written or oral, if a landlord fails to comply with the applicable risk reduction standard under § 6–815 or § 6–819 of the Environment Article, the tenant may deposit the tenant’s rent in an escrow account with the clerk of the District Court for the district in which the premises are located.

(b) The right of a tenant to deposit rent in an escrow account does not preclude the tenant from pursuing any other right or remedy available to the tenant at law or equity and is in addition to them.

(c) Money deposited in an escrow account shall be released under the following terms and conditions:

(1) To the lessor upon compliance by the lessor with the applicable risk reduction standard; or

(2) To the lessee or any other person who has complied with the applicable risk reduction standard on presentation of a bill for the reasonable costs of complying with the applicable risk reduction standard.

(d) A lessee may not be evicted, the tenancy may not be terminated, and the rent may not be raised for a lessee who elects to seek the remedies under this section. It shall be presumed that any attempt to evict the lessee, to terminate the tenancy, or to raise the rent, except for nonpayment of rent, within two months after compliance with the applicable risk reduction standard is in retaliation for the lessee’s proceeding under this section and shall be void.

(e) **[This] EXCEPT AS PROVIDED IN § 8–211(O) OF THIS SUBTITLE, THIS** section shall preempt any public local law or ordinance concerning the deposit of rent into an escrow account based upon the existence of paint containing lead pigment on surfaces in or on a rental dwelling unit in the State and disposition of that rent.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.