

HOUSE BILL 392

N1

2lr1775

By: **Delegate Stewart**

Introduced and read first time: January 19, 2022

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

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

5 FOR the purpose of authorizing a single tenant to seek remedies on behalf of a group of
6 tenants or a tenants' organization for a landlord's failure to repair serious and
7 dangerous defects on the leased premises; authorizing a tenant to bring a civil action
8 for money damages if a landlord fails to repair certain defects within a certain time
9 period; requiring the award of reasonable attorney's fees to a tenant who prevails in
10 a certain action; and generally relating to a landlord's duty to repair serious and
11 dangerous defects.

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 8–211
15 Annotated Code of Maryland
16 (2015 Replacement Volume and 2021 Supplement)

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

19 **Article – Real Property**

20 8–211.

21 (a) **(1)** The purpose of this section is to provide tenants with a mechanism for
22 encouraging the repair of serious and dangerous defects which exist within or as part of
23 any residential dwelling unit, or upon the property used in common of which the dwelling
24 unit forms a part.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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 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 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

1 the dwelling unit.

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

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

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

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

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

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

15 **(F) (1) A GROUP OF TENANTS OR A TENANTS' ORGANIZATION MAY**
16 **EMPLOY THE REMEDIES PROVIDED UNDER THIS SECTION FOR ANY VIOLATION**
17 **OCCURRING:**

18 **(I) IN MULTIPLE DWELLING UNITS LOCATED WITHIN THE SAME**
19 **PREMISES OWNED BY THE SAME LANDLORD; OR**

20 **(II) ON THE PROPERTY IN COMMON OF WHICH THE LEASED**
21 **PREMISES FORM A PART.**

22 **(2) A SINGLE TENANT MAY SEEK REMEDIES UNDER THIS SECTION ON**
23 **BEHALF OF A GROUP OF TENANTS OR A TENANTS' ORGANIZATION.**

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

26 **(g) (1)** In order to employ the remedies provided by this section, the tenant
27 shall notify the landlord of the existence of the defects or conditions.

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

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

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

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

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

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

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

12 (i) If the landlord refuses to make the repairs or correct the conditions, or if after
13 a reasonable time the landlord has failed to do so, the tenant may bring an action of rent
14 escrow to pay rent into court because of the asserted defects or conditions, or the tenant
15 may refuse to pay rent and raise the existence of the asserted defects or conditions as an
16 affirmative defense to an action for distress for rent or to any complaint proceeding brought
17 by the landlord to recover rent or the possession of the leased premises.

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

20 (2) In addition to any other relief sought, if within 90 days after the court
21 finds that the conditions complained of by the tenant exist the landlord has not made the
22 repairs or corrected the conditions complained of, the tenant may file [a]:

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

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

29 (3) **A TENANT WHO PREVAILS IN AN ACTION UNDER THIS SUBSECTION**
30 **IS ENTITLED TO REASONABLE ATTORNEY'S FEES.**

31 (k) Relief under this section is conditioned upon:

32 (1) Giving proper notice, and where appropriate, the opportunity to correct,
33 as described by subsection (h) of this section.

(2) 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) 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) 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.

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

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

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

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

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

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

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

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

repairs of the dangerous conditions or defects;

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

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

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

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

(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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.