

Introduced March 2, 2020
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2020 Legislative Session

Legislative Day No. 3

Bill No. 12 -2020

Introduced by: David Yungmann

AN ACT to allow a landlord to show a model or similar unit to a prospective tenant if the unit to be leased is not vacant under specified circumstances; to repeal the authority of a tenant to terminate a lease without penalty if certain violations are not abated within a certain time; to allow a lease to provide that a tenant will pay specified costs under specified circumstances; to alter the lease payment grace period; to allow for the collection of specified charges; to repeal the prohibition against a lease stating that it is a contract under seal; making a technical correction; and generally relating to landlord-tenant relations.

Introduced and read first time March 2, 2020. Ordered posted and hearing scheduled.
4/6 tabled
expired May 11, 2020
By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2020.

By order _____
Diane Schwartz Jones, Administrator

This Bill was read the third time on _____, 2020 and Passed _____, Passed with amendments _____, Failed _____.

By order _____
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2020 at _____ a.m./p.m.

By order _____
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive _____, 2020

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; Text in small capitals indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be it enacted by the County Council of Howard County, Maryland, that the Howard County**
2 **Code is hereby amended as follows:**

3 *By amending*

4 *Title 17 - Public Protection Services*

5 *Subtitle 10. - Landlord-Tenant Relations*

6 *Sec. 17.1008. (a)(2) and (c)*

7 *Sec. 17.1009. (b)*

8 *Sec. 17.1010. (4), (9), (12), and (13)*

9

10

11

HOWARD COUNTY CODE

12

Title 17 - Public Protection Services

13

Subtitle 10. - Landlord-Tenant Relations

14

15 Sec. 17.1008. - Required information.

16 (a) In General.

17 (2) WITHIN THREE DAYS AFTER [[On]] approval of the tenant's application AND BEFORE
18 ENTERING INTO A LEASE, the landlord shall:

19 (i) Give the prospective tenant a copy of any common ownership community rule,
20 regulation, declaration, or covenant that binds the landlord and affects the use and occupancy of the unit
21 or any common area associated with the unit;

22 (ii) Notify the prospective tenant in writing that [[.]]:

23 A. BEFORE ENTERING INTO A LEASE, the tenant may view the dwelling unit
24 [[before executing the lease to identify existing damage to the unit or personal property in the unit,]] OR A
25 SUBSTANTIALLY SIMILAR DWELLING UNIT; AND

26 B. BEFORE OCCUPANCY, THE TENANT MAY INSPECT THE DWELLING UNIT TO
27 IDENTIFY AND DOCUMENT DAMAGE TO THE UNIT OR ITS FIXTURES, APPLIANCES, AND ELECTRICAL,
28 PLUMBING, AND OTHER SUCH SYSTEMS THAT ARE PART OF THE LEASEHOLD AND, IF DAMAGE IS FOUND,
29 MAY SELECT A DIFFERENT UNIT;

30 (iii) Subject to subsection (c) of this section, notify the prospective tenant in writing
31 that the owner of a dwelling unit must have a rental housing license under section 14.901 of the Howard
32 County Code [[before the unit is;

33 (iv) Provide the tenant with a copy of the current license for the dwelling unit]]; and

1 [[(v)] (IV) Provide the tenant with a copy of the Office's Landlord Tenant Assistance
2 publication written in ENGLISH AND [[the]] ANY OTHER language of the tenant's choice WHEN THE OFFICE
3 MAKES THE PUBLICATION AVAILABLE IN THAT LANGUAGE.

4 (c) [[Rental Housing License.]] TENANT OPTIONS.

5 (1) If the owner fails to provide the notice required by subsection [[(a)(4)] (A)(2)(III) of this
6 section, the tenant may, at any time before the rental housing license is obtained, terminate the lease
7 without penalty and the owner shall return the tenant's security deposit in compliance with section 8-203
8 of the Real Property Article of the Maryland Code.

9 (2) BASED ON AN INSPECTION OF THE DWELLING AS PROVIDED BY SUBSECTION (A)(2)(II) OF
10 THIS SECTION AND BEFORE OCCUPANCY, THE TENANT MAY TERMINATE THE LEASE.

11
12 Sec. 17.1009. - Required lease provisions.

13 (b) Rental Housing License. A lease shall state:

14 (1) Where the tenant can inspect a copy of the rental housing license for the dwelling unit IF A
15 COPY HAS NOT BEEN PROVIDED TO THE TENANT; AND

16 (2) That if the owner fails to [[apply for renewal of the]] MAINTAIN A rental housing license
17 FOR 15 CONSECUTIVE CALENDAR DAYS OR MORE during the tenant's lease period, the tenant may
18 terminate the lease without penalty and the owner shall return the tenant's security deposit in compliance
19 with section 8-203 of the Real Property Article of the Maryland Code [[: and

20 (3) That if the owner receives a notice of violation from the Department of Inspections,
21 Licenses and Permits and does not abate the violation by the date specified in the notice, under section 8-
22 211 of the Real Property Article of the Maryland Code, the tenant may:

23 (i) Terminate the lease without penalty; or

24 (ii) Request that a rent escrow account be established for the payment of rent until the
25 violation is abated]].

26
27 Sec. 17.1010. - Prohibited lease provisions.

28 A lease may not:

29 (4) State that the tenant agrees to pay court costs, legal fees, or attorney fees other than those that a
30 court awards for a breach of lease by the tenant OR THAT THE LANDLORD INCURS BECAUSE THE TENANT:

31 (I) DID NOT PAY RENT; OR

32 (II) DAMAGED THE LEASED UNIT, COMMON AREAS, MAJOR APPLIANCES, OR FURNISHINGS IN
33 EXCESS OF WEAR AND TEAR;

34 (9) Provide for a penalty or subject the tenant to legal action for non-payment of rent if the

1 delinquent payment is made within [[five]] FOUR days after the date on which the rent is due UNLESS THE
2 TENANT IS IN ARREARS FROM THE PREVIOUS MONTH;
3 (12) Require the tenant to pay any money other than:
4 (i) An application fee that section 8-213 of the Real Property Article of the Maryland Code
5 allows;
6 (ii) A security deposit that section 8-203 of the Real Property Article of the Maryland Code
7 allows;
8 (iii) Rent that the lease specifies;
9 (iv) Charges for services and utilities identified in the lease as required by section 17.1009(d)
10 of this subtitle; [[or]]
11 (v) Fees for specified amenities or common areas that the tenant may elect to use, including
12 but not limited to dedicated parking spaces, pools; or fitness facilities; OR
13 (VI) OTHER CHARGES PERMITTED BY THIS SUBTITLE OR UNDER APPLICABLE MARYLAND LAW,
14 INCLUDING BUT NOT LIMITED TO TRANSFER FEES; OR
15 (13) Require the tenant to pay transfer fees or other money for moving from one dwelling unit to
16 another dwelling unit within an apartment complex during the lease period, but a landlord may withhold
17 money from the security deposit on the original dwelling unit for damage to the unit and apply the
18 remainder to the security deposit for the new unit [[: or
19 (14) State that the lease is a contract under seal]].
20 ***Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act shall***
21 ***become effective 61 days after its enactment.***

22

Office of the County Auditor
Auditor's Analysis

Council Bill No. 12-2020

Introduced: March 2, 2020

Auditor: Michelle R. Harrod

Fiscal Impact:

The fiscal impact of this legislation cannot be determined at this time.

Potential impact could be increased administrative costs as a result of increased claims to the Department of Community Resources and Services, Office of Consumer Protection (DCRS).

We have requested information from DCRS regarding potential cost. *As of the writing of this fiscal analysis, we have not yet received a response.*

The Howard County Housing Commission (the Commission) has indicated they expect a nominal fiscal impact but could not provide detailed quantification.

The Department of Inspections, Licenses and Permits (DILP) has indicated that changes to this section of Code can be handled with existing resources within their Department.

Purpose:

The legislation proposes changes to the County Code as noted in *Table A - Title 17 – Public Protection Services, Subtitle 10 Landlord – Tenant Relations.*

Other Comments:

Title 8 - Landlord – Tenant Regulations of the Real Property Article of the Maryland Code contains guidelines for rent escrow accounts.¹ Therefore, removal of language in County Code does not prohibit a tenant from establishing a rent escrow account.

In reference to the removal of Section 17.1009 (b)(3), DILP has indicated that tenants are not notified by the County of a violation; only the party legally responsible for the correction is notified.

The Commission has indicated that the term “damage” on page 1 line 27 is not defined and leaves room for ambiguity.

¹ Md. REAL PROPERTY Code Ann. Section 8-118, Md. REAL PROPERTY Code Ann. Section 8-118.1, Md. REAL PROPERTY Code Ann. Section 8-211, Md. REAL PROPERTY Code Ann. Section 8-211.1

**Table A – Title 17 – Public Protection Services,
Subtitle 10 – Landlord – Tenant Relations**

Code Reference	Added / Removed	Details
Sec 17.1008(a)(2)	Added	<ul style="list-style-type: none"> • Within three days after approval and before entering into a lease, the landlord can show the tenant a substantially similar dwelling; • The landlord must provide the tenant with access to view the specific unit prior to occupancy to document damages of systems included in the lease, and if damage is found the tenant may select a different unit; and • The Landlord Tenant Assistance Publication must be provided in English and other languages.
Sec 17.1008(c)	Added	<ul style="list-style-type: none"> • The tenant may terminate the lease based upon inspection of the unit if there are damages.
Sec 17.1009(b)	Added	<ul style="list-style-type: none"> • The lease shall state, the owner must maintain a license for 15 consecutive days or more.
Sec 17.1010(4)	Added	<ul style="list-style-type: none"> • The landlord can include in a lease costs incurred by the tenant if they did not pay rent or cost related to damages to property in excess of normal wear and tear.
Sec 17.1010(9)	Added	<ul style="list-style-type: none"> • Payments are delinquent and subject to penalty if four (instead of five) days late unless the tenant is in arrears from the previous month.
Sec 17.1008(a)(2)(iv)	Removed	<ul style="list-style-type: none"> • The requirement to provide the tenant a copy of the rental license.
Sec 17.1009(b)(3)	Removed	<ul style="list-style-type: none"> • The ability of tenants to terminate the lease or create an escrow account if the landlord does not abate a violation issued from the Department of Inspections, Licenses and Permits.
Sec 17.1010(14)	Removed	<ul style="list-style-type: none"> • The requirement to state that the lease is a “contract under seal.”

Sayers, Margery

From: Lisa May <lisavm78@vt.edu>
Sent: Friday, March 13, 2020 10:25 AM
To: CouncilMail
Subject: HCAR Comments on CB 12
Attachments: HCAR Comments on CB 12-2020.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good morning,

On behalf of the Howard County Association of REALTORS, please find attached our comments on CB 12-2020, regarding landlord-tenant regulations.

We thank you in advance for considering our feedback on this proposal. Please contact us if you have any questions or concerns.

Sincerely,
Lisa May
HCAR



Main 410 715 1437
Fax 410-715-1489
Web www.hcar.org

March 13, 2020

The Honorable Deb Jung, Chairperson
Howard County Council
George Howard Building, 3430 Court House Drive
Ellicott City, MD 21043

RE: CB 12-2020, Landlord-Tenant Relations

Chairperson Jung and Members of the Council,

On behalf of the Howard County Association of REALTORS® (HCAR), an organization representing over 2,000 real estate professionals, we write to offer our support for CB 12-2020. HCAR worked closely with the prior County Council on CB 20-2018, which instituted several new provisions within the County's Landlord-Tenant article. While that legislation was not perfect, it reflected a compromise which attempted to balance and respect the rights of both tenants and landlords in the County. It also attempted to account for all types of rental units, from the large apartment complex to the single-family residence. While that effort was largely successful, HCAR believes there is room for improvement.

As CB 20-2018 has taken effect, we have heard from rental owners and property managers that some of the title's provisions have been difficult to consistently implement as written, particularly for individual rental unit owners. These include providing evidence of the rental license, allowing for viewings and inspections of the rental unit on offer, and providing copies of the Tenant Assistance publication in additional languages. The amendments proposed in CB-12 provide practical ways for landlords to ensure compliance with the Act.

CB-12's other amendments allow rental owners to recover costs and financial losses they may incur during the course of a tenancy. While there are certainly instances of landlords not meeting their obligations to tenants, there are unfortunately also tenants who cause harm to their landlords and damage their rental dwellings. In those instances, if a rental property owner cannot be made whole or believes that the risk of loss is too high, they will cease to be rental property owners. That results in fewer housing options and higher rental costs for Howard residents.

HCAR supports CB-12 as a modest adjustment to existing rental property regulations which will both aid landlord compliance and assure the continued supply of rental housing options in the County. We ask for your support of this bill.

Sincerely,

Lisa Wissel, President
Howard County Association of REALTORS®