

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2020 Legislative Session

Reference No.: CB-078-2020

Draft No.: 2

Committee: COMMITTEE OF THE WHOLE

Date: 10/20/2020

Action: FAV (A)

REPORT:

Committee Vote: Favorable as amended, 10-0 (In favor: Council Members Turner, Anderson-Walker, Davis, Dernoga, Glaros, Harrison, Hawkins, Ivey, Streeter and Taveras)

The Committee of the Whole convened on October 13, 2020 and October 20, 2020 to consider CB-78-2020. The Planning, Housing, and Economic Development Committee Director summarized the purpose of the bill and informed the Committee of written referral comments received as well as an amendment sheet prepared by the Legislative Officer to address technical changes to Draft-1. CB-78-2020 limits rent increases to a maximum amount of 2.6% annually for renters that are not covered by the Governor's State-of-Emergency declaration or the protections of CB-16-2020 (legislation enacted by the County Council on June 9, 2020 for the purpose of amending the Landlord-Tenant Code to prohibit rent increases, rental terminations; provide payment plans with certain tenants and prohibit late fees or penalties from being charged during the COVID-19 state-wide emergency). Council Member Ivey, the bill's sponsor, indicated that the legislation is intended to protect tenants who are being forced out of their homes because they are rent burdened and unable to afford the dramatic rent increases even though they may not have been directly impacted by loss of income due to the COVID-19 emergency. Ms. Ivey commented that the 2.6% rent increase was the limit included in recently passed legislation in Montgomery County.

The Office of Law reviewed Draft 1 of CB-78-2020 as it was presented on September 29, 2020, and found it to be in proper legal form with no legal impediments to its enactment. The Office of Law offered two technical amendments as follows:

1. Page 1, Line 2
 - a. Strike "Adoption" and replace with "Enactment"
2. Page 2, Line 6
 - a. Strike "or" and replace with "nor"

Terry Bell, Council Liaison, Office of the County Executive submitted the following statement via an October 5, 2020 electronic mail communication in opposition to the legislation.

“The County Executive is in agreement with the *spirit* of this bill that would prohibit rent increases above a certain amount during the COVID-19 Public Health Crisis. However, there are several concerns from the Department of Permits and Inspections. Please note the concerns below:

- This bill would significantly impact DPIE’s workload by placing responsibilities on the agency that should be the responsibility of Landlord-Tenant Court (This bill forces the agency into policing landlords)
- This legislation would require DPIE to monitor rent increases, impose late fees and investigate, among other things, whether a landlord makes certain notifications about rent increases, late fees or penalties to tenants
- It places the burden of notification on DPIE for the 20,000 single-family landlords and 400-plus multifamily landlords who hold rental licenses
- DPIE would be charged with delivering letter notifications to more than 400 landlords, as email addresses are not known for most of the County’s landlords because this information is not captured on the rental license application
- Fiscal Impact – DPIE would need at least two additional inspectors, two cars, two computers and administrative support at a cost of \$200,000.

Additionally, DHCD has expressed concerns on how the 2.6% rent increase was determined, as rent increases for subsidized rental assistance programs are approved based on a rent reasonableness determination for all the units without regard for whether the units are covered by the Governor’s State of Emergency or protected by previous legislation.”

Melinda Bolling, Director of Department of Permitting, Inspections and Enforcement (DPIE) addressed the Committee expressing concerns that DPIE is not the agency to be involved in landlord-tenant matters that should best be handled by the courts.

The Office of Audits and Investigations submitted an October 12, 2020 Policy Analysis Statement indicating that enactment of this legislation would have a minimal direct impact on expenditures and no direct impact on revenues as explained in their statement.

The Apartment and Office Building Association of Metropolitan Washington (AOBA) submitted a September 5, 2020 Position Statement on CB-78-2020 which included the following suggestion. “AOBA requests the language of the bill be modified so it is clear that the bill is not retroactive. As drafted, by citing “during the emergency” it could be perceived as requiring housing providers to cap rent increases at 2.6% going back to March. While most housing providers have not yet imposed rent increases, some may have issued rent increases after passage of CB-16-2020. Clarifying the language in CB-78-2020 to assert that the bill is not retroactive would be helpful in mitigating confusion about applicability.”

Council Chair Turner commented on pending litigation involving some jurisdictions in the State of Maryland that have done similar legislation and it remains unresolved whether local governments have the authority to do what CB-78-2020 proposes despite the state-wide emergency. Mr. Turner expressed his concern with ensuring that the legislation can be effectively implemented based on the County Executive’s/DPIE’s concerns and that the County has the legal authority to proceed with the proposed rent increase limitation.

The bill was held in Committee for further review and consideration of comments received during the discussion.

On October 20, 2020, the Committee reviewed a Proposed Draft-2 (DR-2) with amendments summarized by the Legislative Officer to address DPIE's comments to remove the agency requirement to post certain notices and enforce the provisions of the bill as well as AOBA's suggestion to remove the language "during the emergency" to clarify that the bill is not retroactive.

Council Member Ivey explained that the bill is intended to have broad applicability to those not impacted by the COVID-19 emergency who will no longer have to show proof of loss of income due to the emergency and will be protected from increases in rent and additional fees.

Terry Bell informed the Committee that the County Executive was in support of the legislation with the omission of letter (c) on page 3 concerning DPIE.

On a motion by Council Member Ivey for favorable recommendation on Proposed DR-2, and second by Council Member Hawkins, the Committee voted favorably, 10-0, on CB-78-2020 as amended.