



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of Audits and Investigations

May 15, 2020

MEMORANDUM

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin
Senior Policy Analyst

FROM: Warren E. Burris, Sr.
Senior Legislative Budget and Policy Analyst

RE: Policy Analysis Statement
CB-16 -20 Prohibition of Rent Increases, Terminations and Late Fees

CB-16-2020 (*sponsored by: Councilmember Ivey*)
Assigned to Committee of the Whole (COW)

For the purpose of amending the Landlord-Tenant Code to prohibit rent increases, rental terminations, or lockouts; and prohibit late fees or penalties from being charged during the COVID-19 state-wide emergency

Fiscal Summary

Direct Impact:

Expenditures: Minimal

Revenues: None.

Indirect Impact:

There are indirect positives and potentially negative impacts.

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Legislative Summary

CB-16-2020, sponsored by Councilmembers Ivey, Dernoga, Taveras, Glaros, Turner, Streeter, Anderson-Walker, Harrison, Franklin and Hawkins, was presented on May 11, 2020. CB-16-2020 would amend the Landlord-Tenant Code to prohibit rent increases, rental terminations, or lockouts; and prohibit late fees or penalties from being charged during the COVID-19 emergency.

The proposed legislation would:

- define “tenant” to include residential tenants as well as lessees of consolidated storage units;
- prohibit a landlord from imposing rent increases and late fees or penalties during the COVID emergency;
- require a landlord to notify tenants to disregard any previous notices of rent increases during or within 90 days after the expiration of the emergency;
- prohibit a landlord from imposing late fees and penalties during the emergency;
- require DPIE and DHCD to notify respective tenants of prohibition of rent fees, increases and penalties within 15 days of the adoption of this bill;
- prohibit a landlord from evicting or locking out a tenant for non-payment of rent; and
- require landlords to enter rent payment plans with tenants that are unable to make timely rent payments due to illness, job loss, or any issue or incident related to the COVID-19 emergency.

The legislation shall remain in effect for 90 days after the Governor’s Executive Order Number 8 20-04-03-01 expires. The County Council may extend the terms 28 of this bill for an additional 90 days by resolution

Background/Current Law:

Before the COVID-19 pandemic crisis, approximately 49% of Prince George’s County renters were cost burdened.¹ A recent Urban Institute report noted that renters are less financially stable than homeowners; in 2018 one-in-five renters did not have \$400 readily available if needed for unexpected costs. Further, the spread of COVID-19 is likely to result in loss of work and loss of income for residents in Prince George’s County, which may impact their ability to pay rents.

The federal Coronavirus Aid, Relief and Economic Security (CARES) Act, signed into law March 27, 2020, provides 120 days of eviction relief for tenants in federally backed housing. Specifically, tenants may not be served with an eviction notice until July 25, 2020 and the notice must be given 30 days to leave the property (Aug. 24, 2020). During the 120-day eviction moratorium, the

¹ (2019) Housing Opportunities For All-Comprehensive Housing Strategy. Prince George’s County. P.17

landlord may not charge late fees, penalties, or other charges for paying your rent late. However, there were no specific funding protections for tenant households that do not receive federal aid.

Due to the pandemic, according to Employ Prince George's, it is estimated that as of May 11, 2020, 87,448 County residents have lost their income as jobs were lost and/or employees were furloughed, and thousands of residents have become ill-physically and emotionally. CARES Act expanded unemployment insurance for employees who lost jobs due to COVID-19. Furthermore, the Federal government attempted to assist these families by providing recovery benefits of \$1,200 per adult individual (\$2,400 for couples filing jointly) and \$500 for each child age 16 and under.

While the benefits have been helpful, the payments have not nearly been enough to sustain the household, including paying rents. According to the Apartment and Office Building Associates of Metro Washington (AOBA), landlords in the County have experienced late/no rent payments. AOBA members own and/or manage over 66,000 rental units in 220 apartment communities across Prince George's County, which represents 20% of the County's housing.² In a survey conducted by AOBA last month, 20% of respondents noted 10-40% of residents had not paid rent for the month at the time they completed the survey.

Maryland Governor Larry Hogan's Executive Order 20-04-03-01³ prohibits evictions of tenants suffering substantial loss of income due to COVID-19. The Executive Order also prohibits certain repossessions, stopping initiation of residential mortgage foreclosures, prohibiting commercial evictions and allowing suspension of certain lending limits. In addition, by Administrative Order dated March 25, 2020, the Maryland Court of Appeals placed an indefinite stay on virtually all proceedings related to foreclosures of residential properties, foreclosures of the rights of redemption of residential properties after a tax sale, executions on residential real property under levy or subject to a lien, and actions for possession (ejectments) of residential properties by ground lease holders, and evictions pending in State Courts.

However, neither the CARES Act, nor the Governor's Executive Order provide any relief or protections for landlords and apartment owners, who are still responsible for maintenance expenses and mortgage payments. To cover these costs, landlords may be tempted to increase late fees and/or penalties on tenants. While the Apartment and Office Building Association may be able to provide guidance to its members, there are many other landlords not included in their membership, where regulation and/or County policy may necessary.

Policy Analysis

- *Benefits of Prohibiting of Rent Increases, Terminations and Late Fees*

The COVID-19 will continue to result in an economic blow threatening the financial stability and households of many of the County's residents. Protecting residents from late fees, penalties and

² U.S. Census Bureau Quick Facts for Prince George's Co.

<https://www.census.gov/quickfacts/fact/table/princegeorgescountymaryland/PST120218>

³ <https://governor.maryland.gov/2020/04/06/executive-order-20-04-03-01-evictions/>

rent increases will alleviate families with the worry of sustaining and maintaining their households during this Pandemic. Although the CARES Act, the Governor’s Executive Order, and the Order of the Maryland Court of Appeals prohibit residential evictions, they do not prohibit late fees and rent increases which could impact a families’ household and ability to re-establish financial stability. The bill would freeze rents for a defined period of time only (*i.e.*, during and for 90 days after the declared emergency) and should help alleviate some financial burden on tenants.

- *Potential Cost of Prohibiting of Rent Increases, Terminations and Late Fees*

It should be anticipated that the landlord and apartment owners may be opponents to the implementation of this bill as many landlords as their revenue will be impacted and they have no remedies. In addition, we have many single person owners that sustain their livelihood through rent payments from their tenants.

Unfortunately, landlords and apartment owners were not afforded relief through the CARES Act, and their mortgages are still due. Having a huge number of apartment owners and landlord default and/or having to re-finance their mortgages could cause disruptions in the banking system. In addition, if a landlord defaults on their mortgage, the renter could also be displaced as the landlord would no longer own the property. Further, should the owners have to refinance, the rental property may no longer be affordable to the tenant.

In addition, it should be anticipated that there will be some cost, probably small, associated with outreach and enforcement of the legislation from the responsible agencies—Department of Housing and Community Development and the Department of Permitting, Inspection and Enforcement. There will also be a need to communicate with community stakeholders to inform residents of the law change.

Fiscal Impact:

Direct Impact

Enactment of CB-16-2020 will likely result in minimal negative fiscal impact on the County related to a loss in productive time for developing the agencies to develop communication strategy to outreach and publicize the language of the new legislation to tenants and landlords/apartment owners. In addition, there will be minimal negative fiscal impact as the agencies will have to use postage to send notification to apartment owners and landlords.

Indirect Impact

Enactment of CB-16-2020 may have a positive indirect impact on the County by enhancing the benefits of residents having the ability to stay in their homes and reduces their tenuous financial situations by not having to pay penalties, late fees, and requires landlords to enter into payment arrangements post-pandemic. This could also afford residents some financial stability during the pandemic and save residents from evictions immediately post-pandemic. This not only has

potential to provide residents financial stability, but also emotional and mental stability during a public health emergency.

Enactment of CB-16-2020 may have a potentially negative impact as apartment owners and landlords will not have any remedy from late and missing rents. This could impact their landlords and apartment owners' ability to pay property taxes, which may impact the County's revenue. In addition, as we do not know how long the public emergency will be, should the landlord and/or apartment owners default on their mortgages, the renter could then face the possibility of being displaced.

Appropriated in the Current Fiscal Year Budget

No.

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- *Other Jurisdictions Establishing Emergency Rent Protection*

Required by Legislation

- Montgomery County, MD – Expedited Bill 18-20
- Howard County, MD CB-33-2020 (Introduced)
- Baltimore City, MD - Bill 20-0526 Incentive Programs

Resource Personnel

DPIE Staff
DHCD Staff
Council Administration

Issues for Committee Consideration

- ✓ Is the prohibition on evictions necessary in light of the prohibitions in both the Executive and Court Orders?
- ✓ Is the prohibition on evictions preempted under State law? Maryland Code, Real Property, § 8-401(a) provides that “[w]henver the tenant or tenants fail to pay the rent when due and payable, it shall be lawful for the landlord to have again and repossess the premises.”
- ✓ Consider resolution or remedy for landlord and apartment owners.
Should the Bill include an enforcement mechanism? What happens should a landlord defy requirements of the legislation?