

MEMORANDUM

June 17, 2015

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: **Public Hearing:** Bill 19-15, Landlord –Tenant Relations – Licensing of Rental Housing – Landlord-Tenant Obligations

Bill 19-15, Landlord –Tenant Relations – Licensing of Rental Housing – Landlord-Tenant Obligations, sponsored by Lead Sponsor Councilmember Elrich and Co-Sponsor Councilmember Navarro, was introduced on April 21, 2015. A Planning, Housing and Economic Development Committee worksession is tentatively scheduled for July 27 at 2:00 p.m.

Bill 19-15 would:

- (1) provide for annual inspection of certain residential rental properties;
- (2) require the use of a standard form lease and applicable optional provisions for certain residential rental properties;
- (3) require the publication of certain information related to rental housing;
- (4) require the Department of Housing and Community Affairs to review certain rent increases;
- (5) provide for certain remedies to be awarded by the Commission on Landlord-Tenant Affairs;
- (6) provide certain rights to tenants facing rent increases; and
- (7) generally amend the law related to landlord-tenant relations.

Background

Chapter 29 of the County Code governs landlord-tenant relations. It establishes the Commission on Landlord-Tenant Affairs (the “Commission”) as a mechanism for resolving disputes between landlords and tenants and provides a process for resolving such complaints. The law also creates a licensing regime for rental housing, including a requirement that each apartment complex and personal living quarters building¹ be inspected by the Department of Housing and

¹ County Code § 29-1 defines “Personal living quarters building” as “any building or portion of a building that: (a) contains at least 6 individual living units; (b) has cooking facilities that the residents may share; and (c) may also have shared sanitation facilities.”

Community Affairs (“DHCA”) at least once every three years. Chapter 29 also imposes certain requirements on landlords and tenants, and includes a number of requirements for leasing practices and the contents of all rental housing leases in the County. Other key components of the County’s landlord-tenant law are the annual collection by DHCA of extensive data related to rental housing in the County and the requirement that the County Executive issue voluntary rent increase guidelines each year.

Bill 19-15 would make several changes to the landlord-tenant law, principally aimed at enhancing the existing rights of tenants and improving the quality of rental housing through increased inspections. The amendments fit generally into three categories: (1) leases and landlord-tenant obligations; (2) licensing and data collection; and (3) rent adjustments.

Leases and Landlord-Tenant Obligations

Bill 19-15 would require that the Director of DHCA publish and provide upon request to landlords and tenants: (1) a standard form lease and model optional provisions; and (2) a landlord-tenant handbook. These documents would have to be available in English, Spanish, French, Chinese, Korean, Vietnamese, and other languages, as needed. The Bill would require the use of the form lease and any appropriate model optional provisions for all leases of rental housing in the County, and would require a landlord to provide a tenant with a copy of the landlord-tenant handbook or, at the tenant’s option, a reference to the handbook maintained on the County website, at the beginning of the lease term.

The Bill would also require leases to contain provisions that would: (1) allow a tenant to rescind a lease within two days after signing the lease; and (2) generally allow a tenant to convert a one-year lease to a two-year lease within 30 days after signing the lease. It would also require that a landlord offer lease renewals for two-year terms unless the landlord has reasonable cause to offer a different term. Current law generally requires two-year initial terms, but is silent on renewals. The Bill would also add a new remedy to those available to the Commission in resolving landlord-tenant disputes. Upon a finding that a landlord has caused a condition that violates the terms of a lease (a “defective tenancy”), the Commission would be empowered under the Bill to issue an order permitting a tenant to correct the condition that constitutes the defective tenancy and abating the tenant’s rent in an amount equal to the reasonable cost incurred by the tenant.

Licensing and Data Publication

Bill 19-15 also makes changes to the inspection component of the existing rental housing licensing program. The Bill would require annual inspection by DHCA of *all* rental housing consisting of two or more dwelling units, including each apartment complex and personal living quarters building. However, it would permit DHCA to inspect certain properties – those whose owners have a demonstrated history of compliance with applicable laws – once every three years. The Bill would also require a landlord found in violation of applicable laws more than twice in two consecutive years to pay the cost of the next inspection of the property. Also, while current law requires a landlord to agree to notify any affected tenant whose unit requires inspection, Bill 19-15 would require that the notice be given at least 72 hours in advance of the scheduled inspection.

The Bill would require the Director of DHCA to publish, unless the publication is prohibited under State law, the information collected in the rental housing data survey on the County website, including a table listing all rental housing consisting of two or more dwelling units and the average rent increase for each unit by the following categories:

1. 100 percent or less of the applicable rent increase guideline;
2. greater than 100 percent, up to 125 percent of the applicable rent increase guideline;
3. greater than 125 percent, up to 150 percent of the applicable rent increase guideline; and
4. greater than 150 percent of the applicable rent increase guideline.

The Bill would require the rent increase guidelines to be based on the increase or decrease in the Consumer Price Index for all urban consumers (CPI-U), where current law references the residential rent component of the CPI-U. All rent increases greater than 100 percent of the applicable rent increase guideline would be reviewed by DHCA under the Bill, to recognize patterns of increases that particularly harm tenants.

Rent Adjustments

Finally, Bill 19-15 would add protection for tenants facing rent increases. Under the Bill, a landlord would be required to give a tenant at least three months written notice before imposing an increase of more than 100 percent of the applicable rent increase guideline. The first of two new sections added by the Bill to Chapter 29 would permit a tenant to ask the Department to confirm that a rent increase complies with the law. The section would also permit a tenant facing a rent increase that exceeds the applicable guideline to continue occupancy for up to two months after the lease expiration on a month-to-month basis at the current pre-increase rent. In this circumstance, the Bill would require the tenant to give at least 15 days' notice to the landlord before vacating the premises. The second new section would prohibit "rent surcharges," providing that a landlord must not charge more than the rent charged for the prior lease term when a tenant continues occupancy on a month-to-month basis.

This packet contains:

Bill 19-15

Legislative Request Report

Applicability of Chapter 29 in Municipalities

Circle #

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Bill No. 19-15
Concerning: Landlord –Tenant Relations
– Licensing of Rental Housing –
Landlord-Tenant Obligations
Revised: 04/13/2015 Draft No. 7
Introduced: April 21, 2015
Expires: October 21, 2016
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Elrich
Co-Sponsor: Councilmember Navarro

AN ACT to:

- (1) provide for annual inspection of certain residential rental properties;
- (2) require the use of a standard form lease and applicable optional provisions for certain residential rental properties;
- (3) require the publication of certain information related to rental housing;
- (4) require the Department of Housing and Community Affairs to review certain rent increases;
- (5) provide for certain remedies to be awarded by the Commission on Landlord-Tenant Affairs;
- (6) provide certain rights to tenants facing rent increases; and
- (7) generally amend the law related to landlord-tenant relations.

By amending

Montgomery County Code
Chapter 29, Landlord – Tenant Relations
Sections 29-6, 29-22, 29-27, 29-28, 29-31, 29-47, 29-51, 29-53, and 29-54

By adding

Montgomery County Code
Chapter 29, Landlord – Tenant Relations
Sections 29-55 and 29-56

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

29 apartment complex and personal living quarters building licensed as
 30 rental housing, at least once [every three years] each year to determine if
 31 it complies with all applicable laws. [The Director may inspect an
 32 apartment complex or personal living quarters building more often than
 33 the triennial inspection.]

34 (b) If the Director finds that a landlord of licensed rental housing has a
 35 demonstrated history of compliance with applicable laws over the most
 36 recent three years, the Director may thereafter inspect the licensed rental
 37 housing once every three years.

38 (c) The Director may inspect any other rental housing if the Director receives
 39 a complaint or a request from a landlord or tenant or believes that the
 40 rental housing does not comply with all applicable laws.

41 [(c)] (d) As a condition of receiving a license under this Chapter, a landlord
 42 must agree to:

- 43 (1) allow access to the Department for any inspection required under
- 44 this Chapter or Chapter 26; and
- 45 (2) notify any affected tenant whose unit requires inspection at least
- 46 72 hours in advance of the scheduled inspection.

47 [(d)] (e) If an inspection indicates that any rental housing does not comply
 48 with all applicable laws, the Director may revoke the license or take other
 49 remedial action under Section 29-25.

50 (f) A landlord of licensed rental housing found in violation of applicable
 51 laws more than twice in two consecutive years must pay the cost of the
 52 next inspection as determined by the Director.

53 * * *

54 **29-27. Contents of lease.**

55 [Each] A landlord must use the standard form lease and any appropriate model
56 optional provisions furnished by the Director for each lease for rental housing located
57 in the County. Each lease must:

58 * * *

59 (t) Allow the tenant to rescind the lease within two days after signing the
60 lease.

61 (u) Allow the tenant to convert a one-year lease to a two-year lease within 30
62 days after signing the lease, unless the one-year lease was offered by the
63 landlord consistent with subsection 29-28(c).

64 (v) Notify the tenant that general information and assistance regarding
65 evictions are available from the Department.

66 **29-28. Leasing requirements generally.**

67 * * *

68 (c) The landlord must offer each lease for an initial term of [2] two years,
69 and a two year term at each renewal, unless the landlord has reasonable
70 cause to offer a different [initial] term.

71 * * *

72 (3) The landlord must include the following statement in each lease,
73 or as an addendum to an oral lease, and assure that it is signed and
74 dated by the parties:

75 Montgomery County law requires each landlord to offer each
76 prospective tenant a lease for an initial term of [2] two years, and
77 a two year term at each renewal, unless the landlord has reasonable
78 cause to do otherwise. The tenant may accept or reject this offer.
79 Before signing this lease, the tenant confirms that (initial and date
80 one option):

81 (A) The landlord offered me a [2] two-year lease term and I
82 accepted it.

83 (B) The landlord offered me a [2] two-year lease term but I
84 rejected it.

85 (C) The landlord gave me a statement:

86 (i) explaining why the landlord had reasonable cause not
87 to offer me a [2] two-year lease term; and

88 (ii) telling me that I can challenge the landlord's action
89 by filing a complaint with the Montgomery County
90 Department of Housing and Community Affairs.

91 * * *

92 (f) At the beginning of a lease term, each landlord must provide each tenant
93 with a copy of the Landlord-Tenant Handbook furnished by the Director,
94 unless the tenant signs a statement declining a hard copy and accepting
95 referral to the Landlord-Tenant Handbook maintained on the County
96 website.

97 * * *

98 **29-31. Landlord notice requirements.**

99 (a) Each landlord of an apartment complex in the County must:

100 (1) post [of] a durable notice in an accessible, conspicuous and
101 convenient place in each building to which the notice applies, or

102 (2) distribute [of] the notice directly to all tenants.

103 The notice must contain the name or title and telephone number of at least
104 one responsible representative of the building management who may be
105 reached at all times in an emergency.

106 * * *

107 **29-47. Commission action when violation found.**

108 * * *

109 (b) If the Commission or panel finds that a landlord has caused a defective
 110 tenancy, it may award each party to the complaint one or more of the
 111 following remedies:

112 * * *

113 (6) A reasonable expenditure to obtain temporary substitute rental
 114 housing in the area.

115 (7) An order permitting a tenant to correct the condition that
 116 constitutes the defective tenancy and abating the tenant's rent in an
 117 amount equal to the reasonable cost incurred by the tenant;

118 (8) After a retaliatory or illegal eviction as defined in Section 29-32,
 119 reasonable attorney's fees incurred by the affected tenant in
 120 defense of the retaliatory or illegal eviction. The award must not
 121 exceed \$1,000.00.

122 * * *

123 **29-51. Rental housing data collection.**

124 (a) The County Executive must establish procedures to collect and analyze
 125 housing data for rental dwelling units in the County, and must make
 126 every effort to centralize the data collection functions to minimize the
 127 burden for landlords.

128 (b) The reporting process is mandatory for landlords of licensed rental
 129 housing, including new dwelling units as they come on the market and
 130 all vacant units.

131 (c) The data [collection frequency] must be [on an annual basis] collected
 132 annually.

133 (d) The Director must use a survey form for collecting data designed to
 134 minimize the repeated reporting of unchanged information, while
 135 maintaining an accurate data base.

136 (e) The housing data collected must be used to [ascertain] measure the
 137 supply and availability of rental housing, as well as other operating
 138 characteristics. Each landlord must provide the following [information
 139 as requested by] to the County:

- 140 (1) The location of [the] each rental facility, including the zip code;
- 141 (2) Structure type;
- 142 (3) Year built;
- 143 (4) Distribution of units by standard bedroom sizes;
- 144 (5) The number of units by bedroom size that were re-rented during
 145 the month;
- 146 (6) The number of vacant days applicable to those units;
- 147 (7) The rent charged for each rental unit;
- 148 (8) The rent charged for each re-rented unit before vacancy; and
- 149 (9) The new turnover rent charged for each re-rented unit.

150 * * *

151 (i) The Director is primarily responsible for controlling rental housing data
 152 surveys for the County. The Director must share this information with
 153 other governmental agencies that need it without invading individual
 154 privacy. In this regard, the Director must coordinate survey activities
 155 with other County departments, and make available to the departments
 156 the results of all surveys in accordance with [executive] applicable
 157 procedure.

158 (j) The Director must publish, unless the publication is prohibited under
 159 State law, the information collected in the rental housing data survey
 160 on the County website, including a table listing all rental housing
 161 consisting of two or more dwelling units and the average rent increase
 162 for each unit by the following categories:

- 163 (1) 100 percent or less of the applicable rent increase guideline;

- 164 (2) greater than 100 percent, up to 125 percent of the applicable rent
 165 increase guideline;
 166 (3) greater than 125 percent, up to 150 percent of the applicable rent
 167 increase guideline; and
 168 (4) greater than 150 percent of the applicable rent increase guideline.
 169 (k) Any landlord who violates any provision of this Section is liable for
 170 payment of a civil penalty in an amount not to exceed \$1,000 for each
 171 violation.

172 **29-53. Voluntary rent guidelines; review of rent increases.**

- 173 (a) The County Executive must issue annual voluntary rent increase
 174 guidelines not later than March 1 of each year. The Executive must
 175 publish the guidelines in the County Register and on the County
 176 website.
 177 (b) The guidelines must be based on the increase or decrease in the
 178 [residential rent component of the] Consumer Price Index for all urban
 179 consumers for the Washington-Baltimore metropolitan area, or any
 180 successor index, for the preceding calendar year.
 181 (c) The Department should encourage landlords to hold rent increases at
 182 the lowest level possible. The Department may review any rent
 183 increase that appears to be excessive and encourage the landlord to
 184 reduce, modify, or postpone the increase. The Department must review
 185 all rent increases that are more than 100 percent of the applicable rent
 186 increase guideline issued under subsection (a) to recognize patterns of
 187 increases that particularly harm tenants.

188 **29-54. Rent adjustments; notice requirements.**

- 189 (a) A landlord must not increase the rent until at least two [2] months after
 190 the landlord gives the tenant written notice of the increase. A landlord
 191 must give the tenant at least three months written notice before an

192 increase of more than 100 percent of the rent increase guidelines. A
 193 landlord must not impose more than one rent increase on a tenant in any
 194 12-month period. Each written rent increase notice must contain the
 195 following information:

- 196 (1) The amount of monthly rent immediately preceding the effective
 197 date of the proposed increase (old rent), the amount of monthly
 198 rent proposed immediately after the rent increase takes effect
 199 (new rent), and the percentage increase of monthly rent.
- 200 (2) The effective date of the proposed increase.
- 201 (3) The applicable rent increase guideline issued under Section 29-
 202 53.
- 203 (4) A notice that the tenant may ask the Department to review any
 204 rent increase that the tenant considers excessive.
- 205 (5) Other information that the landlord deems useful in explaining
 206 the rent increase.

207 An otherwise valid notice of a rent increase is not invalid because the
 208 notice contained an incorrect rent increase guideline number if the
 209 landlord reasonably believed that the number was correct.

210 * * *

211 **29-55. Rights of tenants facing rent increases.**

- 212 (a) A tenant may ask the Department to confirm that a rent increase
 213 complies with this Article.
- 214 (b) When a rent increase exceeds the applicable guideline, a tenant:
 - 215 (1) may continue occupancy for up to two months after the lease
 216 term expires on a month-to-month basis at the current pre-
 217 increase rent; and
 - 218 (2) must give at least 15 days' notice to the landlord before vacating
 219 the premises.

220 **29-56. Rent surcharges prohibited.**

221 A landlord must not charge more than the rent charged for the prior lease term
222 when a tenant continues occupancy on a month-to-month basis.

223 *Approved:*

224

George Leventhal, President, County Council

Date

225 *Approved:*

226

Isiah Leggett, County Executive

Date

227 *This is a correct copy of Council action.*

228

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 19-15

Landlord – Tenant Relations - Licensing of Rental Housing – Landlord-Tenant Obligations

DESCRIPTION:	Bill 19-15 would make several changes to the County's landlord-tenant law, principally aimed at enhancing the existing rights of tenants. The amendments fit generally into three categories: (1) leases and landlord-tenant obligations; (2) licensing and data collection; and (3) rent adjustments.
PROBLEM:	Tenants often face uncertainties as to their responsibilities and rights under rental housing leases, and often struggle with rent increases that are above the voluntary guidelines established under the current law; the current programs for inspection of rental housing and publication of rental housing data are inadequate.
GOALS AND OBJECTIVES:	Improve access to quality rental housing and ensure a better understanding of landlord and tenant obligations under leases; protect tenants facing large rent increases.
COORDINATION:	Department of Housing and Community Affairs
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Josh Hamlin, Legislative Attorney, 240-777-7892
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	Class A violation

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APPLICABILITY OF CHAPTER 29, Landlord-Tenant Relations to Municipalities

Source: Montgomery County Code, Appendix F.

County Laws Applicable to Municipalities

Town of Barnesville	no
Town of Brookville	yes
Chevy Chase Village	no
Chevy Chase View	yes
Chevy Chase Sec. 3	yes
Town of Chevy Chase	yes
Chevy Chase Sec. 5	yes
City of Gaithersburg	no
Town of Garrett Park	no
Town of Glen Echo	yes
Town of Kensington	yes
Town of Laytonsville	no
Village of Martin's Addition	yes
Village of North Chevy Chase	yes
Town of Poolesville	no
City of Rockville	no
Town of Somerset	yes
City of Takoma Park	no
Town of Washington Grove	yes