MEMORANDUM

April 17, 2015

TO: County Council

FROM: Josh Hamlin, Legislative Attorney


Bill 19-15, Landlord –Tenant Relations – Licensing of Rental Housing – Landlord-Tenant Obligations, sponsored by Lead Sponsor Councilmember Elrich and Co-Sponsor Councilmember Navarro, is scheduled to be introduced on April 21, 2015. A public hearing is tentatively scheduled for June 18 at 7:30 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 Community Affairs (“DHCA”) at least once every three years. Chapter 29 also imposes certain

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.”
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:

<table>
<thead>
<tr>
<th>Bill 19-15</th>
<th>Circle #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislative Request Report</td>
<td>11</td>
</tr>
<tr>
<td>Applicability of Chapter 29 in Municipalities</td>
<td>12</td>
</tr>
</tbody>
</table>
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

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

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

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Sections 29-6, 29-22, 29-27, 29-28, 29-31, 29-47, 29-51, 29-53, and
29-54 are amended and Sections 29-55 and 29-56 are added as follows:

29-6. Duties of Director.

In addition to any other power, duty, or responsibility assigned in this Chapter,
the Director has the following duties:

* * * *

(e) The Director must publish and provide on request to landlords and tenants
a standard form lease, drafted in clear language understandable to persons
without legal training, which must be used in each written lease for rental
housing located in the County. The Director must publish and provide
on request to landlords and tenants model optional provisions, drafted in
clear language understandable to persons without legal training, which
may be used in a lease for rental housing located in the County. The
Director must make the standard form lease and optional provisions
available in English, Spanish, French, Chinese, Korean, Vietnamese,
and other languages, as needed.

(f) The Director must publish and provide on request to landlords and
tenants, and maintain on the County website, a Landlord-Tenant
Handbook to serve as a practical guide for landlords and tenants
summarizing their respective rights and responsibilities. The Director
must make the Landlord-Tenant Handbook available in English, Spanish,
French, Chinese, Korean, Vietnamese, and other languages, as needed.
The Director must review the handbook at least biannually and revise it
as necessary.

* * * *

29-22. Inspection of rental housing.

(a) Except as provided in this Section, the Director must inspect all
rental housing consisting of two or more dwelling units, including each
apartment complex and personal living quarters building licensed as rental housing, at least once [every three years] each year to determine if it complies with all applicable laws. [The Director may inspect an apartment complex or personal living quarters building more often than the triennial inspection.]

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

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

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

(1) allow access to the Department for any inspection required under this Chapter or Chapter 26; and

(2) notify any affected tenant whose unit requires inspection at least 72 hours in advance of the scheduled inspection.

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

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

*    *    *

29-27. Contents of lease.
[Each] A landlord must use the standard form lease and any appropriate model
optional provisions furnished by the Director for each lease for rental housing located
in the County. Each lease must:

* * * *

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

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

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


* * * *

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

* * * *

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

Montgomery County law requires each landlord to offer each
prospective tenant a lease for an initial term of [2] two years, and
a two year term at each renewal, unless the landlord has reasonable
cause to do otherwise. The tenant may accept or reject this offer.

Before signing this lease, the tenant confirms that (initial and date
one option):

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

(C) The landlord gave me a statement:

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

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

* * *

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

* * *

29-31. Landlord notice requirements.

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

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

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

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

* * *

29-47. Commission action when violation found.

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

       * * *

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

(7) 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;

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

       * * *

29-51. Rental housing data collection.

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

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

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

(d) The Director must use a survey form for collecting data designed to minimize the repeated reporting of unchanged information, while maintaining an accurate data base.
The housing data collected must be used to measure the supply and availability of rental housing, as well as other operating characteristics. Each landlord must provide the following information to the County:

1. The location of each rental facility, including the zip code;
2. Structure type;
3. Year built;
4. Distribution of units by standard bedroom sizes;
5. The number of units by bedroom size that were re-rented during the month;
6. The number of vacant days applicable to those units;
7. The rent charged for each rental unit;
8. The rent charged for each re-rented unit before vacancy; and
9. The new turnover rent charged for each re-rented unit.

* * *

The Director is primarily responsible for controlling rental housing data surveys for the County. The Director must share this information with other governmental agencies that need it without invading individual privacy. In this regard, the Director must coordinate survey activities with other County departments, and make available to the departments the results of all surveys in accordance with applicable procedure.

The Director must 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.

(k) Any landlord who violates any provision of this Section is liable for payment of a civil penalty in an amount not to exceed $1,000 for each violation.

29-53. Voluntary rent guidelines; review of rent increases.
(a) The County Executive must issue annual voluntary rent increase guidelines not later than March 1 of each year. The Executive must publish the guidelines in the County Register and on the County website.
(b) The guidelines must be based on the increase or decrease in the [residential rent component of the] Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any successor index, for the preceding calendar year.
(c) The Department should encourage landlords to hold rent increases at the lowest level possible. The Department may review any rent increase that appears to be excessive and encourage the landlord to reduce, modify, or postpone the increase. The Department must review all rent increases that are more than 100 percent of the applicable rent increase guideline issued under subsection (a) to recognize patterns of increases that particularly harm tenants.

29-54. Rent adjustments; notice requirements.
(a) A landlord must not increase the rent until at least two [2] months after the landlord gives the tenant written notice of the increase. A landlord must give the tenant at least three months written notice before an
increase of more than 100 percent of the rent increase guidelines. A landlord must not impose more than one rent increase on a tenant in any 12-month period. Each written rent increase notice must contain the following information:

(1) The amount of monthly rent immediately preceding the effective date of the proposed increase (old rent), the amount of monthly rent proposed immediately after the rent increase takes effect (new rent), and the percentage increase of monthly rent.

(2) The effective date of the proposed increase.

(3) The applicable rent increase guideline issued under Section 29-53.

(4) A notice that the tenant may ask the Department to review any rent increase that the tenant considers excessive.

(5) Other information that the landlord deems useful in explaining the rent increase.

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

* * *

29-55. Rights of tenants facing rent increases.

(a) A tenant may ask the Department to confirm that a rent increase complies with this Article.

(b) When a rent increase exceeds the applicable guideline, a tenant:

(1) may continue occupancy for up to two months after the lease term expires on a month-to-month basis at the current pre-increase rent; and

(2) must give at least 15 days’ notice to the landlord before vacating the premises.
29-56. **Rent surcharges prohibited.**

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.

Approved:

George Leventhal, President, County Council

Approved:

Isiah Leggett, County Executive

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council
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

F:\LAW\BILLS\1519 Landlord - Tenant Relations\LEGISLATIVE REQUEST REPORT.Docx
## APPLICABILITY OF CHAPTER 29, Landlord-Tenant Relations to Municipalities

Source: Montgomery County Code, Appendix F.

County Laws Applicable to Municipalities

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Applicability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Town of Barnesville</td>
<td>no</td>
</tr>
<tr>
<td>Town of Brookville</td>
<td>yes</td>
</tr>
<tr>
<td>Chevy Chase Village</td>
<td>no</td>
</tr>
<tr>
<td>Chevy Chase View</td>
<td>yes</td>
</tr>
<tr>
<td>Chevy Chase Sec. 3</td>
<td>yes</td>
</tr>
<tr>
<td>Town of Chevy Chase</td>
<td>yes</td>
</tr>
<tr>
<td>Chevy Chase Sec. 5</td>
<td>yes</td>
</tr>
<tr>
<td>City of Gaithersburg</td>
<td>no</td>
</tr>
<tr>
<td>Town of Garrett Park</td>
<td>no</td>
</tr>
<tr>
<td>Town of Glen Echo</td>
<td>yes</td>
</tr>
<tr>
<td>Town of Kensington</td>
<td>yes</td>
</tr>
<tr>
<td>Town of Laytonsville</td>
<td>no</td>
</tr>
<tr>
<td>Village of Martin’s Addition</td>
<td>yes</td>
</tr>
<tr>
<td>Village of North Chevy Chase</td>
<td>yes</td>
</tr>
<tr>
<td>Town of Poolesville</td>
<td>no</td>
</tr>
<tr>
<td>City of Rockville</td>
<td>no</td>
</tr>
<tr>
<td>Town of Somerset</td>
<td>yes</td>
</tr>
<tr>
<td>City of Takoma Park</td>
<td>no</td>
</tr>
<tr>
<td>Town of Washington Grove</td>
<td>yes</td>
</tr>
</tbody>
</table>