

Coates, Jennifer (City Council)

From: Middleton, Sharon (City Council)
Sent: Tuesday, March 16, 2021 11:51 AM
To: Coates, Jennifer (City Council)
Subject: Fwd: CBs 21-0022 (Security Deposit Alternatives) & 21-0021 (Late Fees)

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Cc: Baltimore Renters United <baltimore-renters-united@googlegroups.com>
Subject: CBs 21-0022 (Security Deposit Alternatives) & 21-0021 (Late Fees)

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Council President Mosby, Vice President Middleton and Council Members:

Baltimore Renters United coalition (BRU) is grateful for your continued effort to protect tenants' rights and provide the much-needed support to Baltimore residents at this unprecedented time. With respect to Council Bill 21-0022, we appreciate and support your effort to provide tenants options and alternatives to the high cost

of security deposits upon entering a lease. Oftentimes, the heavy burden of a security deposit prevents a family from securing safe and affordable housing or escaping an uninhabitable, unsafe rental property.

For this reason, we support the legislation with two critical amendments and urge the Council to hold the bill to investigate this issue further. First, it appears that an amendment we only saw last night is being attempted that would allow a landlord to collect the installment payments as “additional rent.” See (d)(4)(III) (“IN THE EVENT THE TENANT FAILS TO PAY A MONTHLY SECURITY DEPOSIT INSTALLMENT, THE LANDLORD MAY COLLECT THE DEPOSIT AS ADDITIONAL RENT UNDER THE LEASE.”). By making the security deposit installment payment collectable as “rent,” it would allow a landlord to file a failure-to-pay-rent eviction complaint using a process in which tenants have a trial often only one week after filing, the notice is by posting on the property and first-class mail only, and there is no discovery. For this reason the Court of Appeals has generally limited such actions to whether the tenant paid actual, monthly rent and any late fee – not the utilities, “agent” fees, repair fees, and other questionable charges. See *Lockett v. Blue Ocean Bristol*, 446 Md. 397, 425 (2016) (rent “denotes the periodic charge for use or occupancy of the premises, but not the various other payments that the tenant may owe to the landlord from time to time, even if the lease characterizes them as ‘deemed rent’ or ‘additional rent.’”). In short, **this amendment would upend Maryland caselaw and create a slippery slope allowing landlords to argue that other fees should be collectable as “rent” in addition to the security deposit installment.** There is no need for the Council to take this drastic step particularly without a hearing on the matter. We urge the Council to abandon this proposed amendment.

Second, the Council should adopt an amendment that excludes “Rental Security Deposit Insurance” from the bill, i.e., **the landlord should only be required to offer the installment plan.** This would accomplish the stated intent of the bill – reducing barriers to moving – without promoting the use of “**Rental Security Deposit Insurance,**” which is not defined in the bill and is not “insurance” in any way. **The current security deposit alternative model is misleading as it promotes itself as an “insurance” policy provider** when most of the security deposit alternative companies are offering a surety bond. **The tenant is never indemnified** under the contract and all money paid by the tenant is non-refundable. If the landlord makes a claim on the surety bond, the tenant is fully liable for the amount of the claim (e.g., alleged damage to the unit, unpaid fees or rent). That is, **a tenant is fully responsible for any claims paid to the landlord, plus fees and costs in addition to the non-refundable monthly premium payments.** For some of these contracts the monthly fee is paid for the life of the tenancy.

Additionally, **tenants’ legal remedies are significantly reduced under a surety bond.** As Eric Dunn, an attorney with the National Law Housing Center explained in [Shelterforce](#): “[I]f the landlord uses one of these bond products that can essentially void your rights as a tenant to enforce the protections you have under state law for being billed improperly.” Many of these surety bond companies require that the **tenant waive all rights to pursue a legal claim through the court system including their right to participate in a class-action lawsuit.** This has the very real potential of permitting bad actors to cause harm to Baltimore residents with impunity. In contrast, the bond company has all legal options afforded by law to collect the funds from the tenant including a judicial filing, reporting to the credit bureaus or passing the claim to a debt collection service. **This only creates more barriers to access housing and heavier financial burdens for the tenant.**

Furthermore, the security deposit alternative scheme makes it very difficult for a tenant to successfully dispute a landlord’s claim but seamless for a landlord to receive payment within days of a claim. Thus far, these private bond companies **do not have a positive track-record of transparency and accountability. They are poorly rated by the Better Business Bureau with a common complaint of poor customer service and creating barriers for tenants to initiate a defense of an unsupported claim.** The industry purports to only pay “valid claims” from the landlord and will not pay for common “wear and tear” but neither the contract nor the bill language define or delineate those terms. **The language of the proposed bill does not include any guardrails to protect the tenant or prevent predatory practices by the bond company.**

Overall, **this alternative security deposit bond model has a potential of causing greater harm to tenants.** We appreciate the incorporation of one of our proposed amendments in the rewritten legislation, to ensure renters sign a disclosure statement. **We think more time to learn about this new industry is needed before it is offered as an alternative.** We also appreciate the support for amendments 21-00022 that would provide for a 10-day grace period.

We believe we want to reach the same goal of ensuring better access to safe and affordable housing to Baltimore residents and urge the Council to adopt our amendments and/or investigate this matter further before holding a vote.

Thank you for your consideration,
Molly Amster, on behalf of Baltimore Renters United

Molly Amster ([she/her/hers](#))

Baltimore Director

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