

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

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February 23, 2018

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 18-0179 – Residential Lease Requirements – Required
Disclosures

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 18-0179 for form and legal sufficiency. The bill would require that residential tenants be given a copy of a brochure on tenant's rights approved by the Housing Commissioner. Proposed Section 7-3(c)(2) also requires that tenants be given the same brochure "at the time eviction proceedings are commenced by the tenant."

The wording of proposed Section 7-3(c)(2) is vague because there is no court process called "eviction proceedings." Rather, Maryland law has several actions that can result in judgments for repossession of the premises. Md. Code, Real Prop., §8-401, *et. seq.* In Maryland District Court, where most landlord-tenant cases are brought, the Court must order a Warrant of Restitution before a residential tenant can be evicted. Md. Code, Real Prop., §8-401. Thus, it is unclear what is required by the language in proposed Section 7-3(c)(2). It is also unclear how that section would be enforced since it is not referenced in the penalty Section 7-7 of the Subtitle. Finally, Section 7-5 of the Subtitle places "primary responsibility for compliance with the provisions of this Subtitle" on the property owner. However, landlords do not need to own a property to rent it. For example, landlords can be tenants of the property owner and sublease the property to another tenant. For these reasons, the language in Proposed Section 7-3(c)(2) is vague. *See, e.g., A.B. Small Co. v. American Sugar Refining Co.*, 267 U.S. 233, 238-239 (1925)(courts have held a civil "provision invalid as contravening the due process of law clause of the Fifth Amendment, among others, because it required that the transactions named should conform to a rule or standard which was so vague and indefinite that no one could know what it was")(citations omitted). The Law Department is happy to work with the City Council to rephrase Section 7-3(c)(2) to accomplish its intended purpose.

Subject to the necessary rephrasing of Proposed Section 7-3(c)(2), the Law Department approves the bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Chief Solicitor

cc: Andre M. Davis, City Solicitor
Karen Stokes, Director, Mayor's Office of Government Relations
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