



Committee: PHED
Committee Review: At a future date
Staff: Christine Wellons, Legislative Attorney
Purpose: To introduce agenda item – no vote expected
Keywords: #NoRentGouging

AGENDA ITEM #11D
December 8, 2020
Introduction

SUBJECT

Bill 52-20, Landlord-Tenant Relations – Protection Against Rent Gouging Near Transit

Lead Sponsor: Councilmember Jawando

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; Bill introduction

DESCRIPTION/ISSUE

Bill 52-20 would:

- (1) establish protections against rent gouging for certain rental units;
- (2) set the base rental amount for certain rental units;
- (3) provide for exemptions from certain rent protection requirements;
- (4) require each landlord to submit an annual report regarding rents; and
- (5) generally amend County law concerning rents and landlord-tenant relations.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

This report contains:

| | |
|----------------------------|---------|
| Staff Report | Pages 1 |
| Bill 52-20 | ©1 |
| Legislative Request Report | ©11 |
| Sponsor Memorandum | ©12 |

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MEMORANDUM

December 3, 2020

TO: County Council

FROM: Christine Wellons, Legislative Attorney

SUBJECT: Bill 52-20, Landlord-Tenant Relations – Protection Against Rent Gouging Near Transit

PURPOSE: Introduction – no Council votes required

Bill 52-20, Landlord-Tenant Relations – Protection Against Rent Gouging Near Transit, sponsored by Lead Sponsor Councilmember Jawando, is scheduled to be introduced on December 8, 2020.¹ A public hearing is tentatively scheduled for January 12, 2021 at 1:30 p.m.

Bill 52-20 would:

- (1) establish protections against rent gouging for certain rental units;
- (2) set the base rental amount for certain rental units;
- (3) provide for exemptions from certain rent protection requirements;
- (4) require each landlord to submit an annual report regarding rents; and
- (5) generally amend County law concerning rents and landlord-tenant relations.

BACKGROUND

The purposes of Bill 52-20 are to increase affordable housing and to prevent rent gouging near transit stations.

SPECIFICS OF THE BILL

Bill 52-20 would set standards regarding rents charged within 1 mile of rail transit stations, and within ½ mile of bus rapid transit stations. Rents within these areas would be required to comply with rent guidelines published by the Department of Housing and Community Affairs (DHCA) under Chapter 29.

Certain rental properties would be exempt from the rent standards under the bill. Specifically, certain owner-occupied properties, religious and non-profit organizations, and licensed facilities, among others, would be exempt.

A regulated rental unit under the bill would be permitted to raise rent by an allowable increase once per year. Alternatively, the landlord would be permitted to “bank” the allowable increase and apply it to a future year.

Landlords subject to the bill would be required to submit annual reports regarding their rents to DHCA.

| <u>This packet contains:</u> | <u>Circle #</u> |
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Bill No. 52-20
Concerning: Landlord-Tenant Relations –
Protection Against Rent Gouging
Near Transit
Revised: 11/25/2020 Draft No. 3
Introduced: December 8, 2020
Expires: June 8, 2022
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Jawando

AN ACT to:

- (1) establish protections against rent gouging for certain rental units;
- (2) set the base rental amount for certain rental units;
- (3) provide for exemptions from certain rent protection requirements;
- (4) require each landlord to submit an annual report regarding rents; and
- (5) generally amend County law concerning rents and landlord-tenant relations.

By adding

Montgomery County Code
Chapter 29, Landlord-Tenant Relations
Sections 29-56, 29-57, 29-58, 29-59, 29-60, 29 61, and 29-62

| | |
|------------------------------|--|
| 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:

1 **Sec. 1. Article VI is renamed and Sections 29-56, 29-57, 29-58, 29-59, 29-60, 29-61,**
2 **and 29-62 are added as follows:**

3 **Article VI. Central Data Collection, [and] Rent Guidelines, and**
4 **Protection Against Rent Gouging Near Transit.**

5 * * *

6 **29-56. [Reserved.] Protections against rent gouging – definitions; applicability.**

7 (a) Definitions. In this Section, the following terms have the meanings
8 indicated:

9 Anti-gouging law means the law codified in Sections 29-56 through 29-
10 62.

11 Discontinued rental unit means a rental unit in a rental facility or
12 previously licensed rental facility that is not occupied by a tenant and for
13 which the Department has approved an application for discontinuation.

14 Existing rental unit means a rental unit or a discontinued rental unit.

15 Regulated rental unit means a rental unit subject to the anti-gouging law.

16 Transit station means a place regularly used for pickup and discharge of
17 passengers from rail passenger vehicles. Transit station includes a
18 MARC station, Metro station, and a Purple Line station.

19 (b) Applicability of anti-gouging law. Except as provided in section 29-58,
20 the anti-gouging law applies to all residential rental units within:

21 (1) 1.0 mile of a transit station; or

22 (2) ½ mile of a bus rapid transit station.

23 **29-57. [Reserved.] Anti-gouging – rent increases and frequency - general.**

24 (a) Rent increases. A landlord must not increase rent for any regulated rental
25 unit by an amount in excess of the allowable amount under the anti-
26 gouging law.

27 (b) Frequency of rent increases. A landlord must not increase rent for any
28 regulated unit more often than allowed under the anti-gouging law.

29 **29-58. [Reserved.] Rental units exempt from anti-gouging.**

30 (a) Exemptions. The anti-gouging law does not apply to:

31 (1) any unit in a licensed facility, the primary purpose of which is the
32 diagnosis, cure, mitigation and treatment of illnesses;

33 (2) any unit in a facility owned or leased by an organization exempt
34 from federal income taxes under Section 501(c)(3) of the Internal
35 Revenue Code if:

36 (A) the primary purpose of the organization is to provide
37 temporary shelter for qualified clients; and

38 (B) the organization has notified the clients residing in the
39 facility of the temporary nature of their housing at the
40 beginning of their residence;

41 (3) an owner-occupied group house;

42 (4) a religious facility, including a church, synagogue, parsonage,
43 rectory, convent, and parish home;

44 (5) a transient lodging facility subject to Chapter 54;

45 (6) a school dormitory;

46 (7) a licensed assisted living facility or nursing home;

47 (8) any building originally designed and constructed to contain only 2
48 dwelling units, one of which the owner currently occupies as a
49 principal residence; or

50 (9) an accessory apartment.

51 (b) Exemptions subject to an application for exemption.

52 (1) Application required. The Department must, after receiving an
 53 application from the owner, grant an exemption from the anti-
 54 gouging law to the following rental units:

55 (A) an individual rental unit leased to tenants assisted under a
 56 federal tenant based assistance program or similar federally
 57 funded rent subsidy program;

58 (B) a rental facility subject to a regulatory agreement with a
 59 governmental agency that controls the rent levels of not less
 60 than one-half of the rental units in the rental facility and
 61 restricts the occupancy of those rental units to low and
 62 moderate income tenants; or

63 (C) a newly constructed rental facility with 2 or more rental
 64 units for a period of 5 years after the issuance of a rental
 65 license.

66 (2) Termination of exemption.

67 (A) General. An exemption under paragraph (b) expires the
 68 earlier of:

- 69 (i) 1 year; or
- 70 (ii) when the conditions entitling the rental unit to an
 71 exemption cease to exist.

72 (B) Exemptions granted under to subsection (b)(1)(B) of this
 73 Section expires the earlier of:

- 74 (i) the termination of the agreement with the
 75 governmental agency entitling the rental facility to
 76 the exemption; or

77 (ii) when the conditions entitling the rental facility to an
78 exemption cease to exist.

79 (C) An exemption granted under subsection (b)(1)(C) of this
80 Section expires on the 5th anniversary date of the issuance
81 of the initial rental housing license, regardless of when the
82 application for an exemption was made by the owner.

83 (D) Renewability of exemption. An exemption granted under
84 paragraph (b) is renewable annually if the owner reapplies
85 for the exemption.

86 (3) Rents upon termination of exemption.

87 (A) For a rental unit receiving an exemption under subsection
88 (b)(1)(A) and (b)(1)(B), upon the termination of the
89 exemption, the base rent for any unit and the reference point
90 from which the rent may be increased under the anti-
91 gouging law is the allowable rent as reported in the annual
92 rent report for each unit at the time the exemption began plus
93 the annual rent allowance for each year that the unit was
94 exempt.

95 (B) For a rental unit in a newly constructed rental facility
96 receiving an exemption under subsection (b)(1)(C) of this
97 Section, upon the termination of the exemption, the base
98 rent for any unit and the reference point from which the rent
99 may be increased under the anti-gouging law is the rent
100 charged for each unit at the time of the expiration of the
101 exemption. For any unit not rented when the exemption

102 period terminates, the base rent must be the rent charged
 103 when the unit is first rented to a tenant. If the actual rent paid
 104 by a tenant differs from the rent stated in the report or the
 105 lease, then the actual rent must be the base rent.

106 **29-59. [Reserved.] Anti-gouging - establishment of base rent.**

107 *(a) Rents for discontinued rental units.*

108 (1) Except as provided in subsection (a)(2) of this Section, the base
 109 rent for a discontinued rental unit, and the reference point from
 110 which the rent may be increased under the anti-gouging law, is the
 111 banked rent reported in the annual rent report at the time the rental
 112 unit was discontinued plus the annual anti-gouging allowance for
 113 each year that the rental unit was discontinued.

114 (2) If a rental unit remains discontinued for an uninterrupted period of
 115 5 years, the owner may charge unrestricted rent for the unit when
 116 it is first newly rented to a tenant. The rent the owner charges the
 117 tenant sets the base rent for the unit and the reference point from
 118 which the rent may be increased under the anti-gouging law.

119 *(b) Rents following renovation, reconfiguration or consolidation of existing*
 120 *rental units.*

121 (1) This paragraph applies only to renovation, reconfiguration, and
 122 consolidation projects performed in vacant existing rental units.

123 (2) If the renovation or reconfiguration of an existing rental unit does
 124 not result in a 10% or greater change in the floor area of the unit,
 125 then the banked rent reported for the unit in the annual rent report
 126 at the time the rental unit became vacant plus the annual rent

127 allowance for each year that the rental unit remained vacant is the
128 maximum rent that the owner may charge for the unit when it is
129 first rented to a tenant.

130 (3) If the floor area of a renovated or reconfigured unit is more than
131 10% smaller or larger than the unit it replaces, then the banked rent
132 reported for the unit in the annual rent report at the time the rental
133 unit became vacant plus the annual rent allowance for each year
134 that the rental unit remained vacant, reduced or increased by a
135 percentage equal to the reduction or increase in the floor area of
136 the unit before its renovation or reconfiguration, is the maximum
137 rent that the owner may charge for the unit when it is first rented
138 to a tenant.

139 (4) When 2 or more rental units are consolidated to create a single
140 rental unit, the base rent for the new unit, and the maximum rent
141 that the owner may charge when the unit is first rented to a tenant,
142 is the base rent of the largest unit increased by the percentage
143 increase in the floor area from the largest unit to the resulting unit.

144 (5) Before an owner may increase the rent for a unit under subsection
145 (b)(3) or (b)(4) of this Section, the owner must first obtain approval
146 from the Department. The owner must submit a completed
147 application form and documentation demonstrating the
148 appropriate adjustment to the base rents (which may include
149 construction plans, photographs and video recordings of the
150 original and reconfigured units), and may be required to undergo
151 an inspection of the property.

152 (c) Rents following purchase of an owner-occupied condominium unit. The
 153 new owner of a previously owner-occupied condominium unit,
 154 purchased in a bona fide arm's length transaction, may charge
 155 unrestricted rent for the unit. The rent the owner charges the initial tenant
 156 sets the base rent for the unit and the reference point from which the rent
 157 may be increased under the anti-gouging law.

158 (d) Reset of base rent for owner-occupied condominium units. When the
 159 owner of a previously rented condominium unit occupies the unit for at
 160 least 12 consecutive months as his or her principal residence, the owner
 161 may charge unrestricted rent for the unit when the owner next rents the
 162 unit to a tenant. The rent the owner charges the tenant sets the base rent
 163 for the unit until the owner again occupies the unit for at least 12
 164 consecutive months.

165 **29-60. [Reserved.] Anti-gouging – annual rent increases; frequency of rent**
 166 **increases; and notification of rent increases.**

167 (a) Annual rent allowance.

168 (1) The Department must calculate an annual rent allowance equal to
 169 the voluntary rent guidelines identified in Section 29-53. The
 170 Department must publish the annual allowance in the County
 171 Register and on the County website.

172 (2) The annual rent allowance remains in effect for a 12-month period
 173 beginning July 1st of each year and ending on June 30th of the
 174 following year.

175 (3) Rent increases for regulated rental units may be increased by an
 176 amount not to exceed the annual rent allowance in effect at the time
 177 of the rent increase.

178 (4) Rent increases less than permitted in this Section may be banked
 179 as provided in Section 29-61.

180 (b) *Frequency of rent increases.*

181 (1) *Occupied rental units.* Only one rent increase is permitted within
 182 a 12-month period for any occupied regulated rental unit.

183 (2) *Vacant rental units.* The rent for a vacant regulated rental unit may
 184 be increased up to the banked rent, and the annual rent allowance
 185 may be applied before the owner leases the rental unit under
 186 Section 29-61.

187 (c) *Notice of annual rent increases.* A landlord must provide notice to a
 188 tenant in a regulated rental unit as provided in Section 29-54.

189 **29-61. [Reserved.] Anti-gouging - banking of authorized annual rent increases.**

190 A landlord may increase the rent for a vacant rental unit by the actual dollar
 191 amount of any annual rent allowances that were not charged to the tenant vacating the
 192 rental unit. Such increase may take effect only if the rental unit became vacant as a
 193 result of a voluntary termination of the tenancy by the tenant or a termination of the
 194 tenancy by the landlord for cause. This rent increase may be in addition to any rent
 195 allowance increase that the landlord may impose on or after 12 months from the date
 196 of the last rent allowance increase for that rental unit.

197 **29-62. [Reserved.] Anti-gouging - annual reporting requirements.**

198 On or before September 30th of each year, each landlord must submit to the
 199 Department a rent report for the 12-month period beginning July 1st and ending on the

200 preceding June 30th on a form provided by and in the manner prescribed by
201 Department regulations.
202 **[29-56] 29-63 - 29-65. Reserved.**

LEGISLATIVE REQUEST REPORT

Bill 52-20

Landlord-Tenant Relations – Protection Against Rent Gouging Near Transit

| | |
|---|--|
| DESCRIPTION: | Bill 52-20 would: <ol style="list-style-type: none">(1) establish protections against rent gouging for certain rental units;(2) set the base rental amount for certain rental units;(3) provide for exemptions from certain rent protection requirements;(4) require each landlord to submit an annual report regarding rents; and(5) generally amend County law concerning rents and landlord-tenant relations. |
| PROBLEM: | Rent gouging and unaffordable housing near transit centers |
| GOALS AND OBJECTIVES: | Set standards regarding rent increases near certain transit stations. |
| COORDINATION: | DHCA |
| FISCAL IMPACT: | Office of Management and Budget |
| ECONOMIC IMPACT: | Office of Legislative Oversight |
| EVALUATION: | |
| EXPERIENCE ELSEWHERE: | To be researched |
| SOURCE OF INFORMATION: | Christine Wellons, Legislative Attorney |
| APPLICATION WITHIN MUNICIPALITIES: | Variable |
| PENALTIES: | Enforcement and penalties under Chapter 29. |



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

WILL JAWANDO
COUNCILMEMBER
AT-LARGE

December 3, 2020

TO: Councilmembers, Chiefs of Staff

FROM: Councilmember Will Jawando

RE: ZTA 20-07, R60 Zone Uses and Standard

Bill 52-20, Landlord-Tenant Relations, Protections Against Rent Gouging
Near Transit

On Tuesday, December 8th, I will be introducing two proposals to ensure we have “More Housing for More People.” ZTA 20-07 and Bill 52-20 will increase the overall housing stock in the county and preserve affordable housing near transit.

ZTA 20-07, R60 Zone Uses and Standard

This ZTA amends the Montgomery County Zoning Ordinance to:

- Allow duplexes, townhouses, and apartments in the R-60 zone under certain circumstances, within 1 mile of a Metrorail Transit entrance;
- Amend the density, infill development, and parking standards in the R-60 zone under certain circumstances
- Generally amend the provisions for R-60 zoned property near Metrorail Stations

Bill 52-20, Landlord-Tenant Relations, Protections Against Rent Gouging Near Transit

- Establishes protections against rent gouging for rental units within 1.0 mile of a Metrorail and Purple line transit station and within ½ mile of a bus rapid transit station;
- Sets the base rental amount for certain rental units;
- Provides for exemptions from the rent protection requirements;
- Requires each landlord to submit an annual report regarding rents; and
- Generally amends County law concerning rents and landlord-tenant relations.

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I chose to introduce these proposals together because if we are to meet the goal of adding ten thousand new housing units in Montgomery County by 2030 as part of the broader goal set by the Metropolitan Washington Council of Governments (COG), we must have an all hands on deck approach that includes multiple solutions.

Taken together this ZTA and legislation will help us accomplish several important shared goals:

1. more affordable housing near transit;
2. greater accessibility to employment opportunities for people who must rely on public transportation to get to work;
3. protection from rent gouging and reduced push out and gentrification for renters who currently live near transit;
4. positive impact on the environment due to fewer cars on the road and,
5. allow “Missing Middle” housing types such as duplexes, triplexes, and quadruplexes to be built helping to address the need for additional housing supply.

Increasing the amount of affordable housing stock that is needed within that number will require even more planning, however, the solutions must include reasonable protections while increasing housing supply.

The recent Preservation Housing study presented to the PHED Committee by the M-NCPPC Department of Planning, showed that one of the top risk factors in loss of both Deed Restricted Rental Housing and Naturally Occurring Affordable Housing in Montgomery County is proximity to transit. These proposals can provide a win-win situation for all: Transit oriented affordable housing can be accessible to everyone; landlords maintain the ability to reasonably increase rents up to the Voluntary Rent Guidelines each year and when needed to cover renovations or upgrades; Missing Middle housing can be built to increase housing stock in parts of the county without placing a mandate on the entire county.

I invite my Council colleagues to join me as co-sponsors of this legislation and ZTA. Should you have any questions, please feel free to contact Pamela Luckett in my office.

cc Christine Wellons
Jeff Zyontz
Marlene Michaelson
Selena Singleton
Linda McMillan