

Bill No. 15-23
Concerning: Landlord-Tenant Relations –
[[Anti-Rent Gouging Protections]]
Rent Stabilization
Revised: 07/20/2023 Draft No. 6
Introduced: March 7, 2023
Enacted: July 18, 2023
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Fani-González and Katz

AN ACT to:

- (1) establish protections against rent increases above a threshold for certain rental units;
- (2) set the base rental amount for certain rental units;
- (3) provide exemptions from rental increase restrictions for certain units;
- (4) permit certain rental increases to fund capital improvements;
- (5) permit certain rental increases to achieve fair returns;
- [[5]] (6) require [[landlords to submit annual reports regarding rents]] data collection for certain units; and
- [[6]] (7) 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, [[and]] 29-60, [[and]] 29-61, and 29-62

Boldface	<i><u>Heading</u> 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, ~~[[and]] 29-~~
2 ~~60, ~~[[and]] 29-61, and 29-62~~~~ are added as follows:

3 ARTICLE VI. CENTRAL DATA COLLECTION, ~~and~~ RENT
4 GUIDELINES, ~~and [[Anti-Rent Gouging Protections]]~~ RENT STABILIZATION.

5 * * *

6 29-56. ~~Reserved.~~ ~~[[Anti-rent gouging]]~~ Rent stabilization – definitions.

7 Definitions. In Sections 29-56 through ~~[[29-60]]~~ 29-61, the following terms
8 have the meanings indicated:

9 Banked amount means the dollar amount of an annual rent increase allowance
10 that a landlord did not use to increase the rent for a regulated unit.

11 Base rent means rent charged for a regulated rental unit under a lease, exclusive
12 of any rental discounts, incentives, concessions, or credits that are:

- 13 (1) offered by the landlord;
- 14 (2) accepted by the tenant; and
- 15 (3) itemized in the lease separate from the rent.

16 Capital improvements mean permanent structural alterations to a regulated unit
17 intended to enhance the value of the unit. Capital improvements include
18 structural alterations required under federal, state, or County law. Capital
19 improvements do not include ordinary repair or maintenance of existing
20 structures.

21 CPI-U means the Consumer Price Index for All Urban Consumers for the
22 Washington-Arlington-Alexandria Area, published by the U.S. Bureau of Labor
23 Statistics.

24 Regulated rental unit or regulated unit means a rental unit that is not exempted
25 under Section 29-60.

26 Substantial renovation means permanent alterations to a building that:

- 27 (1) are intended to enhance the value of the building; and

28 (2) cost an amount equal to at least 40 percent of the value of the
 29 building, as assessed by the State Department of Assessments and
 30 Taxation.

31 **29-57. [Reserved.] Annual rent increase allowance.**

32 (a) Annual rent increase allowance. The Director annually must calculate a
 33 rent increase allowance for regulated rental units equal to the lesser of:

34 (1) CPI-U plus ~~[[8 percent]]~~ 3 percent; or

35 (2) 6 percent.

36 (b) Publication. The Director must publish the annual rent increase
 37 allowance in the County Register and on the County website.

38 (c) Duration. A rent increase allowance under subsection (a) remains in
 39 effect for a 12-month period, beginning July 1st of each year and ending
 40 on June 30th of the following year.

41 **29-58. [Reserved.] Rent increases – in general; vacant units; and limited**
 42 **surcharges for capital improvements.**

43 (a) In general. Except as provided under subsection (b), ~~[[Upon]]~~ upon a
 44 lease renewal or new lease agreement, a landlord must not increase the
 45 rent of a regulated rental unit to an amount greater than:

46 (1) the base rent; plus

47 (2) the rent increase allowance under Section 29-57~~[[.]]~~; plus

48 (3) any banked amount; and

49 (4) does not exceed 10 percent of the base rent.

50 (b) Troubled or at-risk properties. Subject to Method (2) regulations
 51 adopted by the Director, a regulated unit located in a property designated
 52 by the Department as “troubled” or “at risk” under Section 29-22(b) must
 53 not increase rent in excess of an amount the Director determines
 54 necessary to cover costs required to improve habitability.

55 (c) Rent increase – vacant unit. Subject to Method (2) regulations, the
 56 Director must issue regulations to determine the allowable annual rent
 57 increase for a regulated unit previously vacant:

- 58 (1) for more than 12 months;
 59 (2) with no active lease, either by a written or oral agreement; and
 60 (3) the unit returns to the market for rent.

61 ~~[(b)]~~ (d) Limited surcharge for capital improvements. ~~[[The]]~~ Subject to
 62 subsection (e), the Director must grant a landlord’s ~~[[application]]~~
 63 petition to add a surcharge to the amount permitted under subsection (a)
 64 if, in accordance with Method (2) regulations, the Director determines:

65 (1) the surcharge is limited to an amount necessary to cover the costs
 66 of capital improvements to the regulated unit, excluding the costs
 67 of ordinary repair and maintenance;

68 (2) the surcharge does not take effect until after the capital
 69 improvements are completed;

70 (3) if the capital improvements are ~~[[building-wide]]~~ for all rental
 71 units within the building, the surcharge ~~[[is prorated over 24~~
 72 months]]:

73 (A) is divided equally among the units;

74 (B) is prorated over at least 96 months; and

75 (C) does not exceed 20 percent of the base rent;

76 (4) if the capital improvements apply only to certain regulated rental
 77 units ~~[[and are not building-wide]]~~ within the building, the
 78 surcharge:

79 (A) is divided equally among the affected units;

80 (B) is prorated over ~~[[12 months]]~~ at least 60 months; and

81 (C) does not exceed 15 percent of the base rent;

- 82 (5) the surcharge for each unit ends once the costs of the capital
- 83 improvements, including any interest and service charges, have
- 84 been recovered by the landlord;
- 85 (6) the capital improvements would protect or enhance the health,
- 86 safety, and security of the tenants or the habitability of the rental
- 87 housing;
- 88 (7) if the capital improvements would result in energy cost savings:
- 89 (A) the savings would be passed on to the tenant; and
- 90 (B) either:
- 91 (i) the improvements would result in a net savings in the
- 92 use of energy in the building; or
- 93 (ii) the improvements are intended to comply with
- 94 applicable law;
- 95 (8) the capital improvements are depreciable under the federal Internal
- 96 Revenue Code;
- 97 (9) the applicant has certified to the Director the costs of the capital
- 98 improvements, including any interest and service charge; and
- 99 (10) the applicant has certified to the Director that required
- 100 governmental permits and approvals have been granted.

101 II(d) (e) Surcharge – additional requirements.

- 102 (1) A landlord must maintain, and must make available to a tenant
- 103 upon request, all plans, contracts, specifications, and permits
- 104 related to any capital improvements for which a surcharge has been
- 105 granted.
- 106 (2) Immediately upon the completion of capital improvements under
- 107 this Section, a landlord must permit the return to affected rental
- 108 units of any tenants displaced due to the improvements.

109 **29-59. [Reserved.] [[Exempt rental units.]] Fair return.**

110 (a) Fair return rent increase. In accordance with this Section and Method (2)
 111 regulations adopted by the Director:

112 (1) a landlord may apply to the Director to increase rent for a regulated
 113 unit in an amount that exceeds the annual rent increase allowance;
 114 and

115 (2) the Director must grant the application if the Director finds that the
 116 increase is necessary for the landlord to obtain a fair return on the
 117 regulated unit.

118 (b) For purposes of this Section, fair return means a return on investment:

119 (1) sufficient to offset operating expenses; and

120 (2) commensurate with returns on investments in other enterprises
 121 having comparable risks.

122 (c) The Director must adopt Method (2) regulations necessary to implement
 123 the requirements of this Section, including regulations to establish:

124 (1) a formula to determine the rent increase necessary to obtain a fair
 125 return for a regulated unit;

126 (2) application requirements, including the information an applicant
 127 must submit to demonstrate the rent necessary to obtain a fair
 128 return;

129 (3) a uniform system and procedures for processing applications;

130 (4) criteria the Director must use to evaluate and to grant or deny an
 131 application; and

132 (5) the duration of a rent increase approved under this Section.

133 **29-60. Exempt rental units.**

134 (a) Exemptions. The requirements of Section 29-58 do not apply to:

- 135 (1) a newly constructed unit that has been offered for rent for less than
 136 [[15 years]] 23 years;
- 137 (2) a unit in a licensed facility, the primary purpose of which is the
 138 diagnosis, cure, mitigation, and treatment of illnesses;
- 139 (3) a unit in a facility owned or leased by an organization exempt from
 140 federal income taxes under Section 501(c)(3) of the Internal
 141 Revenue Code if the primary purpose of the organization is to
 142 provide temporary shelter for qualified clients;
- 143 (4) an owner-occupied group house;
- 144 (5) a religious facility, including a church, synagogue, parsonage,
 145 rectory, convent, and parish home;
- 146 (6) a transient lodging facility subject to Chapter 54;
- 147 (7) a school dormitory;
- 148 (8) a licensed assisted living facility or nursing home;
- 149 (9) a building originally designed and constructed to contain only 2
 150 dwelling units, one of which the owner currently occupies as a
 151 principal residence;
- 152 (10) an accessory dwelling unit;
- 153 (11) a unit subject to a regulatory agreement with a governmental
 154 agency that restricts occupancy of the unit to low and moderate
 155 income tenants;
- 156 (12) subject to Method (2) regulations issued by the Department, a unit
 157 located within a substantially renovated building if:
- 158 (A) the substantial renovation occurred within the prior 23
 159 years; and
- 160 (B) the building is not in violation of Chapters 8, 26, or 29; and
- 161 (13) a rental unit owned by a landlord who:

- 162 (A) owns 2 or fewer rental units within the County; and
- 163 (B) is either:
- 164 (i) a natural person; or
- 165 (ii) the trust or estate of a decedent.

166 ~~[(13) a single-family home; and~~

167 ~~(14) a condominium owned by an individual.]]~~

168 (b) ~~[[Exemptions for hardship. The Director must grant to a landlord an~~
 169 exemption from the requirements of Section 29-58 for a unit if, in
 170 accordance with Method (2) regulations, the Director determines that the
 171 requirements would cause undue financial hardship to the landlord.

172 ~~(c)] *Expiration of exemption.*~~

173 ~~[(1)] An exemption under subsection (a) expires when the conditions~~
 174 ~~entitling the unit or facility to an exemption cease to exist.~~

175 ~~[(2) An exemption for hardship under subsection (b) expires 1 year~~
 176 ~~after the exemption is granted.~~

177 (d) *Renewability of hardship exemption.* The Director must renew annually
 178 an exemption granted under subsection (b) if, in accordance with Method
 179 (2) regulations, the Director determines that the requirements of Section
 180 29-58 would continue to cause an undue financial hardship to the
 181 landlord.]]

182 ~~[[29-60.]]~~ **29-61. [Reserved.] Regulation of fees.**

183 (a) *Regulations.* The Director must issue Method (2) regulations regarding
 184 limitations on fee increases or new fees charged by the landlord to the
 185 tenant for a regulated rental unit.

186 (b) *Fee schedule.* At the discretion of the Director, a fee schedule may be
 187 included, as a part of the regulations.

188 **29-62. [Reserved.] [[Annual reporting requirements]] Rent stabilization data**
 189 **collection.**

190 (a) [[On or before September 30th of each year, a landlord must submit to
 191 the Department a report for the preceding 12-month period, beginning
 192 July 1st and ending on June 30th, regarding regulated rental units, rents,
 193 and notices of rent increases.

194 (b) The landlord must submit the report in the form and manner prescribed
 195 by the Director under Method (2) regulations.]] In accordance with the
 196 requirements under Section 29-51, a landlord must comply with and
 197 submit data to the Department regarding regulated rental units, rents, fees
 198 charged to tenants, and notices of rent increases.

199 (b) The annual rental housing survey data collected by the Department under
 200 Section 29-51 must be made available for the Council to review and
 201 determine the effectiveness and compliance with this Act.

202 **[29-56] [[29-61, 29-62]] 29-63 - 29-65. Reserved.**

203 **[[Sec. 2. Effective Date.** This Act must take effect 6 months after it becomes
 204 **law.]]**

205 **[[Sec. 3.]] Sec. 2. Regulations.** No later than 3 months after the effective date
 206 of this Act, the Department must submit to the County Register proposed Method (2)
 207 regulations required under the Act.

208 **[[Section 4.]] Sec. 3. Rent Increase Notices – Transition.** If a landlord notifies
 209 a tenant, prior to the effective date of this Act [[or]] and prior to the effective date of
 210 Method (2) regulations adopted under this Act, of a rent increase for a regulated rental
 211 unit that would occur after the effective date of the Act [[or of]] and the regulations:

212 (1) the rent increase must not occur unless the increase is equal to or less than
 213 the lesser of:

214 (A) CPI-U plus 3 percent; or

- 215 (B) 6 percent; and
- 216 (2) the landlord must notify the tenant in writing either that the notice is void,
- 217 or that the notice is modified to an increase equal to or less than the lesser
- 218 of:
- 219 (A) CPI-U plus 3 percent; or
- 220 (B) 6 percent.

221 **Sec. 4. Transition.** The requirements of this Act must not apply, and must
222 not be enforced, until the Method (2) regulations required under the Act take effect.

Approved:



Evan Glass, President, County Council

July 18, 2023

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Sara R. Tenenbaum, Clerk of the Council

Date