

## Department of Planning and Budget 2020 Special Session I - Fiscal Impact Statement

**1. Bill Number:** HB5106

**House of Origin**    ☐ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☒ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Cole, J.G.

**3. Committee:** In Conference.

**4. Title:** Landlord and tenant, noncompliance with rental agreement; prohibition on reporting negative credit.

**5. Summary:** Provides that a landlord shall not take any adverse action against a tenant or applicant for tenancy based on any adverse item related to payment history or an eviction for nonpayment of rent that occurred during the period beginning on March 12, 2020, and ending 30 days after the expiration or revocation of any state of emergency declared by the Governor related to the COVID-19 pandemic. If such a landlord denies an applicant for tenancy, then the landlord shall provide to the applicant written notice of the denial and of the applicant's right to assert that his failure to qualify was based upon payment history or an eviction based on nonpayment of rent that occurred during the period beginning on March 12, 2020, and ending 30 days after the expiration or revocation of any state of emergency related to the COVID-19 pandemic. The written notice of denial shall include the statewide legal aid telephone number and website address and shall inform the applicant that he must assert his right to challenge the denial within seven days of the postmark date. If the landlord does not receive a response from the applicant within seven days of the postmark date, the landlord may proceed. If, in addition to the written notice, the landlord provides notice to the applicant by electronic or telephonic means using an email address, telephone number, or other contact information provided by the applicant informing the applicant of his denial and right to assert that his failure to qualify was based upon payment history or an eviction based on nonpayment of rent that occurred during the period beginning on March 12, 2020, and ending 30 days after the expiration or revocation of any state of emergency related to the COVID-19 pandemic and the tenant does not make such assertion that the failure to qualify was the result of such payment history or eviction prior to the close of business on the next business day, the landlord may proceed. The landlord must be able to validate the date and time that any communication sent by electronic or telephonic means was sent to the applicant. If a landlord does receive a response from the applicant asserting such a right, and the landlord relied upon a consumer or tenant screening report, the landlord shall make a good faith effort to contact the generator of the report to ascertain whether such determination was due solely to the applicant for tenancy's payment history or an eviction for nonpayment that occurred during the period beginning on March 12, 2020, and ending 30 days after the expiration or revocation of any state of emergency declared by the Governor related to the COVID-19 pandemic. If the landlord does not receive a response from the generator of the report within three business days of requesting the information, the landlord may proceed with using the information from the report without additional action. If a

landlord does not comply with the provisions of this subsection, the applicant for tenancy may recover damages of up to \$1,000, along with attorney fees.

6. **Budget Amendment Necessary:** No.
7. **Fiscal Impact Estimates:** Preliminary.
8. **Fiscal Implications:** The Department of Housing and Community Development has no oversight or administrative obligations regarding the Virginia Residential Landlord and Tenant Act. The department does update and publish on its website the Landlord Tenant Handbook. Any legislative changes made to the Act will be updated, but the department can do so using current resources. This bill may impact the court system.

Enactment eight in the introduced budget bill, HB5005/SB5015, provides that no landlord shall terminate a tenancy, or take any action to obtain possession of a dwelling unit, for any reason other than those constituting a criminal or willful act posing a threat to health or safety pursuant to subsection C of § 55.1-1245 of the Code of Virginia until after April 30, 2021. Landlords shall notify all tenants of this moratorium and the availability, terms, and application process for the COVID-19 Housing Payment Plan, which is further prescribed in the language.

Conference amendments to the introduced budget bill replace the eviction moratorium language included in the proposed budget and establish the terms by which a landlord may evict a tenant for nonpayment. For owners with more than four dwelling units, the language requires that the landlord provide written notice informing the tenant of the total amount due and owed; and inform the tenant that if the tenant provides a signed statement certifying that the tenant has experienced expenses or a loss of income due to the declared state of emergency, the tenant may enter into a payment plan and amortize the amount owed over the lesser of six months or the remainder of lease term. If the tenant fails to pay in full, enter into a payment plan, or pay any installment required by the plan, the landlord may proceed to obtain possession of the premises beginning January 1, 2021 provided certain other conditions are met, including notifying the tenant of the availability of rental assistance. For owners with four or fewer dwelling units, if rent is unpaid when due and the tenant fails to pay rent within fourteen days after written notice is served on him, the landlord may proceed to obtain possession of the premises beginning January 1, 2021, as long as the landlord meets certain other conditions, including notifying the tenant of the availability of rental assistance. The amendment also provides that if a tenant refuses to apply for rental assistance and refuses to cooperate with the landlord in applying for rental assistance through the Virginia Rent and Mortgage Relief Program (RMRP), the landlord can take action on or before December 31, 2020, to obtain possession of a dwelling unit for non-payment of rent.

Additionally, conference amendments would increase the amount of funding for RMRP, including the designation of \$12.5 million of the funds provided for the Housing Trust Fund. Any conflict that may exist between the provisions of these amendments and the provisions of this proposed legislation would default to the adopted budget language.

Utilizing \$62.0 million in federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funding, RMRP provides assistance for households facing eviction or foreclosure due to COVID-19. RMRP will provide short-term financial assistance on behalf of households in the form of rent and mortgage payments.

This fiscal impact statement has been revised to correctly reflect the total CARES act funding allocated to the RMRP as \$62.0 million.

**9. Specific Agency or Political Subdivisions Affected:** Department of Housing and Community Development; courts.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.