

H.B. 6433 – Late fees, tenant/landlord inspections, and DOH ombudsman
Testimony of Raphael L. Podolsky
Housing Committee public hearing – February 18, 2021

Recommended Committee action: APPROVAL OF THE BILL

This bill contains three distinct proposals to enhance existing tenant protections:

* Late fees: Late fees, if provided for in a rental lease, are enforceable, but only if they are reasonable. They are unenforceable if they are disguised penalty charges. Sections 2 and 3 put a reasonable cap on late fees. They also adopt basic protections against unfair late fees, including prohibiting landlords from applying late fee payments so that one unpaid late payment can generate months of late fees. We support these sections as providing reasonable protections against unreasonable late fee practices.

* Pre-occupancy and pre-vacancy inspections: Section 1 requires the landlord to notify the tenant of the opportunity to inspect the apartment before moving in and before moving out. Each of these joint inspections is to result in a written record of the condition of the apartment. Those records would be admissible, but not conclusive, as evidence of the condition of the apartment, i.e., they could be rebutted by either party. This can be helpful in minimizing disputes about the condition of the unit at the beginning and end of the tenancy. The bill, however, makes no provision for the use of a standard inspection checklist, such as is commonly used for the inspection of homes before purchase under C.G.S. 20-327b. A standard checklist format would greatly help this proposal to work well. We recommend that language be added requiring the Department of Housing to develop a plain language checklist for rental housing and requiring its use for inspections such as these. That would make these inspections more workable, more thorough, more accurate, and less burdensome.

* Housing ombudsman: The bill creates a “Rental Housing Ombudsman” in the Department of Housing. A statewide source to provide landlord and tenant information and, at least in some cases, to attempt to resolve disputes is badly needed. A single DOH employee cannot be involved in all aspects of rental housing for everyone but can help make DOH a central point for information development and distribution and for the non-court resolution of landlord-tenant disputes. Indeed, an ombudsman role could be creatively built from statutes such as C.G.S. 8-347a, which authorizes a DOH landlord/tenant mediation program for renters at risk of eviction, and from the ombudsman program DOH once had to address the displacement that formerly arose from large-scale condominium conversion.

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