Bill No: **HB 744 -- Landlord and Tenant - Residential Leases - Tenant Rights and Protections (Tenant Protection Act)**

Committee: **Environment and Transportation**

Date: **2/18/2020**

Position: **Oppose**

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's Counties.

This bill would substantively alter the existing security deposit process and a residents' rights related to a defective unit. AOBA has no issue with provisions of this bill that would require enhanced disclosure regarding ratio utility billing and is in support of early lease termination for victims of stalking. However, AOBA must oppose HB 744 as currently written.

Alterations to Security Deposit Process

AOBA members feel strongly that modifying existing law to require a housing provider deliver a written inventory of damages and repair costs within 30 days, rather than 45 days, is infeasible in practice. Providing an itemized and documented list of repair costs or estimated costs to a former resident within 30 days is unrealistic. Housing providers use small, local contractors, and frequently do not get written estimates or itemized receipts within 30 days. Also, there are instances where a contractor discovers additional damage requiring new repairs once work has begun. Further, many housing providers utilize in-house staff to make routine repairs and materials are bought in bulk and well in advance to minimize costs. Members are unsure how to capture those costs in a way that conforms to the needs of this bill. Ultimately, housing providers work under a tight deadline to ensure they comply with the existing 45-day period; shortening the time period while also increasing disclosures creates an unnecessary hardship.

Additionally, this part of the legislation seems unnecessary as there are several protections and remedies in current law (MD Code, Real Property § 8-203) to ensure residents receive all that they are owed and that the process is transparent. Currently, housing providers are required to allow residents to attend the move-out inspection. Housing providers are currently required to provide an itemized list of damages that were used to determine the amount of security deposit withheld. Also, there is a huge incentive to make sure security deposits are returned in a timely manner and with proper notification. If a housing provider does not return a resident's security deposit in accordance with law a court can award treble damages. Again, increasing requirements in the law while shortening the length of time a housing provider must do so, creates an extremely difficult position for well-intentioned and responsible housing providers. Finally, withholding security deposit fees is far from a revenue generator; in fact, it opens a housing provider up to possible treble damages.

Lease Termination Due to Defect

AOBA members agree that a tenant should not live in unsanitary, dangerous or hazardous conditions. That said, AOBA has concerns about certain provisions put forth in this bill and believes this bill attempts to unnecessarily rewrite Maryland's current, successful, rent escrow law. AOBA asserts that when there is a defect in a unit, residents are well within their rights, and should, contact a jurisdiction's code enforcement office. In jurisdictions AOBA represents, code enforcement is well branded and easy to access by calling 311. If a housing provider does not remedy defects in a timely manner, code enforcement should be the arbitrator of what constitutes "any condition which presents a health and fire hazard" (page 8 line 29) and an infestation of rodents. Unfortunately, housing providers know from experience that they can work to mitigate pest infestations but despite best efforts, or in response to lifestyle choices (e.g.: hording), there are occasions where infestations are persistent. AOBA believes the legislation should state that a jurisdiction's code enforcement must be called to determine if the tenants' situation warrants the remedy laid out in the bill.

Allowing the court to appoint a special administrator to make repairs to a unit (page 11 lines 7-10) is exceptionally problematic for AOBA. Housing providers will not allow unknown contractors to work on their property. There are serious liability concerns and insurance implications with having a third party determine who is to perform work on the property. If the court appoints an administrator, it follows that the court should assume liability for the work performed. While AOBA is certain that the court would appoint only a licensed contractor, not all licensed contractors perform quality work.

Should a resident terminate a lease for defect and be awarded damages, AOBA requests a cap on the actual cost of the tenant's relocation (page 12 line 24-25). Members do not wish to skirt the obligation to pay rightfully awarded damages, but the actual cost of relocation could reach astronomical heights should a tenant decide to relocate to Colorado. AOBA respectfully requests the language be amended to "actual cost of relocation not to exceed one month rent".

Tenant Organizations

AOBA members acknowledge that tenants have the right to organize and the right to assemble. However, there are often reasons why a housing provider may not be able to allow this use on a property. Notably, insurance issues, fire safety regulations and accessibility issues may make it impossible for a tenant organization to assemble in an area which may appear to be a “suitable area for meetings” but is unsuitable. As such, governing meeting rooms and common areas should remain the responsibility of the property owner who is liable for these areas.

For these reasons AOBA urges an unfavorable report on HB 744.

For further information contact Erin Bradley, AOBA Vice President of Government Affairs, at 301-261-1460 or ebradley@aoba-metro.org .