



MARYLAND
LEGAL AID

Advancing
Human Rights and
Justice for All

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March 3, 2020

The Honorable Kumar P. Barve, Chair
Environment and Transportation Committee
Room 251, House Office Building
Annapolis, MD 21401

Re: Testimony in support of House Bill 1372 Real Property - Residential Leases - Repair of Dangerous Defects and Failure to Pay Rent

Dear Chairperson Barve and Members of the Committee:

Thank you for the opportunity to testify in support of House Bill 1372. HB 1372 improves the accessibility of rent escrow and provides a path for recover to tenants damaged by uninhabitable dwellings. Delegate Melissa Wells requested that Maryland Legal Aid provide testimony to the Committee on this legislation. Maryland Legal Aid ("Legal Aid") is a private, non-profit organization that provides free legal services to indigent Maryland residents. In our 13 offices around the state, we help individuals and families with a wide array of civil legal issues including consumer, housing, public benefits, and family law matters. We also represent abused and neglected children and provide legal assistance to senior citizens and nursing home residents, as well as working with the private bar to help thousands of Marylanders expunge their records. This letter serves as notice that Harrison Mont will be testifying on behalf of Legal Aid at the request of Melissa Wells.

Currently, tenants use escrow to compel a landlord to repair a dangerous conditions in their rental property. The escrow practice requires a tenant ask the court to open an account in which the rent is paid. The court then holds that money and hears evidence regarding the condition of the property. Once the court finds a dangerous condition exists, a judge has discretion to rule in the best interest of justice. The most common solutions are an order to repair the property, a reduction the rent, or the termination of the lease.

The Legislature created escrow as a means for all tenants to compel landlords to fix dangerous conditions on the property. The only relevant question in an escrow proceeding should be the condition of the property. Whether or not a tenant owes back rent is irrelevant and serves only to block people from filing claims. This barrier disproportionately affects the poor and violates Article 14 of the



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International Covenant on Civil or Political Rights (ICCPR) which requires “All persons shall be equal before the courts and tribunals. In determination of... his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”¹ HB 1372 would correct these issues and reform our escrow process to fulfill the Legislature’s intent and comply with international law.

Unfortunately, because tenants are required to deposit all alleged rent into the escrow account, escrow often becomes impossible to assert. A common trap tenants fall into is withholding rent until the landlord makes repairs. When a tenant sees a dangerous condition on the property, they rightly assume that they should not have to pay the full rent until the condition is remedied. Tenants often withhold rent for months, waiting for the landlord to repair the hazard. During this time, the condition forces tenants to spend their withheld rent money on hotels, food, heating, efforts to mitigate the dangerous condition, etc. Consequently, the rent tenants withhold is not saved for a future escrow action, it is a cost incurred due to the dangerous condition. And with the money gone, the tenant has no way to open an escrow account and no defense if the landlord files a failure to pay rent action. This might not be a problem for a wealthy tenant, but for the vast majority of people for whom every check matters, the requirement to pay all back rent makes filing escrow impossible.

As an attorney at Legal Aid, I see many tenants with severely dangerous conditions on the property financially unable to assert escrow. Tenants come to our offices complaining about rat infestations, collapsed ceilings, and mold is growing out of every corner. These tenants deal with these issues for months, unable to convince their landlord to provide a habitable home. The dangerous conditions often inflict tremendous financial and bodily harm, and these tenants only seek to make themselves and their families whole again. It is heartbreaking to tell a tenant who had been through so much, that their case will not even be heard because they cannot pay all the rent the landlord claims they owe.

HB 1372 advances the goal of escrow by tremendously reducing escrow’s financial barriers. This bill would require tenants pay the most current month’s rent, not all alleged back rent. This would tremendously increase the accessibility of escrow for all, but especially low-income people. This increased access to escrow would

¹ International Covenant on Civil and Political Rights, art. 14, Dec. 16, 1966, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20, 6 I.L.M. 368 (1967), ratified by the U.S. Sept. 8, 1992.



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compel landlords to better maintain their property, resulting in improved housing and neighborhoods throughout Maryland.

HB 1372 would also provide tenants a clear path to get compensation for past harm by establishing a warranty of habitability. Under the current system, tenants make warranty of habitability claims in rent court. These cases happen with short notice and no opportunity for tenants to prepare for court. HB 1372 would give tenants time to gather evidence and seek legal assistance for their warranty of habitability claims. Thus allowing tenants a fair chance to recover damages inflicted upon them by inhabitable dwellings.

HB 1372 would help protect and promote the right to adequate housing as defined by international law. Under human rights law, the mere fact that a family has a roof over their heads is not enough. The International Covenant on Economic, Social, and Cultural Rights (ICESCR), which has been signed by the U.S., guarantees everyone the right to “an adequate standard of living for himself and his family, including adequate food, clothing and housing”.² International human rights law recognizes that the term ‘adequate housing’ has an expansive interpretation and “...should be seen as the right to live somewhere in security, peace and dignity.”³

For these reasons, we respectfully request that you give a favorable report to HB 1372.

Sincerely,

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² International Covenant on Economic, Social, and Cultural Rights, art. 11(1), Dec. 16, 1966, 993 U.N.T.S. 3; S. Exec. Doc. D, 95-2 (1978); S. Treaty Doc. No. 95-19, 6 I.L.M. 360, entered into force Jan. 3, 1976.

³ Committee on Economic, Social, and Cultural Rights, General Comment 4, U.N. Doc. E/1992/23 (1991).