



March 2, 2021

Senate Bill 910

COVID-19 Eviction and Housing Relief Act of 2021

Judiciary Committee

Position: FAVORABLE

Thank you for the opportunity to provide testimony in support of Senate Bill 910, the COVID-19 Eviction and Housing Relief Act of 2021. Arundel Community Development Services, Inc. **(ACDS) serves as Anne Arundel County’s nonprofit housing and community development agency**, helping Anne Arundel County residents and communities thrive through the provision of safe and affordable housing opportunities, programs to prevent and end homelessness, and community development initiatives. ACDS administers grants to nonprofit partners, directly develops and implements programming, and advises the County on housing and community development policy initiatives, and **ACDS administers Anne Arundel County’s Emergency Rental Assistance Program (ERAP).**

SB 910 will help ensure that use of Emergency Rental Assistance funds actually result in housing stability for financially distressed renters for the duration of the COVID-19 crisis.

1. SB 910 Closes the Tenant Holding Over (THO) Loophole.

Under current law, even if a tenant is a model tenant with rent paid in full, if the tenant is at the end of or outside their lease term, the landlord need only give notice (usually 30 days), and then the landlord may file a Tenant Holding Over action to evict – no reason for the eviction is necessary. While the CDC and State moratoria on evictions provide some limited protection from eviction for Failure to Pay Rent, **eviction moratoria provide absolutely no protection from eviction for tenants who are at the end of their lease term or who are on month-to-month tenancies.** This is referred to by many as the “Tenant Holding Over loophole” to the current moratoria

2. Current THO law is wreaking havoc on the ability of ERAPs to actually prevent evictions. SB 910 Provides a Solution.

This far into the pandemic, most renters are outside their lease terms and at the mercy of their landlords with regard to whether they can stay or must go because there is no requirement that landlords continue leases if there is no cause to evict after the initial lease term ends. **When an ERAP looks at paying money for arrears, the Program must consider whether the ERA payment is actually going to do anything to ensure housing stability for the tenant.** If the tenant is in the

middle, or even nine months into a year-long lease, ERAPs can at least rest assured that, assuming the rent remains paid and the tenant doesn't otherwise breach the lease, the ERA payment has bought the tenant at least 3 to 6 months in place. It's not a lot, but it's something beneficial for the tenant. However, once the tenant is at or near the end of their lease, ERAP's can't be assured that an ERA payment for arrears will do anything to extend the tenancy for more than the time it takes the landlord to get into court on a THO. As a result, serious consideration must be given as to whether use of ERA funds to pay arrears is actually going to enhance each tenant's housing stability.

3. Emergency Rental Assistance Payment for Arrears Does Not Result in Avoiding Eviction Since Under Current Law Tenants Can Be Evicted for THO Despite Payment of All Rent Due.

To address this issue, as ACDS and other ERAPs across the State start their new ERAPs with funds from the recent Consolidated Appropriations Act, **many Programs are requiring that landlords agree not to sue for THO for at least some period of time in exchange for payment of arrears** - ACDS is requiring three months. It's not nearly enough time to get many tenants through the current crisis, but it's something that hopefully can be considered a responsible use of ERA funds. Unfortunately, though, in our experience since the requirement has been in place, many landlords are balking at even three months. As a result, rather than simply paying a tenant's arrears with some level of assurance the payment will provide housing security for at least a few months and moving on to the next tenant in need of rental assistance, **ERAP staff have to expend limited time and resources urging, pleading and cajoling landlords for virtually every tenant in an effort to get the tenant's landlord to agree to not to sue for THO** if the landlord receives a payment for a tenant's rental arrears.

ERA funds are intended to keep rooves over the heads of financially distressed renters. Accordingly, when a landlord refuses to agree that payment for arrears will result in the continuation of a tenant's lease, in order to be good stewards of public funds, either the tenant is not eligible to participate in the ERAP, or the ERAP must shift gears entirely and focus its efforts and funds on providing relocation assistance to the tenant (if relocation funds are even available). However, the rub here is that the **relocation of tenants under these circumstances is made almost impossible** by the fact that the tenant is leaving their current tenancy with arrears owed, and they likely have taken a hit on their credit not only due to the rental arrears but likely as a result of other past due bills over the last several months. As a result, **whether rental arrears are fully paid, or not, tenants in this situation are likely to become homeless.**

4. The bottom line:

Without closing the Tenant Holding Over loophole and/or modifying the current THO law, Emergency Rental Assistance funds – regardless of amount - will be an ineffective resource for keeping people housed.

For the reasons noted above, we urge a **FAVORABLE** report on SB 910.

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