

ROBERT TAYLOR

Salisbury, MD

February 29 (Bill Hearing Date – Judicial Proceedings Comm.)

TO: Senate Judicial Proceedings and Education, Energy, and Environment Committees

RE: SB 481 – RENTERS' RIGHTS AND STABILIZATION ACT OF 2024 (First Reader)

Senate Bill 481 should receive an unfavorable report.

This addresses oral testimony that was presented on February 20 before the House Environment and Taxation and the House Judiciary Committee on the companion (cross-filed) HB 693 by certain persons in support of the bills. Most likely, it will be reiterated either in person or by written statement by the following persons and/or others in support of this bill.

1. *Jacob (“Jake”) Day, DHCD Secretary.* Last week, he mentioned that a dozen or so states have a lower limit than Maryland on the amount that a landlord can require as a security deposit – currently 2 months' rent – but Mr. Day did not point out that more than 20 states do not impose any limit on the security deposit. Details are available here:

<https://www.nolo.com/legal-encyclopedia/chart-security-deposit-limits-state-29020.html>

<https://www.rocketlawyer.com/real-estate/landlords/property-management/legal-guide/security-deposit-laws-by-state>

This may be why many states have a lower rate of court eviction filings than Maryland because a higher security deposit tends to eliminate tenants who are unable to pay the rent. This function is especially significant because of the huge number of persons entering the United States unlawfully in recent years.

Secretary Day also argues that increasing the court filing fees for an eviction proceeding will reduce the number of such cases in the District Courts, most of which are dismissed without eviction (“pay and stay”), citing the much higher court fees in other states with lower eviction-filing rates, such as Alabama. No doubt, a primary reason for this difference is that tenants in those jurisdictions are motivated to avoid the much larger amount that they must pay to avoid eviction and, thus, pay rent as it becomes due at a much higher rate than tenants in Maryland. The so-called serial eviction filing rate in Maryland is the highest in the US according to data by the “Eviction Lab” at Princeton University – see the chart below – and the low court fees that must be paid to avoid eviction are certainly a major factor.

Prohibiting the landlord from recovering the court fees from a tenant, will negate the effect of the higher filing fees that Mr. Day and others support. Significantly, the Fiscal and Policy Note by the DLS, which expressly disagrees with the Administration’s opinion that the bill has minimal or no impact on landlords (“small business”), states in pertinent part (page 13, emphasis added):

Small Business Effect: *Numerous provisions of the bill likely have a meaningful impact on small business landlords. For example, landlords filing summary ejectment, tenant holding over, or breach of lease cases can no longer pass on certain imposed surcharges, which are significantly increased by the bill.* Additionally, under certain circumstances, landlords must offer tenants the right of first refusal when desiring to sell a residential rental property, which may extend the overall timeframe for selling the property. *Among other provisions, the bill also reduces the maximum security deposit a landlord may require and extends the process of repossessing property after a court enters judgment in a landlord's favor.*

2. *Former Attorney General Brian Frosh.* At the House hearing last week, he expressed angst that some landlords file for eviction promptly if their tenants fail to pay rent when it is due, arguing that it is inappropriate to use the courts as a “collection agency.” As Mr. Frosh is a member of the Maryland Bar, he surely must be aware that courts function in the same manner for other types of creditors, including stores/merchants that extend credit, banks, credit card companies, mortgage holders, pay-day lenders, contractors, etc. He is distraught that many, possibly most eviction cases end without an actual eviction (“pay and stay”), but that is true of the other cases in which a creditor seeks judicial action for an unpaid loan or other debt – the potential for judgment and seizure of assets, garnishment of pay, etc., results in payment of the debt, and the case is dismissed. If the courts were not available to provide redress for nonpayment of monetary obligations, there would be little if any credit extended by landlords, merchants, banks, etc.

Mr. Frosh also argues that landlords should not receive the procedural treatment – expedited action - that the courts do not extend to other creditors. But he fails to acknowledge that the landlord-tenant relationship is unique: the tenant has the possession and use (occupancy) of the landlord's property, but the landlord remains liable to the government for property taxes on the leased premises and for payment of other ordinary expenses, such as maintenance, insurance, etc. The presence of a tenant in default makes it difficult if not impossible for a landlord to mortgage, much less sell the property. And it's well recognized that tenants who fail to pay rent when due are likely to cause physical damage in excess of normal “wear and tear” to the premises, often well in excess of the maximum security deposit allowed by current Maryland law.

The suggestion posited by Mr. Frosh that landlords can, and should have to, recover unpaid rent by the general (“small claims”) process is naïve. Tenants that fail to pay rent are typically “judgment proof,” and the time that would elapse before obtaining a judgment would enable a tenant to remain in possession for an extended period without paying rent before being evicted.

One wonders if Messrs. Day and Frosh and the others who testified in support of the “Renters’ Rights and Stabilization Act of 2024” last week have any practical experience as a landlord or realize that private, for-profit landlords provide a very substantial amount of “affordable” rental units, which is especially the case in areas such as the City of Salisbury, where Mr. Day was the mayor for most of the past 8 years, that have a very low median household income. Without that supply, the State would have to subsidize much more affordable rental housing than required now.

FYI – I am neither a landlord nor a representative thereof, but rather a very concerned citizen.

SERIAL EVICTION FILING RATES – public & private, by state

Data from 2010 to 2016 – Source: No Safe Harbor: Eviction Filing in Public Housing ([Social Service Review, Volume 97, Number 3](#) (2023) [University of Chicago Press])

Available here: <https://www.journals.uchicago.edu/doi/abs/10.1086/725777>

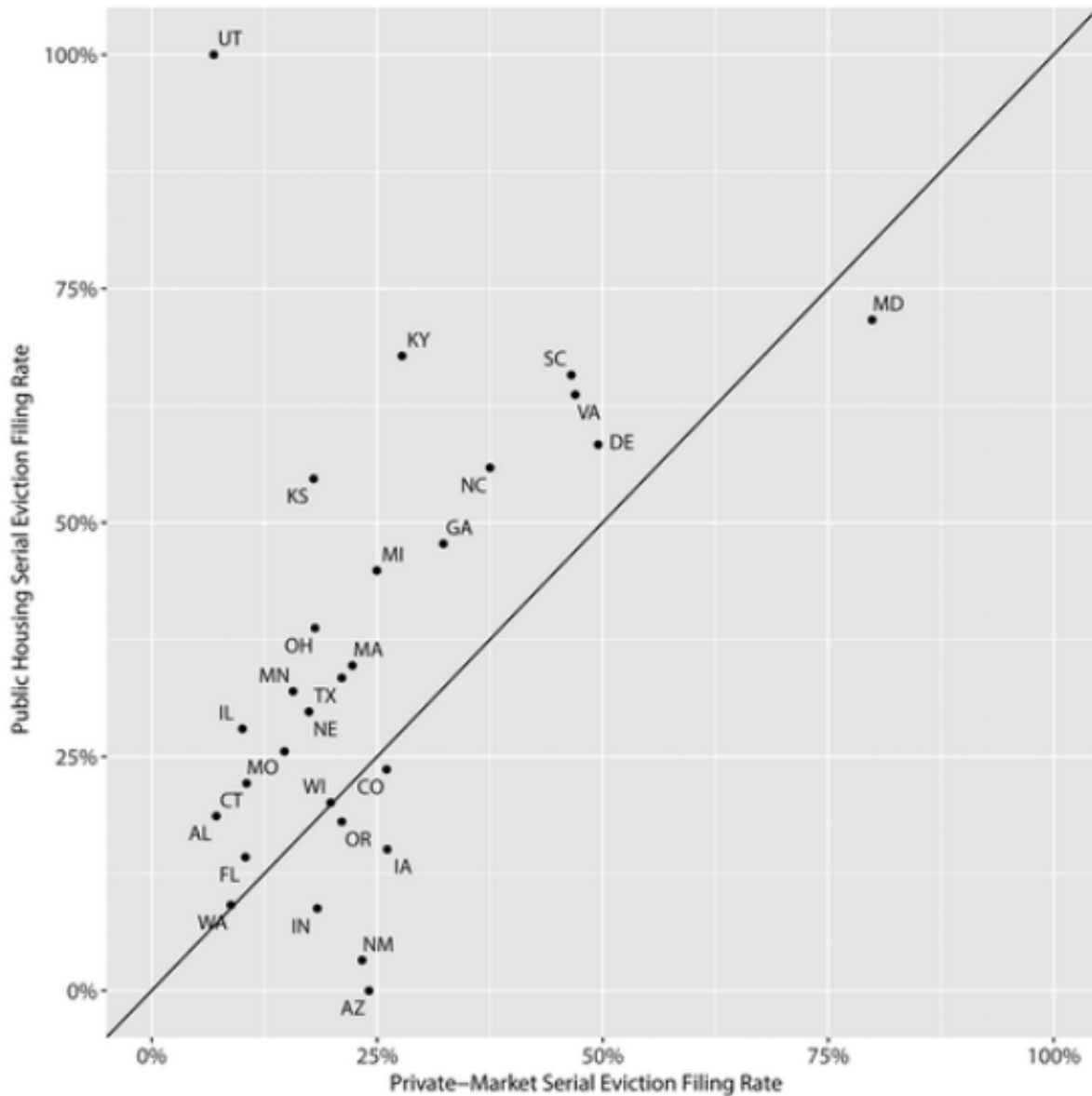


Figure 1. Serial eviction filing rates in public housing and the private market, by state