



**Bill No:** HB 1117-- Landlord and Tenant—Failure to Repair Serious and Dangerous Defects—Tenant Remedies (Tenant Safety Act of 2024)

**Committee:** Environment and Transportation

**Date:** February 27, 2024

**Position:** Unfavorable

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.

House Bill 1117 establishes that rental housing providers shall warrant the units fit for human habitation and are obligated to repair and eliminate conditions and defects that constitute health and safety concerns. The existence of mold in a dwelling unit that presents a serious and substantial threat to the resident's health is also established in this bill and can make an affirmative defense for rent escrow or refusal to pay rent. HB 1117 authorizes multiple residents to join in an action seeking remedies on behalf of a group of residents if a housing provider fails to repair serious and dangerous defects on the property. Additionally, a group of residents or a tenant organization can employ remedies for any violation failing to repair defects in multiple units.

AOBA opposes this legislation for the following reasons:

- The bill will amend the rent escrow process and create a new process for residents to utilize the Court’s as a defensive measure; and
- Existing rent escrow laws provide protection for residents.

AOBA appreciates the bill sponsor adding provisions of the bill to allow for a resident to notify the housing provider and provide reasonable time to make abatement for any severe defects. As drafted, a group of tenants can employ remedies on behalf of

a resident. This presents grave concerns for AOBA members as it creates a new process for class action suits for one individual to represent an entire group without legal rights and liabilities to speak for other residents and bring an action to a housing provider. This bill essentially creates a "collective action" that conceptually fails to be a useful model for rent escrow proceedings. Residents use rent escrow to get the courts to require a housing provider to perform necessary repairs in the dwelling unit. Collective action will prolong the process for remedies and delay repairs as there are specific rules within the statute that the housing provider and resident must follow to ensure the Court determines the facts and appropriate remedies for each case.

Even where a defect might affect a common area or an entire building (for instance, if the whole roof collapses or the heat is out in the entire building), the unique impact experienced in each rental unit and/or by each tenant mitigates against the "collective action's" core idea that all tenants are similarly situated claimants who can rely on one person to represent their interests. This bill uses a one size fits all approach to defects that may vary from other units.

AOBA members believe the existing rent escrow statute provides potent remedies to protect tenants. Unlike complicated class action litigation, the typical rent escrow case involves addressing a particular problem or problems in a specific resident's rental unit. Even in multifamily buildings, residents' repair issues are generally unique to their living situation and easily identifiable through resident complaints and inspections by the housing provider or Code Officials. Housing providers must repair and eliminate conditions that seriously threaten occupants' life, health, or safety. Suppose a housing provider fails to fix severe or dangerous problems in a rental unit. In that case, a resident can pay rent into an escrow account established at the local District Court.

**For these reasons, AOBA urges an unfavorable report on HB 1117.** For further information, contact Ryan Washington, AOBA Government Affairs Manager, at [rwashington@aoba-metro.org](mailto:rwashington@aoba-metro.org) or call 202-770-7713.