



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

Committee: Judicial Proceedings

Date: April 2, 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. 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. The bill creates a rebuttable presumption where (1) a resident is entitled to an adjudication of a rent abatement upon request and that abatement may apply to prospective rent; and (2) a resident may not be required to pay into rent escrow more than 50% of the amount required by the lease. Furthermore, a party may request the court adjustment to the amount a resident is required to pay into escrow at any time and the court may grant a postponement upon request for the purpose of evidence gathering during failure to pay rent proceedings.

AOBA opposes this legislation as it will create an entirely new process for rent escrow pertaining to remediating any severe defects. This bill expands a resident’s ability to withhold rent for reasons unrelated to property defects, which could potentially put a significant financial burden on landlords. Additionally, creating an entirely new multiple-plaintiff cause of action under the rent escrow statute is complicated and threatens the swift procedure for resolving defects that the legislature originally put in place.

As drafted, a group of residents can join together for breach of warranty of habitability if they encounter similar defects in their building and allow residents to ask a judge to abate the rent at the beginning of a proceeding with the presumption that an abatement is warranted. This bill

creates a collective action that conceptually fails to be a valuable model for rent escrow proceedings. Residents use rent escrow to get the courts to force a housing provider to perform necessary repairs in the dwelling unit. The joinder 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. Moreover, the bill lowers the monetary requirement for rent escrow, where the resident may only be required to pay up to 50% into the escrow account. AOBA members fear this bill will lead to more frivolous lawsuits by residents making allegations and negatively impacting the State's existing housing stock as the cost of renting increases as a result of more litigations occurring with the passage of this bill.

AOBA members believe the existing rent escrow statute provides potent remedies to protect tenants. 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. This is all contingent on the enforcement agency actively making inspections and imposing the appropriate sanctions on the housing provider for any code violations. Additionally, enforcement agencies have the authority to revoke rental licenses in egregious instances, specifically if it endangers a resident's health and safety. This bill seeks to shift the responsibility of the local government to enforce housing codes to the Courts, potentially undermining the existing system.

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 or call 202-770-7713.