



Bill Title: House Bill 1223, Landlord and Tenant - Screening of Tenants and Renewal of Tenancy - Standards

Committee: Environment and Transportation

Date: March 2, 2021

Position: Unfavorable

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry.

MMHA opposes House Bill 1223 which seeks to make several changes to Maryland landlord and tenant law. As a whole, the bill creates a more subjective process for reviewing rental applications when residential housing providers typically try to have more objective and neutral policies.

Set forth below are MMHA's comments and concerns with specific provisions of House Bill 1223:

1. Application Fees: A landlord may not require an applicant to pay a fee for a credit check or any other expense more than once within any 60-day period, regardless of the number of rental units owned or managed by the landlord, unless any prior fee paid by the prospective tenant within the 60-day period was returned in full as required.

Comment: When a landlord processes an application and undertakes a background check, there is a cost. In the event that a prospective resident applies twice in that 60 day period, the housing provider should be able to pass the actual cost onto the applicant. Furthermore, the bill fails to define "landlord." This presents a challenge when a landlord may own or manage multiple communities and a prospective tenant applies to more than one property. In that instance, the applicant should pay for the processing of the applications.

2. Background Check: If a landlord performs or requests a third party to perform a background check, credit history check, or rental history check of a prospective tenant, the landlord may not deny a lease application due to a lack of sufficient credit or rental history, based on a reported event in a background check, credit history check, or rental history check that is more than 7 years old. Also, a provider may not deny an applicant based on information reasonably related to a court record that has been sealed by a court



or based on information reasonably related to a prospective tenant's status as a victim of crime or a victim of domestic violence.

Comment: This provision effectively creates a protected class for all victims of crime without evaluating the relevant facts associated with the matter.

3. Denials: A landlord may request in writing that an applicant complete and return an addendum to the lease application that provides additional information on the reason the prospective tenant lacks sufficient credit or rental history. Not later than 5 days after receiving a request, the applicant must return the addendum to the landlord or inform the landlord that the prospective tenant is no longer interested in establishing a tenancy. The lease application of a prospective tenant may be denied for lack of sufficient credit or rental history if the tenant fails to return the addendum

Comment: This could apply to tenants who clearly do not meet the income limitations or other criteria established by the landlord and create additional work/cost in the application process that may be borne by tenants. Additionally, housing providers are subject to violation of the Fair Housing Laws if an exception is made to a financial qualification.

4. Income Ratio: This bill requires an applicant to have an income ratio of at least two times the rent advertised by the landlord for a particular dwelling unit, the landlord shall make an exception if the prospective tenant has an income ratio of at least one-to-one and provides evidence of a prior ability to pay rent equal to or greater than the rent advertised by the landlord for a period of 1 year or more.

Comment: Every housing provider in the country, including private landlords, public housing authorities or those that manage low-income communities, compare the rent amount and the applicant's income. Housing experts estimate that a person should not pay more than 30%-35% of their income for housing. It is critical that a person not pay too much for housing so that they have enough money for basics like utilities, food or paying for daycare. Those that are considered housing cost burdened pay more than 50% of their income. The bill as written would require a landlord to allow a person to pay 100% of their income in rent. How can a person survive paying 100% of their income in rent? They cannot. This presents legitimate challenges to a resident which could reasonably result in eviction. Why must the landlord follow a practice that ultimately harms the resident?

5. Violations: A landlord that violates is subject to a civil penalty of \$1,000 per violation. A prospective tenant injured by a violation may bring a civil action in a court of competent jurisdiction and, if the court finds in favor of the prospective tenant, may be awarded, damages, court costs and reasonable attorney's fees. A tenant injured by a violation may bring a civil action in a court of competent jurisdiction and, if the court finds in favor of the tenant, may be awarded: damages not to exceed the equivalent of 3 months' rent, court costs and reasonable attorney's fees. If, in any proceeding, the court finds that a



tenant's assertion regarding a landlord's decision not to renew the lease was made in bad faith or without substantial justification, the court may enter a judgment against the tenant for damages not to exceed the equivalent of 3 months' rent, court costs and reasonable attorney's fees.

Comment: House Bill 1223 would penalize the housing provider up to \$1,000 for any violation including failing to give notice to the tenant with adequate specificity. This could significantly increase the costs associated with rental applications. Lastly, when a resident acts in bad faith, a housing provider should be able to initiate eviction proceedings.

For the foregoing reasons, MMHA respectfully requests an **unfavorable report on House Bill 1223.**

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