



House Bill 785
Landlord and Tenant – Commencement of Action to Repossess for
Failure to Pay Rent – Required Notice and Grace Period
Before the House Environment and Transportation Committee
Feb. 16, 2021

Position: FAVORABLE

Renters United Maryland (RUM), a statewide coalition of renters, organizers, and advocates for safe, stable housing, urges the Committee’s favorable report on HB 785, as revised by the Sponsor’s amendments. When a renter is late in payment their rent, HB 785 establishes a notice-and-cure period of 10 days that must precede the filing of any “Failure to Pay Rent” (FTPR) eviction action in the district court. This bill provides tenants a reasonable amount of time to catch up on rent before facing a lawsuit. In instances where a renter cannot “cure” their arrearage within 10 days, they will nonetheless benefit from important information included in the 10-day notice.

RUM supports this measure because:

- Maryland is one of just 5 states in the nation that allows a landlord to file eviction cases without a prior notice period.
- Most U.S. jurisdictions use a pre-filing notice period of anywhere from 3 to 14 days.
 - District of Columbia has a 30-day “notice and cure” period for non-payment cases.
 - Virginia just enacted a 14-day notice period when rent is unpaid.
- In Maryland, many professionally managed landlords routinely file “Failure to Pay Rent” eviction cases between the 6th and the 10th day of the month.
 - With trials set around 7-14 days later, around 25% of these eviction cases are dismissed (per Maryland Judiciary statistics), presumably because they received the rent payment.
 - Less than half of these eviction cases result in a court-issued warrant to execute the judgment for repossession.
- Even after catching up on rent, renters suffer the consequences of court records that hurt their rental and consumer history.

A 10-day notice period would increase the likelihood that late payment or non-payment resolves before a housing provider resorts to litigation, significantly reduce the frequency and volume of eviction case filings, and lower renting households’ exposure to harmful litigation records. In absence of a pre-filing notice requirement, Maryland annually processes over 600,000 eviction cases – just under 670,000 in FY 2019.

10-day notice means more than time: it provides valuable information.

The notice period is not merely to bide time. With amendments by the Sponsor, HB 785 would include content provisions – ensuring that, in the 10-day notice, tenants receive important information that clarifies the rent delinquency and alerts the tenant to contact providers of legal assistance. Early engagement between landlord and tenant, and early recourse to legal assistance – each of which are accomplished through the notice and cure period, were a key recommendation of the Attorney General Taskforce on COVID-19 and Access to Justice.

A lawsuit is not notice

Multi-housing lobbyists often argue, “But the summons *is* the notice to pay.” In FTPR eviction cases, tenants receive a court complaint and summons via regular mailing and posting at their door. This is service of process, pursuant to the summary ejection procedure under Real Property Art. § 8-401. This “notice” provides the renter-defendant a trial date and the bare allegations made against them. It is not a warning that a lawsuit could be filed if the rent does not come current – *it is* the lawsuit. Consequently, in countless cases, before any engagement occurs between tenant and landlord about late rent, the harm of the eviction filing has already begun. Information brokers such as CoreLogic collect and sell data about FTPR filings, before the trial dates and regardless of the outcome of the cases. This information is then incorporated into tenant screenings, consumer reports, and background checks.

Housing providers commonly insist that that they need an immediately filed FTPR action, i.e., the legal threat of eviction, to incentivize tenants to pay rent. But this approach simply pushes renters into a position of paying rent, plus court costs, under the strain of potential loss of housing. Under HB 785, the 10-day notice accomplishes incentives for payment through information and early engagement, without using the court system’s resources.

Despite tenant’s right to “pay to stay,” pre-filing notice is a much-needed reform

In the Maryland FTPR eviction process, tenants can exercise their right to redeem possession of the rental property after entry of judgment, up to 3 times in a 12-month period (4 times in Baltimore City). Multi-housing lobbyists argue that their industry’s quick resort to legal filings is necessitated by this important tenant protection. Yet, in Washington, D.C., where tenants have an unlimited right to redeem possession, the rate of eviction filings per cost-burdened household is 4 times lower than Maryland’s. There is one readily identifiable reason for this difference: District of Columbia requires a 30-day notice and cure period when rent is unpaid. Notice clearly makes a difference in allowing tenants time to catch up, without the added harm of court records and the fear of court-ordered loss of housing.

The undersigned members of Renters United Maryland urge a FAVORABLE report on HB 785.

*Montgomery County Renters Alliance • CASA • NAACP Maryland State Conference
Strong Future Maryland • Maryland Center on Economic Policy • Disability Rights Maryland
Baltimore Regional Housing Partnership • Chesapeake Physicians for Social Responsibility
Beyond the Boundaries • Jews United for Justice
University of Baltimore School of Law Civil Advocacy Clinic • Public Justice Center
Pro Bono Resource Center of Maryland • Homeless Persons Representation Project
Santoni Vocci & Ortega, LLC • Maryland Consumer Rights Coalition*

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