



Bill No: HB 785-- Landlord and Tenant – Commencement of Action to Repossess for Failure to Pay Rent – Required Notice and Grace Period

Committee: Environment and Transportation

Date: 2/16/2021

Position: Oppose

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.

This bill requires housing providers or their agents to provide residents written notice that their rent is unpaid as a prerequisite to filing a Failure to Pay Rent case. The bill also requires that this written notice be sent to a resident at least 10 days prior to filing the FTPR case by first-class mail, return receipt requested.

In Prince George's and Montgomery Counties, there is a mandatory grace period prior to the charging of late fees. In Prince George's County, late fees begin on the 6th day after rent is due and in Montgomery County, late fees begin on the 11th day after rent is due. At the time the late fee is assessed, housing providers notify the resident that their rent is past due and their outstanding rent balance.

Currently, Maryland law requires that tenants be provided with notice prior to a hearing for repossession in failure to pay rent actions. Notice must be delivered to the resident by first class mail and posted on the resident's door. The notice prerequisite in this proposal prohibits a housing provider from filing for unpaid rent until at least 10 days after the tenant receives the written notice for unpaid rent. Per the bill, the only acceptable method for delivery of that notice is first-class mail with return receipt requested. Notice delivered in this way requires a resident be present and provide a signature when the mail arrives so the housing provider will have proof of delivery. Mail is typically delivered during the day when residents are away from their units for work, school, or otherwise unavailable. As such, it is unlikely housing providers will receive many signed return receipts. Further, residents may decide it is not in their best interest to sign the receipt and

refuse—in that event, there is no recourse for a housing provider outlined in this legislation.

This bill could potentially threaten a resident's ability to exercise their right of redemption. Under the current failure to pay rent process, a resident is able to pay their outstanding rent balance up until the moment the sheriff begins the physical eviction. Once they have paid, they are able to stay. Maryland affords residents that right 3 times in Montgomery and Prince George's Counties. By filing promptly, when a resident is only one month behind on their rent, they have a better opportunity to exercise the right of redemption and have the case dismissed. However, if housing providers delay their filing by 10 days as mandated by this bill, residents will likely be required to pay an additional month of unpaid rent to redeem their unit. For residents that have difficulty making rent payments, the need to come up with 2 months rent may be prohibitive. Residents may not be able to redeem their property and actual evictions may increase.

AOBA members agree that residents should be informed of their rights and remedies under the law, however we do not believe this is the right approach.

For these reasons AOBA requests an unfavorable report on HB 785.

For further information contact Erin Bradley, AOBA Vice President of Government Affairs, at 301-904-0814 or ebradley@aoba-metro.org.