



## House Bill 785

Committee: Environment and Transportation

Date: February 16, 2021

**Position: Unfavorable**

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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 including towing companies.

House Bill 785 requires that property owners or their agents provide written notice to tenants that their rent is unpaid as a prerequisite to being able to file a Failure to Pay Rent (FTPR) case. It requires that this written notice be sent at least 10 days prior to filing the FTPR case by first-class mail, return receipt requested. MMHA believes that HB 785 will nullify current industry practices which provide for grace periods for rent to be paid before action to collect is taken thereby unintentionally leading to more evictions. For these reasons, respectfully opposes HB 785, but we offer an alternative suggestion to achieve the underlying goal without the unintended consequences.

### I. Industry Standards

Current industry practice provides tenants with a five day grace period for late rent within the lease agreement. Should property owners be required to provide notice via first class mail, return receipt requested and be prohibited from filing for repossession until 10 days after the tenants receives the notice, the five-day grace period would cease to exist in future lease agreements.

### II. Notice Requirements

Maryland law requires that tenants be provided with notice prior to a hearing for repossession based on failure to pay rent. By law that notice must be delivered to the tenant by first class mail and posted on the tenant's unit. HB 785's notice prerequisite prohibits a Landlord from filing for unpaid rent until at least 10 days **after the tenant receives** the written notice for unpaid rent and mandates that the only method for delivery of that notice is first-class mail with return receipt requested.

According to the United State Postal Service, first-class mail with return receipt requested requires a signature from the recipient to be properly delivered. This is extremely problematic. First, the tenant must be present when the letter carrier arrives in order to sign the return receipt card, which is then sent back to the landlord as proof of delivery. Because the notice is sent to the tenant's rental unit address, the tenant is likely be unavailable to sign the card because they work outside the home, attend school, or otherwise are not home during the day. Thus, it is doubtful that these return receipts will ever be signed. The experience of MMHA's Baltimore City members is instructive on this point. In 2011, the Baltimore

City Council rescinded a statutory requirement that landlords provide notice of eviction dates to tenants by certified mail (Note that certified mail need only be picked up by a tenant, and has no signature requirement for delivery). After 2 years of following the certified mail procedure, over 85% of these certified letters were returned to landlords unclaimed by City tenants. MMHA believes that the return receipt requirement of this bill will meet with identically disappointing results.

Secondly, because it is not mandatory that a recipient sign for a return receipt requested letter, MMHA is concerned that tenants may intentionally refuse receipt of the notice in order to prevent the landlord from being able to file a failure to pay rent case under the bill's mandate and thus delay proceedings indefinitely.

### **III. Unintentional Consequences**

Unlike our contiguous states, tenants in Maryland may exercise their "right to redeem" up to three times per calendar year – 4 in Baltimore City. The "right to redeem" is a legal term that simply means a tenant may pay unpaid rent and stay in the property at any time prior to an eviction taking place. With more opportunities to pay and stay, Maryland's eviction filings are higher than contiguous states, but only 3% of eviction filings result in actual evictions. This statistic is a result of property owners filing for eviction within the first month of delinquency, which ensures that tenants are only required to pay one month of rent in order to stay in the property.

By extending the filing process at least 10 days, HB 785 will ensure that more delinquent tenants are required to pay a second month of unpaid rent to redeem their right to stay in the property. Thus, tenants will have a more difficult time producing the amount of money owed and more evictions will occur.

### **IV. Amendment**

To ensure that tenants are aware of their rights and to help avoid evictions, MMHA suggests amending the bill to require that a written notice specifically delineating a tenant's right to redeem and stay in the property be added to the Petition for Warrant of Restitution Form DCCV 081, which must be served by a sheriff prior to an eviction and posted to the tenant's property.

**For the aforementioned reasons, MMHA respectfully requests and unfavorable report on HB 785, but suggests requiring language in notices that tenants already receive.**

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