



Bill Title: House Bill 499, Rental Housing Restitution Fund - Establishment

Committee: Environment & Transportation

Date: February 2, 2021

Position: Favorable with Amendments

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.

This bill creates the Rental Housing Restitution Fund which is a separate fund outside of the General Fund. The purpose of the fund is to provide both rental assistance and legal assistance to individuals facing a potential residential rental property eviction. The Attorney General (AG) will administer the fund, which is a special, nonlapsing fund consisting of all funds received by the AG's Division of Consumer Protection from any settlement or agreement with or judgment against a party relating to an investigation or enforcement of the Md Consumer Protection Act brought by the Division for an unfair, abusive, or deceptive trade practice where the subject of the investigation or enforcement action is rental residential property. Any interest earnings of the fund are to be credited to the fund.

MMHA provides the following comments and amendments:

1. The Bill's purpose to raise funds for both rental assistance and legal assistance from a single industry is overly broad.

The bill is overly broad because it seeks to provide both rental assistance and legal assistance off the back of one industry. This Session the Maryland General Assembly is considering several bills to provide and fund legal assistance in civil cases through court filing fee surcharges. Rental assistance, which is an important tool for maintaining stable rental housing for vulnerable Marylanders, has no such dedicated source of funding and few if any Bills address this. Thus, MMHA would suggest that this bill focus purely on providing funding for rental assistance.

Amendments: On page 2, in lines 22-23, strike "AND LEGAL ASSISTANCE"; On page 3, line 9-10, strike "AND LEGAL ASSISTANCE"



2. Amend the Bill to have the Fund’s Rental Assistance funds managed and dispersed by the Department of Housing and Community Development:

House Bill 499 incentivizes the Attorney General’s Office to generate funds for this program through its enforcement powers. Further, as with several other bills this session, House Bill 499 empowers the Attorney General to expand its role as the State’s top attorney not only to act as the Commander of a new army of civil pro bono lawyers but to also become its Grant Funder in Chief garnering the funds to support that effort. It is concerning to this industry, which is the only industry affected by this bill and others related to it being considered this Session, that this important matter is being placed solely within the confines of the Attorney General with no independent oversight by the General Assembly or the Governor. While the Department of Housing and Community Development (DHCD) is charged with administering rental assistance funds, House Bill 499 establishes a separate rental assistance fund to be dispersed by the AG. We think this is duplicative, inefficient and wasteful. Any funds resulting from the AG’s regulatory actions should go to DHCD for distribution through its housing assistance mechanism. Given DHCD’s experience in supporting Maryland’s vulnerable residents during this pandemic, we would urge that the bill be amended to have these funds distributed by DHCD.

Amendments: On page 2, line 25, strike “THE ATTORNEY GENERAL” and insert “THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.”; following page 2, line 21, add subsection 7-322(k), stating “THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT MAY ADOPT REASONABLE REGULATIONS FOR THE ADMINISTRATION OF THE FUND.”

3. The Bill’s provision regarding the source of the proceeds that the Fund receives is overly broad because it makes no distinction between the types of settlement and enforcement actions that the Division handles.

The Consumer Protection Division has the power to conduct a variety of investigative and enforcement actions regarding alleged Unfair and Deceptive Trade Practices. Not all of these are large, complicated matters. Many of these are complaints brought to the Division by individual consumers seeking assistance to recoup compensation for one-time matters which do not involve significant monetary amounts and are expeditiously and economically resolved for both parties through the AG’s voluntary mediation process. These simple matters should be excluded from the funding mechanism in the bill.

Amendment: On page 3, line 1 after the words “EXCLUDING FUNDS” insert “RESULTING FROM COMPLAINTS RESOLVED THROUGH THE DIVISION’S INFORMAL MEDIATION PROCESS AND FUNDS”



4. The Bill's description of the types of actions the Division can bring that may result in proceeds going to the Fund must be clarified to ensure that housing providers have all opportunities to pursue their legal rights.

There are a variety of outcomes that can result from the Division's pursuit of a claim regarding an alleged Unfair and Deceptive Trade Practice that might provide funding for the Fund however, these should be specified in the Bill. Furthermore, the Bill should be clear that a residential housing provider has the right to exhaust all administrative remedies before the Fund receives any funds from the proceedings.

Amendment: On page 3, in line 4, after the word "FROM" strike through and including "PROPERTY" on line 7; On page 3, in line 4, after the word "FROM" insert ":(a) A SETTLEMENT BY CONSENT BETWEEN THE DIVISION AND A PARTY RELATING TO AN INVESTIGATION OR ENFORCEMENT OF THE MARYLAND CONSUMER PROTECTION ACT FOR AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE FOR RENTAL RESIDENTIAL PROPERTY; OR (b) A FINAL AGENCY ORDER AGAINST SUCH A PARTY AFTER ALL OF THAT PARTY'S ADMINISTRATIVE REMEDIES HAVE BEEN EXHAUSTED AND ANY PETITION FOR JUDICIAL REVIEW OR FURTHER APPELLATE PROCEEDINGS HAVE CONCLUDED."

For these reasons, we respectfully request a favorable report with amendments on House Bill 499.

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