Bill No: **HB 1223-- Housing provider and Resident - Screening of Residents and Renewal of Tenancy - Standards**

Committee: **Environment and Transportation**

Date: **3/2/2021**

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 would substantively alter the application and screening process for prospective residents. HB 1223 would prohibit a housing provider from requiring 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 housing provider. The bill would also prohibit a housing provider from denying a lease based on certain criteria. Per the bill, if a housing provider requires an applicant to have an income ratio of at least two times the rent advertised for a particular dwelling unit, the housing provider shall make an exception if the prospective resident 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. Additionally, a housing provider must establish a written rental admissions policy and must make it available to the public on request or on the housing provider's website. A housing provider that denies the lease application of a prospective resident must provide the applicant with a written or electronic document stating each reason for the denial. A housing provider may not deny the lease application of a prospective resident based on a reason that is not included in the housing provider's written rental admissions policy. The bill also lays out extensive resident remedies for violations of this legislation. Finally, a housing provider may not elect to renew a lease based on information reasonably related to a resident's status as a victim of a crime or a victim of domestic violence.

In order to ensure that applicants are not subject to unintended bias and are each treated consistently, in accordance with the Fair Housing Act, the majority of AOBA member companies submit application materials to a third-party screening company. Rather than receive a detailed report about an applicant's circumstances, they receive a verdict: "approved", "conditionally approved", "denied" based on a company's established rental requirements. Member companies do not deny applications based on a single factor—such as lack of sufficient rental history or credit history-- but the screening process takes a comprehensive look at applicants and approves them based on a range of predetermined

approval factors. Further, existing federal and Maryland law gives applicants the right to submit information to a housing provider or a credit reporting agency. However, the housing providers AOBA represents are unlikely to submit a request for an addendum or "explanation" of credit/housing history as it would give on-site management staff individualized information about the applicant that may open the applicant up to unintentional bias, whether positive or negative. The responsible housing providers AOBA represents seek to eliminate bias from the rental process and treat all applicants consistently.

Housing providers establish income requirements, such as a 2:1 income ratio, as part of their comprehensive selection criteria. As previously stated, these criteria are universally applied to ensure compliance with Fair Housing Laws. If a housing provider were required to make exceptions to their own qualification criteria to allow certain applicants who do not meet the financial requirements, while holding other applicants subject to the criteria, AOBA members fear they would be out of compliance with Fair Housing. By mandating that a housing provider make an exception if the prospective resident has an income ratio of at least 1:1 if they provide evidence of a prior ability to pay rent equal to or greater than the advertised rent, this bill demands housing providers disregard their own criteria.

It is also important to note that the U.S. Department of Housing and Urban Development defines its standard affordability metric as housing costing 30% of income. Thus a 1:1 ratio is, by definition, an unaffordable unit. Housing providers should not be encouraged to hold residents to a rental obligation that, by definition, they cannot afford. Requiring special treatment using that ratio is bad for residents. Additionally, lowering standards is harmful to housing providers, when seeking loans for necessary capital improvements for instance, because these standards are often reviewed by lenders to ensure housing providers are renting to households with adequate income to meet their rent obligation.

The bill also prohibits a housing provider from electing to renew a lease based on a resident's status as a victim of crime or domestic violence. Members do not hold a resident's survivor status against them when it comes to a lease renewal. The Violence Against Women's Act (VAWA) prohibits denying access to housing or evicting a person based on victimization. However, in compliance with VAWA, eviction is allowable if there is an actual and imminent threat to other residents or employees if the resident is not evicted or tenancy terminated. For example, if a victim does not enforce the provision of a protective order which mandates the abuser leave the unit—and the abuser stays in the community and threatens other residents—the housing provider may have little recourse other than end the tenancy.

Finally, lease application fees are paid to cover the standard costs of screening and other administrative functions. However, the fees are paid merely to cover costs, not make a profit. If an application screening fee exceeds the application fee charged of prospective residents the additional cost is incurred by the housing provider rather than passed on to the applicant. While a property management company may manage dozens of communities, and an applicant may seek housing in each of them, the owner of each community may vary. As such, the management company may be unable to utilize the screening information from one ownership group to another. Also, if an applicant reaches out to 10 communities in a weekend, a large management company will have no way of knowing that the applicant has applied at another managed community. It may be administratively infeasible to match an applicant to each application they submitted at a community.

For these reasons AOBA requests an unfavorable report on HB 1223.

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