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### **Senate Bill 454**

Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program

In Senate Judicial Proceedings Committee on Feb. 9, 2021

Position: FAVORABLE

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Honorable Chair Smith, Vice Chair Waldstreicher, and Members of the Senate Judicial Proceedings Committee:

**My name is Chris Merriam and I own multiple rental properties in Baltimore City. I am writing in strong support of Senate Bill 454.**

Before becoming a property owner and landlord, I spent several years renting homes while struggling financially. Because I had access to financial assistance from my family when I needed it, I was fortunate never to be involved in eviction proceedings. Most people do not have that luxury; as such, I deeply empathize with people who are at risk of losing their home, usually through little or no fault of their own. People who rent their homes deserve better due process before the drastic and traumatic process of eviction is carried out. And while evictions are extremely traumatic for the renters themselves and should be avoided even in the best of times, evictions in the middle of a global pandemic affect far more than just the people being evicted. In a time when we need people to stay home as much as possible to prevent the spread of COVID-19, we must go above and beyond to ensure that all people have a home in the first place.

As a result of the COVID-19 pandemic, an estimated 109-204,000 Maryland households were at risk of eviction at the end of 2020.<sup>1</sup> Meanwhile, 41 percent of Maryland renter households, pre-pandemic, were cost-burdened, meaning they paid 35% or more of their income for housing costs. In FY 2019, there were 669,778 eviction cases filed in Maryland – that is 5 cases filed per cost-burdened household. The struggle to maintain a home in a crisis has become undeniable. Maryland needs a fairer “Failure to Pay Rent” eviction process, one that focuses on housing stability instead of housing loss. We urge the Committee’s favorable report on this bill.

Some argue that if people paid their rent, they wouldn’t end up in rent court, but that assumes guilt on the part of renters. In fact, a [2015 study](#) of one of Maryland’s high-volume “rent courts” found that almost 60% of surveyed renters who appeared at their FTPR trial had a valid defense against their case based on having notified their landlords about severe, continuing housing defects. But about two-thirds of these defendants did not know about habitability-based defenses, namely, rent escrow and implied

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<sup>1</sup> Stout Risius Ross, LLC, Estimation of Households Experiencing Rental Shortfall and Potentially Facing Eviction, <http://bit.ly/stoutevictiondata> (select “Maryland” in drop-down menu).

warranty of habitability defenses. Moreover, the court process itself did not avail these renters a meaningful opportunity to be heard:

At the outset, 168 surveyed renter-defendants appeared at the court building having complained to their landlords about one or more existing threats to health and safety. Instead of bringing forward 168 prima facie implied warranty or rent escrow defenses, these renters were largely diverted to other outcomes. Barely a third of them attempted their available defenses, and only 13 succeeded – yielding an abysmal eight-percent success rate.<sup>2</sup>

Further, there are cases where a landlord has made an accounting error and the renter has paid the rent.

SB 454 brings 3 greatly needed procedural changes to Maryland’s high-volume “Failure to Pay Rent” (“FTPR”) eviction dockets.

- It establishes a 10-day notice period before a FTPR eviction can be filed and requires landlords to attempt alternative resolutions (rental assistance, mediated payment plans) as preconditions to bringing their eviction case.
- It creates a 2-part court process:
  - It uses a status conference, before any trial date, to engage litigants in an Eviction Diversion Program (involving mediation, legal assistance, and rental assistance) and
  - If a trial is needed, the bill gives tenants a formal time in the court process to assert their defense and request documents that will be used against them at trial.
- It provides judges discretionary power to stay evictions in emergency circumstances.

Overall, SB 454 emphasizes up-stream methods of diverting parties from eviction. The bill promotes early engagement, alternative resolutions, and effective use of public resources – including both rental assistance and free legal services. It also strengthens the fairness of the FTPR eviction process without unduly delaying landlords’ right to repossess a property through the courts.

The bill’s eviction diversion components and “procedural tweaks” are recognized by The Washington Post Editorial Board as urgently needed measures and I agree. The system as it currently exists is unjust and is heavily weighted in the landlord’s favor. SB454 will bring more balance and justice to rent court.

**As a landlord, I have no hesitation in supporting this legislation and do not anticipate any negative impact on my business.**

Now is the time to fix Maryland’s massive eviction system. SB 454 is a critical part of that fix, creating a paradigm shift in the state’s massive eviction dockets at a time where the housing crisis is more intense than ever due to the pandemic. **I urge the Committee’s favorable report on SB 454.**

Respectfully,

Chris Merriam

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<sup>2</sup> Public Justice Center, *Justice Diverted: How Renters Are Processed in the Baltimore City Rent Court* 36 (2015), <https://abell.org/sites/default/files/files/cd-justicediverted216.pdf>.