



Bill No: HB 31-- Courts - Surcharges and Payment to Rental Assistance Programs

Committee: Judicial Proceedings

Date: 3/30/2021

Position: Unfavorable

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.

House Bill 31 increases the summary ejectment surcharge fee to \$68 per case. The money will be equally deposited into the Maryland Legal Services Fund and directed to rental assistance programs. The bill prohibits passing the surcharge for summary ejectment on to the tenant by court or by the housing provider.

AOBA members appreciate the intent of this bill and strongly supports the portion that will provide a permanent funding mechanism for rental assistance programs that will help prevent evictions for Marylanders. AOBA has long maintained that rental assistance is the most effective way of decreasing evictions for households in need of support. The Association also understands that the Maryland Legal Services Corporation is facing a budget crisis and this legislation will fund legal services for indigent clients.

In Maryland, the total filing fee for a summary ejectment are comprised of many separate fees. By increasing the surcharge to \$40 under § 7-301(c)(2)(i)(1), the total filing fees for summary ejectment cases would become approximately \$47 in Montgomery and Prince George's Counties, \$42 in Howard, Anne Arundel, and Baltimore County, and \$52 in Baltimore City, plus \$5 for every tenant of record. A \$40 surcharge fee would make Maryland's fee on par with the fees established in Virginia (\$46 - \$56 depending on the amount owed and the county) and Delaware (\$45). Several AOBA members also manage property in Virginia and parity with neighboring states is key for companies working across state lines. It is also noteworthy that Maryland, unlike neighboring states, allows residents the right to redeem 3 times a year—4 in Baltimore City. As a result of the system

established to let residents stay in their homes, Maryland housing providers may file a complaint against the same resident three times more often than housing providers operating in neighboring states. Additionally, filing fees are only one part of Maryland's two-part eviction fee system. After the filing fees are paid, housing providers in Maryland must also pay when the sheriff enforces the court's order. The Warrant of Restitution costs \$40 in most of Maryland and \$50 in Baltimore City. In Prince George's and Montgomery Counties, a \$40 surcharge combined with other fees would bring the cost of summary ejectment to \$77+ which makes the total cost of eviction in line with \$71-81 cost in Virginia and greater than the \$45 cost in Delaware.

Finally, AOBA seeks an amendment to strike the provision of the bill that prohibits a housing provider from passing the summary ejectment fee on to a resident. We have not found evidence of any other state that prohibits the filing fee for a summary ejectment case from being passed on to the resident by the housing provider or the court. As such, this would create a barrier to accessing the court system unique to Maryland. In Maryland, housing providers' only legal remedy to seek outstanding rent is the District Court. Further, this provision singles out the rental housing industry by prohibiting the surcharge for summary ejectment from being passed on to the other party in a manner which seems punitive.

Please see AOBA's amendments below:

1. On page 2, line 9, strike "**68**" and insert "**40**"
2. On page 3, line 8, strike "(5) THE SURCHARGE FOR A SUMMARY EJECTMENT CASE UNDER § 8-401 OF THE REAL PROPERTY ARTICLE MAY NOT BE PASSED ON TO A TENANT BY THE COURT OR BY A LANDLORD."
3. On page 4, line 1, strike "**(5) IF ASSESSED UNDER ITEM (1) OF THIS PARAGRAPH, SHALL BE ASSESSED AGAINST A LANDLORD AND MAY NOT BE AWARDED OR ASSIGNED BY THE DISTRICT COURT AS A FEE OR COST AGAINST A RESIDENTIAL TENANT FOR THE FIRST THREE SURCHARGES ASSESSED IN A YEAR.**"
4. On page 5, line 13, strike "**(9) PROVIDES THAT A TENANT IS, OR REQUIRES A TENANT TO AGREE TO BE RESPONSIBLE FOR THE FIRST THREE PAYMENTS OF A FILING SURCHARGE ASSESSED IN A YEAR AGAINST THE LANDLORD BY THE DISTRICT COURT UNDER § 7-301(C)(2)(I)(1) OF THE COURTS ARTICLE.**"
5. On page 7, line 5, strike "**EXCLUDING THE FIRST THREE SURCHARGES ASSESSED IN A YEAR AGAINST THE LANDLORD UNDER § 7-301(C)(2)(I)(1) OF THE COURTS ARTICLE,**"

For these reasons AOBA requests an unfavorable report on HB 31.

For further information contact Ryan Washington, AOBA Government Affairs Manager, at 202-770-7713 or rwashington@aoba-metro.org.