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February 5, 2021

The Honorable William C. Smith, Jr.
Chairman of the Judicial Proceedings Committee
Miller Senate Office Building
Annapolis, Maryland 21401

**RE: Maryland Legal Aid Written Testimony in Support of SB 454 –
Alterations in Actions for Repossession and Establishment of
Eviction Diversion Program**

Dear Chairman Smith and Committee Members:

Thank you for the opportunity to provide testimony on this important bill. Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to Maryland's low-income and vulnerable residents. MLA handles civil legal cases involving a wide range of issues, including family law, housing, public benefits, consumer law (e.g., bankruptcy and debt collection), and criminal record expungements to remove barriers to obtaining child custody, housing, a driver's license, and employment. Maryland Legal Aid supports Senate Bill 454 and asks that this committee give it a favorable report.

This letter serves as notice that Gregory Countess, Esq. will testify on behalf of MLA in support of SB 454 at Senator Charles Sydnor's request. SB 454 reforms the Failure to Pay Rent process and addresses gaping inadequacies in Maryland law. As Maryland Attorney General Frosh has said, "our eviction process is out of balance and unfair to tenants."¹

SB 454 reforms the process by requiring Landlords to provide notice of past rent due, changing the process imbedded in current law to provide time for negotiation, provides tenants with notice of legal and rental assistance available to them, encourages parties to resolve disputes, requires courts to allow defenses and counterclaims which relate to rent claimed owed, and extends the appeal period so that it corresponds to the appeal period granted in other Landlord-Tenant actions and extends the time the court can consider blocking an eviction if it would harm the health of the tenant and others who reside in the residence.

¹ See <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1213-frosh-serial-evictions-20201211-nnlu6zmiqjgc>

This bill would acknowledge current realities in terms of the time between filing a Failure to Pay Rent complaint and the scheduling of a hearing. MLA's housing attorneys and paralegals had not observed, pre-pandemic, any hearings taking place within five days of filing the complaint as current law requires. Nor have MLA advocates observed the Sheriff serving tenants within three days. In 2012 there were 614,735 Failure to Pay Rent cases filed in Maryland. Maryland Legal Aid conducted a study in 2016 that looked at rent court to see whether it met basic due process standards. The study of rent court practices looked at default judgments and found that in 14.3% of the courts' default judgments in Maryland, there was no service to the tenant. This study included a sampling of cases from across the state. Lack of service is a problem in jurisdictions throughout the state- one cause of the problem is that there is not enough time for the heavily burdened Sheriff Departments to serve all the Failure to Pay Rent Complaints within the time specified by law. Therefore, tenants are in jeopardy of not receiving sufficient notice and are deprived of their due process.

Housing is health; this is true even when a deadly pandemic is not ravaging our entire state. Health and safety issues like mold, rodent and insect infestation, and licensing issues caused by some landlords' unwillingness to comply with the promulgated laws to ensure that rental property is safe and habitable are endemic throughout the state. From the failure of a Landlord to adhere to licensing requirements in Annapolis, where tenants faced the devastating consequences of mold and rodent infestation in their housing or unlicensed Landlords attempting to collect rent in Baltimore City where current law forbids these actions, the many jurisdictions throughout the state require a process that allows tenants to litigate their claims fully.

In the two examples above, MLA advocates had to exert extraordinary efforts to resolve these problems or get them heard. And these cases are not outliers. They are, in many cases, the norm. The process envisioned by this bill provides for a more equitable process that encourages negotiated resolutions while allowing Landlords to repossess their premises if rent is unpaid.

Housing is a human right. Article 25 of the Universal Declaration of Human Rights declares that “[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including...housing...” For this right to be fully realized, the housing must be safe and adequate for human habitation, and must provide for the inhabitants to live “in security, peace, and dignity.”² In other words, four walls and a floor aren't enough, and it is the state's responsibility to ensure that its residents' rights to live in secure and adequate housing are protected.

SB 454 would be a critical affirmative step in improving and strengthening the current protections in Maryland law for tenants when the properties they are renting have unrepaired conditions that threaten their health and safety. It also helps to ensure that tenants have the full opportunity to redeem their premises for the amount of rent truly owed.

For these reasons, Maryland Legal Aid urges a favorable report on SB 454.

² Committee on Economic, Social, and Cultural Rights, General Comment 4 , U.N. Doc. E/1992/23 (1991)

/s/ Gregory Countess

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