



February 9, 2021

Senate Bill 454

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

Position: Favorable

Thank you for the opportunity to provide testimony in support of Senate Bill 454, **legislation that would provide desperately-needed modifications to the court process for Failure to Pay Rent actions in Maryland.** Arundel Community Development Services, Inc., (ACDS) serves as Anne Arundel County’s nonprofit housing and community development agency, helping Anne Arundel County residents and communities thrive through the provision of safe and affordable housing opportunities, programs to prevent and end homelessness, and community development initiatives. In fulfilling this role, ACDS administers grants to nonprofit partners, directly develops and implements programming, and advises the County on housing and community development policy initiatives.

As the COVID-19 crisis forced the closing of businesses and so many households saw a huge drop in incomes due to the loss of jobs and childcare and other factors, **ACDS stood up the State’s first Emergency Rental Assistance (ERA) Program, getting payments to landlords as quickly as possible and keeping low-income families affected by the COVID-19 crisis in their homes.** (Financial eligibility for ERA Programs is typically set at or below 80% Adjusted Median Income.) With the influx of more than \$400,000,000 in new federal rental assistance funds coming to the State of Maryland this year through the Consolidated Appropriations Act, **Emergency Rental Assistance Programs in jurisdictions throughout the State will play a larger role than ever in providing ERA payments to the State’s landlords and preventing evictions of the State’s lower income households.**

Many applicants for ERA are already in the court process for eviction or are being threatened with court filing as the tenant’s ERA application is being processed. There is no mechanism in current law that incorporates the possibility of Emergency Rental Assistance funds that could get a landlord paid without the need for the court process to play out fully. **Absent reform to the current Failure to Pay Rent eviction process, Maryland will without question see the eviction of scores of tenants for Failure to Pay Rent even though rental assistance funds may be available to get landlords paid.**

Because there are no advance notice requirements under current law for Failure to Pay Rent (FTPR) actions in Maryland, FTPR lawsuits often come as a surprise. **If advance notice were required before filing a FTPR case (as is required in this bill), an ERA Program would be**

able to reach out to the landlord before the lawsuit is filed to confirm that an application is being processed. That alone could avoid the filing of a FTPR case in the first place.

Currently, if an applicant for ERA is sued before or while an application for ERA is pending, a flurry of activity *focused on the court action rather than on the continued processing of the ERA application takes place.* The tenant is referred immediately for legal assistance in an effort to fend off the court action, and the tenant's attention is necessarily diverted from gathering all required information and documentation for processing the ERA application to focusing on the court action. The ERA Program's attention is also diverted to the court action, as the ERA Program staff attempts to provide whatever is necessary to persuade the landlord to delay the eviction process pending completion of the ERA application. All the while, time is passing when the tenant's application would otherwise be getting processed, moving the landlord closer to getting paid.

Very often the only thing holding back the entry of a judgment for possession and the inevitable eviction is the presence of an attorney arguing vigorously for trial delays and stays on evictions based on the existence of a pending application for ERA. This is not a theory that is currently clearly spelled out in the law. Moreover, not all tenants are able to retain legal counsel on short notice, and short notice is virtually all there ever is on the "Rocket Docket" that is the current Failure to Pay Rent process. **This bill would alleviate both problems, by creating a diversion point immediately after a FTPR case is filed to allow the tenant *time to seek legal counsel before trial and by allowing time for the involvement of an ERA Program.***

At the diversion point immediately after the filing of a FTPR case, a tenant is afforded time to either complete the processing of a pending ERA application or to start an application for ERA. A Status Conference is built into the process before trial, and to the extent the tenant is still involved in the ERA process at that point, the Court is authorized to allow time for completion of the ERA process. Unlike current law, this bill ***gives judges clear authority to delay trials and evictions after trial pending completion of a tenant's ERA application.*** With this eviction diversion point written into the eviction process and authority given to the court, **an eviction taking place when funds to pay a tenant's rent are mere processing time away will be avoided.** Tenants who are eligible for ERA funds – low-income families and individuals negatively affected by the COVID-19 crisis and those who qualify for other ERA funds – will avoid eviction, and landlords will be paid.

For the reasons noted above, we urge a FAVORABLE report on SB 454.

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