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Baltimore City and Baltimore County

Judicial Proceedings Committee

Joint Committees

Children, Youth, and Families

Cybersecurity, Information
Technology, and Biotechnology

Ending Homelessness



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THE SENATE OF MARYLAND
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**Testimony for SB 454
Real Property – Alterations in Actions for Repossession
And Establishment of Eviction Diversion Program
Before the Judicial Proceedings Committee
On February 9, 2021**

Good afternoon Mr. Chairman, members of the Judicial Proceedings Committee

Before COVID-19 arrived, tenants in Baltimore and across Maryland were in a precarious situation. The arrival of COVID-19 and our response has revealed a lot about how our laws are working and not working for people, but it has also raised the stakes. As we confront a historic wave of evictions in Maryland and in the rest of the country, we can bring security to tenants by guaranteeing their procedural rights. Not only will SB 454 save lives in this time of crisis, it will leave Maryland's landlord-tenant law more equitable and fair than when the pandemic started. SB 454 will ensure tenants are aware of their rights and that all parties will engage in good-faith problem-solving before evictions are pursued.

The landlord-tenant relationship rests on competing interests. On the one hand, the property owner has an interest in property as an investment vehicle and a source of income. On the other hand, the tenant has an interest in a place to live. Our rent courts are set up with respect to both of those competing interests when a tenant is delinquent on rent. As to landlords, the District Court allows landlords to file and complete eviction actions quickly and efficiently so as to protect their investments.¹ The District Court also allows tenants opportunity to object to repossession actions. But in practice, an overwhelming number of tenants are unable to protect themselves from ejection due to limits on time, knowledge, and resources.

Not only is there uneven access to legal knowledge and tools, the stakes for renters are necessarily higher – compare the loss of a home to the loss of an investment income stream. The dangers facing renters during the COVID-19 pandemic are especially high. In July of last year, the Workgroup on COVID-19 and Housing reported that over 40% of Maryland's rental households,

¹ PUBLIC JUSTICE CENTER, *Justice Diverted: How Renters are Processed in the Baltimore City Rent Court*, at 5–6 (2015) [hereinafter PUBLIC JUSTICE CENTER].

approximately 292,000 households, were at risk of eviction.² Recent research indicates that 10,000 people across the nation died because of jurisdictions that failed to maintain eviction moratoriums through December.

The current state of the repossession complaint reflects an apparent desire to maximize as many eviction claims as quickly as possible, as noted by the Public Justice Center:³ The court complaint itself is a streamlined fillable form: ten prompts on one single-sided page. The court complaint itself is a streamlined fillable form: ten prompts on one single-sided page. No additional documentation – such as an accounting statement or copy of the lease – is needed to file. Additionally, there is no waiting period. A landlord can litigate a claim for unpaid rent as early as the first day the rent has come due. Maryland is among a handful of states that allow landlords to begin litigating a rent dispute without any prior demand or notice to the renter. In contrast, 41 states require some variety of “pay or quit” notice and a waiting period, ranging from 3 to 14 days, before a landlord may begin the court process.⁴

Senate Bill 454 will transform the summary repossession process in three fundamental ways: (1) it will ensure tenants are made aware of their rights well before showing up to the courthouse; (2) it will require landlords to treat with tenants as equal parties to an agreement rather than as problems to be solved; and (3) it will ensure tenants in need of assistance before trial and at a pre-trial hearing will have assistance. Landlords will no longer be able to use a summons to District Court as a “final notice” to tenants delinquent on rent. Moreover, SB 454 will do nothing to take away landlords’ substantive rights; it will simply guarantee true due process for tenants.

The Eviction Diversion Program under SB 454 is dedicated to promote continuity of housing by reducing the incidence of evictions. The program will engage “eviction prevention service providers” to screen tenants in need of assistance. Landlords will be required to keep current records listing all debts and credits made during tenancy, to be produced within five days of a tenant’s request. Before filing an eviction complaint, pursuant to 8-401(d)(1), a landlord must deliver written notice to the tenant that includes nine pieces of information.⁵

² Kathryn M. Leifheit et al., *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality*, UCLA FIELDING SCHOOL OF PUB. HEALTH (Dec. 3, 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3739576 (pending peer review).

³ PUBLIC JUSTICE CENTER at 24 (“Former district court administrative judge Keith Matthews said in 2003, ‘it’s easier to evict someone in Baltimore City than almost anywhere else in the country.’”).

⁴ *Id.*

⁵ The nine items to be included are: (1) a heading and subheading, in specified font sizes, to read: “Notice of Delinquency and Legal Rights: This is Not an Eviction Notice;” (2) the date of the notice; (3) a description of the past-due rent in dispute, including amounts of rent and late fees but not non-rent costs with the corresponding periods for which rent is past due; (4) a statement informing the tenant that the landlord will promptly produce an itemized list of debts and credits upon tenant’s request; (5) a request that tenant apply for financial assistance or that tenant negotiate a payment plan; (6) the contact information of the landlord; (7) a statement that the landlord may initiate a repossession action if the tenant does not respond within 10 days after delivery of the notice and that tenant has the right to dispute the charges; (8) contact information for a service provider and

Before proceeding to file a claim for repossession, a landlord must engage in affirmative, good-faith efforts to resolve the claim. The landlord may proceed if the tenant fails or refuses to respond or materially breaches the terms of a pre-eviction payment plan or alternative agreement. The landlord's repossession filing must be accompanied by affirmations that the landlord delivered mandatory notice, that the landlord made a good-faith effort to resolve the claim, that their effort failed, and the time at which the efforts was attempted.

This pandemic has shown a light on a variety of inequities in the operations of our systems. SB 454, is an opportunity to address a system for which reform is warranted. With that, I am asking for a favorable report on SB 454.

corresponding information regarding financial and legal aid; and (9) contact information for District Court resources.