



## House Bill 31

### Courts – Surcharges and Payment to Rental Assistance Programs

Before the House Judiciary Committee, Feb. 17, 2021

Position: FAVORABLE WITH AMENDMENTS

Renters United Maryland (RUM) is a statewide coalition of renters, organizers, and advocates for safe, stable housing. We stand on the principle that housing is a human right that is critical to an individual's quality of life, the health of families, and the prosperity of communities.

**The following members of Renters United Maryland urge a FAVORABLE WITH AMENDMENTS report on HB 31:**

Public Justice Center	Homeless Persons Rep. Project	CASA De Maryland
Jews United for Justice	Santoni, Vocci & Ortega, LLC	Md. Ctr. on Economic Policy
Md. Legislative Coalition	Right to Housing Alliance	Our Revolution, MD
Md. Access to Justice Commission	Communities United	

We attach and incorporate our testimony on HB 729, which is equally relevant to HB 31, except that we request one amendment: **HB 31 should incorporate a remedy for tenants whose landlords attempt illegally to pass through the filing surcharge similar to that in HB 729.**

**HB 729 has a strong protection against the landlord or court passing on the surcharge to the very same tenants who are desperately trying to avoid eviction.** HB 729 does that by clearly stating that the court may not pass on the surcharge to tenants in an eviction action and that the landlord may not pass through the surcharge in a lease provision. HB 729 amends RP § 8-208(d) to provide a remedy to the tenant if the landlord attempts to illegally pass on this surcharge to the tenant. HB 31 does not have this remedy or clarity in the protection for tenants. Without this remedy, landlords will contract with tenants who are already most vulnerable to eviction to pay this additional fee as well. Landlords should not be allowed to subsidize their debt collection efforts through this General Assembly provision any more than they already do by charging allegedly delinquent tenants each month a 5% late fee, court filing fee, and often an "agent fee" related to their administrative costs in debt collection.

Tenants must have a remedy if landlords attempt to pass through this surcharge. HB 31 should incorporate the revision to RP § 8-208(d) specified in HB 729 to provide tenants a clear remedy if the landlord attempts to pass through this surcharge. We also note that while we strongly support funding rental assistance programs, the State is receiving \$400 million from the federal government for this purpose in the December 2020 COVID relief legislation, and additional funds may be allocated in subsequent federal legislation. Rental assistance must be balanced with other urgent housing needs and the need for due process in eviction matters.

**The RUM Members listed above urge the Committee to issue a FAVORABLE WITH AMENDMENT report on HB 31.**



**House Bill 729**  
**Landlord and Tenant – Eviction Actions – Filing Surcharge and**  
**Prohibited Lease Provisions**  
 Before the House Judiciary Committee, Feb. 17, 2021

Position: FAVORABLE

**Renters United Maryland (RUM) is a statewide coalition of renters, organizers, and advocates for safe, stable housing. We stand on the principle that housing is a human right that is critical to an individual's quality of life, the health of families, and the prosperity of communities. The following members of Renters United Maryland urge a FAVORABLE report on HB 729:**

Public Justice Center	Homeless Persons Rep. Project	CASA De Maryland
Mont. County Renters' Alliance	Santoni, Vocci & Ortega, LLC	Eva Rosen, Ph.D., Georgetown Univ.
Catholic Charities	Right to Housing Alliance	Ches. Physicians for Social Respons.
Strong Future Maryland	Health Care for the Homeless	Md. Access to Justice Commission
Md. Legislative Coalition	Communities United	Md. Ctr. on Economic Policy
Our Revolution, MD	Beyond the Boundaries	Civ. Advoc. Clinic, Univ. of Baltimore
Jews United for Justice		

**Housing Court must be about Housing Justice – not the frontline of landlord debt collection.** Today in Maryland the opposite is true. Over 660,000 eviction complaints are filed each year (pre-pandemic) with only approximately 730,000 renter households in the entire state.

**Why? Because the General Assembly has given landlords cheap, easy access to a state-financed debt collection system called “rent court” to obtain rent/repossession.** According to the Attorney General, other states charge an average of \$122 per filing for eviction; Maryland charges \$15 per filing – one of the lowest in the country. Most other states require landlords to send a pre-filing notice to the tenant: “Pay \$xx within 10 days or we will file a complaint.” Maryland does not.

**The result for our members/clients is that on the 6<sup>th</sup> of the month, the landlord adds numerous fees to the ledger and digs a deeper hole -- even if the tenant only owes \$300.** Every month the landlord adds to the tenant's ledger a 1) 5% late fee, 2) court filing fee of \$20 to \$30, and 3) often an “agent fee” (a fee to cover additional, purported administrative costs), if the tenant is even one day late on the rent.

**If a renter has a defense to the eviction complaint, they must take off work, find alternative childcare, re-arrange medical appointments and show up at court often with as little as 2 days' notice!** Contrary to assertions by Md. Multi Housing Assoc., renters have many defenses in these cases. In one 2016 survey of tenants who were at court, 80% had a defense. [Sixty-eight percent of tenants had a defense based on uninhabitable conditions](#) in the property (but only 8% of tenants were able to successfully raise the defense *pro se*). Other non-habitability-related defenses include that the landlord lacks a

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license/lead registration; accounting errors in the ledger; seeking illegal excessive fees and non-rent charges; wrongfully trying to foreclose the right to redeem.

**One part of the solution: HB 729 removes the incentive for landlords to file for eviction each month on the 6th if the tenant is only one day late with the rent. [Eighty-four percent](#) of Baltimore City eviction actions are filed with only one month's rent due. With this bill, landlords will be incentivized to send a notice to the tenant first, reminding the tenant to pay. Landlords will have an incentive to work out a payment plan or even make repairs to the roof so that the tenant will pay the rent and landlords will not need to file a more expensive eviction action. Raising the surcharge was a key recommendation of the Attorney General's Task Force that produced [Confronting the COVID-19 Access to Justice Crisis](#).**

**Landlords are quick to blame the tenant's "right of redemption" in Maryland for the high filing rate, but a comparison to D.C. reveals that this is misleading.** The right of redemption, also known as the right to "pay and stay," means that the tenant can pay off a rent judgment anytime before the eviction for three judgments in a 12-month period. On the 4th judgment (5th in Balt. City), the landlord can foreclose that right. *Maryland has an eviction complaint filing rate of 5.57 cases per cost-burdened renter household (2019 ACS & Judiciary data). D.C. has an eviction complaint filing rate of 0.54 cases per cost-burdened household (2018-29 DC Court & ACS data).* D.C. has a right to redeem just like Maryland. So why the difference in filing rate? D.C. reduces the easy access of landlords to filing and litigating by requiring a pre-filing notice and allocating almost \$5 million/year to representation for tenants. To further reduce the filing of eviction complaints, D.C. is raising the cost of filing to \$100. **D.C. has recognized that by removing the special access that landlords receive to an incredibly cheap, low-entry-barrier eviction process, the state can reduce serial filings and create a fairer system for all.**

**The disparate impact of the eviction crisis on Black households cannot be overstated: [According to State DHCD 35.5% of Black renters in Maryland are facing eviction compared to 13.9% of White renters](#).** The well-documented systemic and institutionalized racism in housing, income, wealth, and so many other markers of human thriving have been exacerbated by this pandemic. The question is whether the General Assembly will have the courage to act and address the nature of the eviction process driving the crisis and resulting disparate impact on Black and brown communities.

**Finally, it is critical to RUM members that HB 729 retain strong protections against landlords passing on these surcharges to the very tenants who are desperately trying to avoid eviction.** HB 729 does that by stating that the court may not pass on the surcharge to tenants in an eviction action, and the landlord may not pass through the surcharge in a lease provision and provides a remedy to the tenant if the landlord does so. Other bills related to the surcharge should also integrate this strong remedy for tenants by amending RP § 8-208(d) to stop landlords from passing on the surcharge to tenants.

Nothing is more dehumanizing in our civil legal system than the current "cattle call" approach to failure-to-pay-rent eviction cases. Raising the filing surcharge is a critical component of reducing the number of eviction cases, funding a right to counsel in eviction cases, and restoring the court as a place of housing justice more than a cheap, easy way for landlords to quickly collect alleged debts.

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