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**TO:** The Honorable Luke Clippinger  
Chair, Judiciary Committee

**FROM:** The Office of the Attorney General

**RE:** House Bill 31 – Courts – Surcharges and Payment to Rental Assistance Programs  
**(Letter of Support in Concept)**

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The Office of the Attorney General provides the Judiciary Committee with this letter of support in concept regarding House Bill 31, Chair Clippinger's bill to increase general court civil case surcharges from \$55 to \$85 per case; and increase district court summary ejectment surcharges per case from \$8 to \$68. The bill splits these surcharges equally between the Maryland Legal Services Corporation Fund and Maryland rental assistance programs. Finally, the legislation further provides that, "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." We fully support the bill's increase in general civil filing fees and funding for legal services and rental assistance, but we believe the increase in these filing fees should be considerably greater, as reflected in our proposal in House Bill 729<sup>1</sup> to increase the filing fee in all landlord-tenant actions to \$120.

### **The Problem of Serial Evictions in Maryland**

As noted in the Attorney General's recent opinion editorial, tens of thousands of Marylanders suffer through a recurring nightmare: the eviction summons posted on the door.<sup>2</sup> The order to appear in court. A frantic scramble for rent delayed after unexpected medical bills.

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<sup>1</sup> See generally 2021 Leg., 422d. Sess. (Md. 2021).

<sup>2</sup> See Brian Frosh, *Attorney General: Maryland Eviction Process 'Unfair to Tenants' | Commentary*, BALT. SUN (Dec. 11, 2020), <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1213-frosh-serial-evictions-20201211-nnlu6zmiqjc7dyohvqxq5k3cu-story.html>.

Late fees and court costs. The relief of scraping by this time. A few months reprieve. Then repeat – the cycle begins again.

In most states, eviction begins with a notice to the tenant. Tenants then have a chance to seek rental assistance, work out payment plans, or find other housing before the hammer of judicial process falls. But in Maryland, the first step is an eviction filing in court. The landlord's cost of filing is \$15, one of the lowest nationwide.<sup>3</sup> Some states impose fees over \$300; the national average is \$122.<sup>4</sup>

These low filing fees cause landlords to engage in a practice called “serial eviction filings.”<sup>5</sup> Over 660,000 eviction cases are filed each year in Maryland.<sup>6</sup> The filing rate in some counties is over 100%, meaning more eviction actions are brought than there are homes for rent.<sup>7</sup> Baltimore City has 125,000 rental units, but roughly 140,000 eviction cases per year.<sup>8</sup> About 6,500 result in removal.<sup>9</sup> Why the discrepancy, and what happens to all the other cases? 84 percent of Baltimore City eviction actions are filed with only one month's rent due.<sup>10</sup> Worse, many landlords file as soon as tenants are a few days late. This practice has made courts “more like an extension of the residential rental business than an impartial arbitrator between landlords and tenants.”<sup>11</sup>

Maryland's low barriers for filing eviction actions make it an outlier. Eviction filing rates in neighboring states range from 5.3% in Pennsylvania<sup>12</sup> to 16.9% in Delaware.<sup>13</sup> Rates in

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<sup>3</sup> *See id.*

<sup>4</sup> *See id.*

<sup>5</sup> *See generally* Lillian Leung et al., *Serial Eviction Filing: Civil Courts, Property Management, and the Threat of Displacement*, SOCIAL FORCES, Sep. 11, 2020, at 1, <https://academic.oup.com/sf/advance-article-pdf/doi/10.1093/sf/soaa089/33732959/soaa089.pdf> (“Serial eviction filings occur when a property manager files to evict the same household repeatedly from the same address.”).

<sup>6</sup> *See* Bennett Leckrone, *Chief Judge: Eviction Filings Face Court Backlog*, MD. MATTERS (Sep. 9, 2020), <https://www.marylandmatters.org/2020/09/09/chief-judge-eviction-filings-face-court-backlog/>.

<sup>7</sup> Md. Eviction Filing Rate Interactive Map, Eviction Lab, <https://evictionlab.org/map/#/2016?geography=counties&bounds=-84.401,36.16,-71.463,41.132&type=efr&locations=24,-77.222,39.273> (last visited Feb. 15, 2021).

<sup>8</sup> STOUT RISIUS ROSS, *THE ECONOMIC IMPACT OF AN EVICTION RIGHT TO COUNSEL IN BALTIMORE CITY 19* (May 18, 2020), [https://bmorerentersunited.org/wp-content/uploads/2020/05/Baltimore-RTC-Report\\_FINAL\\_5.8.2020.pdf](https://bmorerentersunited.org/wp-content/uploads/2020/05/Baltimore-RTC-Report_FINAL_5.8.2020.pdf).

<sup>9</sup> *See id.*

<sup>10</sup> *Id.*, at 23.

<sup>11</sup> Leung et al., *supra* note 10, at 23.

<sup>12</sup> Pa. Eviction Filing Rate Interactive Map, Eviction Lab, <https://evictionlab.org/map/#/2016?geography=states&bounds=-81.727,39.553,-73.482,42.43&type=efr&locations=42,-77.799,40.874> (last visited Feb. 15, 2021).

<sup>13</sup> Del. Eviction Filing Rate Interactive Map, Eviction Lab, <https://evictionlab.org/map/#/2016?geography=states&bounds=-90.784,35.387,-66.895,43.876&type=efr&locations=10,-75.42,38.821> (last visited Feb. 15, 2021).

New Jersey<sup>14</sup>, the District of Columbia<sup>15</sup>, and Virginia<sup>16</sup> range from 12.5% to 15.7%. Maryland's rate in excess of 80% dwarfs them all.<sup>17</sup>

## The Proposed Solution

The Attorney General appreciates that Congress has finally acted to provide additional rental assistance for struggling Americans – but that alone will not solve this crisis. Maryland families were facing a housing instability long before COVID-19. Even pre-pandemic, in 2019, more than 600,000 evictions were filed in Maryland district courts. And as with the health outcomes of COVID-19, communities of color are facing the greatest hardships. In Baltimore, for example, the number of eviction removals of Black households in 2018 and 2019 was three times higher than those for white households.

The pandemic has only further exacerbated these challenges, with more than 200,000 Marylanders estimated to be facing eviction once court proceedings resume and state and federal moratoria and defenses are lifted. For the past six months, more than 300 stakeholders across the public and private sector have been meeting as part of the Attorney General's COVID-19 Access to Justice Task Force to confront this growing disaster by developing strategies for reforming longstanding inequities in housing access and several other civil legal areas. The resulting Report,<sup>18</sup> "Confronting the COVID-19 Access to Justice Crisis" is available online [here](#).

Included among the Task Force recommendations are three key areas of reform: Emergency Renter Protections; Emergency Homeowner Protections; and Evictions Process Overhaul. The Attorney General's relevant legislation, HB 729, increases from "not more than \$18 to not less than \$120," the surcharge that the District Court is required to assess in every summary ejection, tenant holding over, and breach of lease case that seeks a judgment of possession of residential property against a tenant. It also requires the courts to assess the surcharge against the landlords and prohibits passing the cost along to tenants.

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<sup>14</sup> N.J. Eviction Filing Rate Interactive Map, Eviction Lab, <https://evictionlab.org/map/#/2016?geography=states&bounds=-90.784,35.387,-66.895,43.876&type=efr&locations=10,-75.42,38.821%2B34,-74.728,39.776> (last visited Feb. 15, 2021).

<sup>15</sup> D.C. Eviction Filing Rate Interactive Map, Eviction Lab, <https://evictionlab.org/map/#/2016?geography=states&bounds=-78.346,38.465,-75.776,39.389&type=efr&locations=11,-77.016,38.905> (last visited Feb. 15, 2021).

<sup>16</sup> Va. Eviction Filing Rate Interactive Map, Eviction Lab, <https://evictionlab.org/map/#/2016?geography=counties&bounds=-79.053,38.235,-74.946,39.711&type=efr&locations=51,-77.893,38.582> (last visited Feb. 15, 2021).

<sup>17</sup> Compare Md. Eviction Filing Rate Interactive Map, *supra* note 12 (finding Maryland's eviction filing rate exceeds 100%) with Pa. Eviction Filing Rate Interactive Map, *supra* note 17 (finding Pennsylvania's eviction filing rate is 5.3%), Del. Eviction Filing Rate Interactive Map, *supra* note 18 (finding Delaware's eviction filing rate is 16.9%), N.J. Eviction Filing Rate Interactive Map, *supra* note 19 (finding New Jersey's eviction filing rate is 12.05%), D.C. Eviction Filing Rate Interactive Map, *supra* note 20 (finding District of Columbia's eviction filing rate is 15.67%), and Va. Eviction Filing Rate Interactive Map, *supra* note 20 (finding Virginia's eviction filing rate is 14.48%).

<sup>18</sup> See generally MD. ATT'Y GEN. BRIAN E. FROSH'S COVID-19 ACCESS TO JUST. TASK FORCE, CONFRONTING THE COVID-19 ACCESS TO JUSTICE CRISIS (Jan. 2021), [https://www.marylandattorneygeneral.gov/A2JC%20Documents1/AG\\_Covid\\_A2J\\_TF\\_Report.pdf](https://www.marylandattorneygeneral.gov/A2JC%20Documents1/AG_Covid_A2J_TF_Report.pdf).

Attorney General Frosh asks Members of the General Assembly to increase our eviction filing fee to at least the national average of \$120. The increased surcharges would serve as a funding stream so that the Maryland Legal Services Corporation can fund a right-to-counsel in eviction cases.

Forced displacement disrupts lives in profound and irrevocable ways. Its harms fall disproportionately on those least able to weather them.<sup>19</sup> As one writer captures the impact of eviction, “without stable shelter, everything else falls apart.”<sup>20</sup> We must do more to help Maryland families keep things together.

cc: Judiciary Committee Members

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<sup>19</sup> See HUNTER URB. POL’Y & PLAN., NEXT IN LINE: THE HUMAN COST OF THE EVICTION CRISIS 19 (2020), [http://www.hunterurban.org/wp-content/uploads/2020/10/Studio-Spring-2020\\_Next-In-Line\\_The-Human-Cost-of-the-Eviction-Crisis.pdf](http://www.hunterurban.org/wp-content/uploads/2020/10/Studio-Spring-2020_Next-In-Line_The-Human-Cost-of-the-Eviction-Crisis.pdf).

<sup>20</sup> Interview, *Eviction: Not Just a Condition, but a Cause of Poverty*, U.S. CATH. (Feb. 13, 2018), <https://uscatholic.org/articles/201802/eviction-not-just-a-condition-but-a-cause-of-poverty/>.