



Bill No: **HB 52 – Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program**

Committee: **Judiciary**

Date: **2/17/2021**

Position: **Oppose**

The Apartment and Office Building Association of Metropolitan Washington (AOBA) opposes HB 52. AOBA's members own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's Counties.

This bill seeks to reduce the number of judgments entered in Failure to Pay Rent cases by establishing an Eviction Diversion Program and mandating that the Chief Judge of the District Court establish the Program in jurisdictions that processed 10,000 or more claims in 2019, while keeping it discretionary in jurisdictions. The bill also places new requirements on housing providers to participate in the Program, to follow new procedures and provide a variety of new notices to tenants before being able to exercise their legal right to file Failure to Pay Rent cases to collect unpaid rent. Senate bill 454, also drastically alters failure to pay rent (FTPR) collection procedures by changing the rules for getting adjournments or continuances and lengthens time periods for seeking and obtaining judgments and warrants of restitution.

AOBA appreciates the intent of this bill and has met with the Sponsor to discuss possible solutions for eviction diversion. We look forward to continuing to work with the sponsor and collaboratively develop a holistic approach to working with residents that are chronically late with rent payments.

However, we are still in the midst of those conversations and must oppose HB 52 because the bill seeks to make permanent changes that substantially alter the current eviction process, lengthen the process and ignore local laws governing the process.

The current eviction process was carefully crafted to create a balance between protections for residents and remedies for housing providers—AOBA believes this bill upends that balance. The bill requires that housing providers take numerous steps as a prerequisite to filing a failure to pay rent complaint and compliance with these specified steps would become an element of the housing provider's case, which they must prove in each case.

Also, the new 10-day period prior to a housing provider's ability to file a failure to pay rent case seems negligible. However, in Montgomery and Prince George's Counties, prior to the COVID pandemic, it consistently took 3-4 weeks after filing to get to the District Court for a FTPR hearing. It also consistently took 6-8 weeks for an eviction in Prince George's County and longer in Montgomery County. Housing providers can count on it taking a minimum of 9-12 weeks for any legal remedy for failure to pay rent—during which time the outstanding rent balance continues to grow. Housing providers almost never see these balances repaid. An additional 10 days, while seemingly inconsequential, will deepen that outstanding rent balance at a time when the class C properties AOBA members manage are already seeing 30% delinquencies in rent payments.

These prerequisite procedures place the onus on the housing provider, and a fiscal/resource burden on the District Court, to try and remedy the resident's rent delinquency. In practice, since March 2020, AOBA members have supported residents in seeking rental assistance and offered residents a variety of creative payment plans during the COVID-19 pandemic. These payment plans offered to forgive percentages of outstanding rent, extend 18 months, or numerous other provisions to help tenants--yet less than 5% of tenants were interested in these plans. Now this bill attempts to mandate payment plan negotiation for housing providers and residents alike. Additionally, a resident's material breach of a term of the payment plan agreement allows the housing provider to file its FTPR case, however the bill is silent regarding how long the provider must wait for this to occur before it can exercise that right.

AOBA is happy to continue discussions with the bill sponsor to develop processes that will increase housing stability for vulnerable Marylanders—concerns we share. However, we must oppose this bill as currently drafted.

For these reasons AOBA respectfully requests an unfavorable report on HB 52.

For further information contact Erin Bradley, AOBA Vice President of Government Affairs, at 301-904-0814 or erBradley@aoba-metro.org.