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HB 1312 - COVID-19 Eviction and Housing Relief Act of 2021

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Position: SUPPORT

The Public Justice Center is a not-for-profit, civil legal aid organization that serves over 700 renters each year throughout Maryland. During the COVID-19 pandemic, our paralegals and attorneys have worked at the frontline of eviction defense. We have advised countless households on changing court operations and makeshift federal, state, and local protections that impacted whether they could stay in their home amid a once-in-100-years public health crisis. By September 2020, with courts open for the business of eviction, we understood that the patchwork of eviction protections – Gov. Hogan’s Executive Orders, the CARES Act, and the CDC Order temporarily halting evictions – would be ineffective to save many of the most vulnerable Maryland households from displacement and illness. We urge immediate passage of HB 1312, the COVID-19 Eviction and Housing Relief Act, to ensure the strongest protection for Maryland during this emergency and the ensuing economic recovery.

HB 1312 establishes a true emergency moratorium on eviction

Maryland’s “eviction moratorium” allowed **2,571 court-ordered evictions** to occur from July 2020 through November 2020. The ersatz moratorium also allowed the filing of over **117,000 eviction cases**, mostly for non-payment of rent. Landlord were permitted to circumvent executive orders that applied to non-payment of rent actions by filing nearly 2,000 Tenant Holding Over (THO) eviction actions, based on lease expiration, from August 2020 through November 2020. These moratorium exploits amounted to an **83 percent increase** in THO cases year over year.

Currently, as the Court has reverted to limited “Phase II” operations (through March 14, 2021) due to surging COVID-19 cases and deaths, it nonetheless has left the door open for enforcement of existing eviction orders and for scheduling new “emergency” eviction proceedings for Breach of Lease, THO, and Wrongful Detainer (wherein the “emergency” is undefined and determined before a tenant can respond to the allegation).

Actual evictions and the continuing threat of court-ordered eviction have happened despite federal aid and good intentions. Why? Because Maryland did not have a real eviction moratorium. HB 1312 establishes full protection from eviction throughout the State of Emergency.

- Executive orders by Gov. Hogan and the CDC offered renters limited protections that have to be won in court and gave landlords a broad loophole to evict renters outside of court through lease non-renewals.
- Maryland prevented an eviction avalanche not through legal protections but instead because of the courts' COVID-19 safety precautions that heavily restricted the number of persons allowed into court buildings.

Maryland households need the temporary eviction protections in HB 1312

While some policymakers rest optimistically on the prospect of COVID-19 vaccines and a new round of federal aid, the weight of rental debt hangs on both low- and middle-income households. As of January 2021, **60 percent of Maryland households earning under \$75,000 believed they were “very likely” or “somewhat likely” to be evicted in the next two months** (U.S. Census Household Pulse Survey, Jan. 18, 2021). This instability is also unevenly felt by race, as **30 percent of Latino households and 23 percent of Black households were behind on rent in January, compared to just 6 percent of white households**. Inarguably, Maryland needs to take action to ensure that we have an economic recovery for everyone, without exclusions. HB 1312 is a key part of that recovery.

The eviction protections provided in this bill are set forth in 4 sections, as follows:

- Sec. 4 - HB 1312 prohibits all proceedings for eviction, no matter the type, during the State of Emergency.
- Sec. 5 - After the State of Emergency is rescinded and through April 2022, HB 1312 prohibits any steps to evict in absence of a “just cause.” While substantial lease violations, disorderly conduct, and illegal activity are just causes for eviction, rent delinquency and lease expiration are not. The enumerated causes that allow lease termination also include the housing provider’s decision to withdraw the property from the market, to move into the property for personal use, or to undertake substantial repairs. This section also requires that any notice to quit must provide 60 days’ notice and notify the tenant of the basis for the termination.
- Sec. 6 - After the State of Emergency is rescinded and through April 2022, HB 1312 also provides affirmative defenses to eviction for non-payment of rent, Breach of Lease, and Tenant Holding Over where the tenant can show that their rent delinquency, lease

violation, or holdover is caused by a substantial loss of income resulting from the pandemic.

- Sec. 7 – Through April 2022, HB 1312 also requires key preconditions to filing an eviction action for non-payment of rent and prohibit the foreclosure of a tenant’s right to redeem (right to “pay to stay”) possession based on judgments entered during the COVID-19 emergency. Preconditions to filing include a threshold amount of \$600 in arrears and delivery of a 10-day “Notice of Delinquency and Legal Rights” to the tenant. The bill requires the housing provider to attempt, before filing an eviction case, to resolve any rental debt through application for rental assistance and, if needed, through a repayment plan negotiated with the tenant via the Judiciary’s Office of Alternative Dispute Resolution. Virginia enacted a similar provision in November 2020.

HB 1312 mandates broad access to eviction data

This bill also recognizes the pressing need for data on displacement and loss of housing in Maryland. HB 1312 creates a one-stop repository of data about evictions and foreclosures in multiple formats that allow for geospatial and other types of analysis. Currently, the Maryland Judiciary provides numerical data about eviction filings, by case type, and aggregate numbers for warrants of restitution and actual evictions.

HB 1312 mandates the Department of Housing and Community Development to collaborate with local sheriffs and the Maryland Judiciary on the collection and release of anonymized data about actual evictions, including the type of action, the date of occurrence, ZIP code, and census tract. These data will open the gateway to evaluating the effectiveness of emergency eviction prevention measures and to innovating new solutions to housing displacement.

Now is the moment for the General Assembly to respond to the emergency, to establish strong protections and close existing loopholes. HB 1312 will give certainty to people’s right to keep safe at home and to utilize financial assistance effectively. This bill is the solution for compensating housing providers while preventing loss of housing – during the pandemic and in the economic recovery that will follow.

Please issue a report of FAVORABLE on HB 1312. If you have any questions, please contact Zafar Shah, shahz@publicjustice.org, (410) 625-9409 Ext. 237.