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**HB 392: Landlord and Tenant – Failure to Repair Serious and Dangerous Defects – Tenant Remedies (Tenant Justice Act)**

**HEARING BEFORE THE ENVIRONMENT & TRANSPORTATION COMMITTEE, FEBRUARY 8, 2022 AT 1:00 PM  
POSITION: SUPPORT**

The Pro Bono Resource Center of Maryland (“PBRC”), an independent 501(c)(3) non-profit organization, is the statewide clearinghouse for volunteer civil legal services in Maryland. As the designated pro bono arm of the Maryland State Bar Association, PBRC provides training, mentorship, and pro bono service opportunities to members of the private bar. We respond to acute legal needs identified in areas across the state by piloting innovative pro bono service projects targeting specific legal problems or populations.

In May 2017, with a grant from the Maryland Judiciary’s Access to Justice Department, PBRC launched the **Tenant Volunteer Lawyer of the Day Program (TVLD Program)** in Baltimore City Rent Court to provide day-of-court legal representation to tenants who appear unrepresented in Failure to Pay Rent and other proceedings related to the landlord/tenant relationship. In September 2021, the TVLD program received additional funding to expand its services to Baltimore County. In addition to direct representation of tenants, PBRC operates a tenants’ rights hotline where tenants may call to seek legal information and advice in dealings with their landlords. Thus, PBRC staff attorneys regularly advise tenants both in and outside of court regarding a variety of landlord/tenant issues, including those related to unsafe conditions in their rental homes.

**HB 392 enhances existing law to provide additional tools for tenants who face dangerous conditions in their rental homes to ensure compliance with Maryland law.** Maryland Real Property Article § 8-211 provides a mechanism for tenants to pay their rent into an escrow account with the District Court in order to induce their landlords to remedy “serious and dangerous conditions” in their rental homes that pose a threat to their lives, health, and/or safety. It lists such examples as lack of heat, rodent infestation, lack of proper sewage disposal, serious structural hazards, and health or fire hazards as conditions that are serious enough to merit rent escrow. This remedy is meant for serious defects only. The section specifically excludes minor or aesthetic defects and nonserious violations of building codes.

Currently RP § 8-211 allows individual tenants to pursue these actions as individuals only. It requires a tenant to provide notice to the landlord of these defects and gives the landlord “reasonable time” (presumptively 30 days from being given notice) to repair them. Should a tenant successfully demonstrate to a District Court Judge that their landlord has failed to remedy these serious defects even after being given notice of the conditions and sufficient time to fix them, the Court may allow the tenant to pay their rent into an escrow account until the conditions are fixed. Importantly, this action does *not* excuse a tenant from their obligation to pay rent; it merely requires that the rent be paid to the Court rather than the landlord. If a landlord fails to remedy the dangerous conditions within 90 days after the escrow hearing, the tenant may request an injunction ordering the landlord to fix them. Under current law, this is the only relief available to a tenant whose landlord has failed to remedy serious health and safety hazards 120 days after being given notice of these dangerous conditions.

HB 392 will amend the Rent Escrow statute in two important ways. **First, it will allow a single tenant or tenants’ organization to utilize rent escrow on behalf of all similarly-situated tenants.** It has been our experience in working with tenants that it can be difficult for an individual tenant to utilize rent escrow for numerous reasons. Many of the clients we serve have difficulty accessing the Court due to transportation, childcare, English proficiency, and employment issues. Full utilization of the rent escrow procedure can require multiple court appearances. Allowing one

tenant or a tenants' organization to take this action on behalf of all tenants will provide relief for those tenants who face serious hazards but have difficulty accessing the Court. It will also streamline the process, making it less burdensome for the Court to manage. Additionally, it has been our experience that many tenants who face such dangerous conditions in their homes have difficulty paying the rent in full every month. Often, tenants who live in such hazardous rental homes do so because they do not have the financial means to leave and find another place to live. However, a tenant who cannot pay their rent into the escrow account, or "fund the escrow," is unable to utilize the rent escrow procedure, leaving them without redress against the landlord. Many of these tenants have children. **No tenant or child in Maryland should be subjected to such unconscionable conditions by a landlord.** HB 392 would allow one tenant in better financial standing, or a tenants' organization, to access rent escrow, thereby improving conditions for the most vulnerable of tenants.

**Additionally, HB 392 will allow tenants or tenants' organizations to pursue monetary damages when a landlord has failed to remedy hazardous conditions for four months after being given notice.** This bill targets only those landlords who have abdicated their responsibility to provide habitable living space in exchange for rent money. It stands to reason that these bad actors will not be swayed by an injunction alone if they have failed to rectify safety hazards even after their rent money has been paid into an escrow account for months. Tenants often incur expenses relating to living with safety hazards and landlords should also face financial consequences for their failure to hold up their end of the business transaction. The ability to pursue monetary damages would also give tenants' attorneys another tool to encourage these "bad apples" to make things right. Responsible landlords who conduct business honorably have nothing to fear from this bill, as it truly targets only the most neglectful of landlords.

Notably, HB 392 permits tenants or tenants' organizations to recover attorney's fees. Not only can this provide desperately-needed funds to Maryland's legal services providers who are tasked with providing representation to tenants, but it can also encourage members of the private Bar to take up these cases when they may not do so otherwise. All of these things combined will lend additional enforcement power against landlords who allow unsafe conditions to persist in their properties.

**PBRC supports HB 392 because it will allow Maryland's most vulnerable tenants to hold negligent landlords accountable.** Thank you for the opportunity to testify.

For the above reasons,

**PBRC urges a FAVORABLE report on HB 392.**

Please contact Katie Davis, Director of PBRC's Courtroom Advocacy Project, with any questions.

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