

HB0392 - Landlord and Tenant – Failure to Repair Serious and Dangerous Defects - Tenant Remedies (Tenant Justice Act)

Hearing before the House Environment and Transportation Committee, Feb. 8, 2022

Position: SUPPORT (FAV)

Public Justice Center (PJC) is a nonprofit public interest law firm that serves over 600 renters each year, providing legal advice and representation in cases involving eviction, substandard housing conditions, retaliation, and anti-consumer practices. We stand with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing. PJC seeks the Committee’s Favorable report on HB0392.

HB0392, the Tenant Justice Act, addresses two growing concerns of Maryland renters: (1) their need for safer housing conditions, and (2) their desire to *work together* to address that need, instead of doing it alone.

Across Maryland, the COVID-19 pandemic has spurred renters to talk, to meet, and to begin to organize themselves – whether as groups of tenants or as fully fledged tenants associations. This trend is growing across the United States, as reported recently by the [Wall Street Journal](#).

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REAL ESTATE

To Bargain With Their Landlords, Renters Form Tenant Unions
 Housing groups take a page from the labor movement in push for building improvements, eviction delays

Strikes Sweep Labor Market as Workers Flex New Leverage

Tens of thousands of American workers are on strike and thousands more are attempting to unionize. WSJ examines the roots of this new labor activity and speaks with a labor economist for more context on U.S. labor's changing landscape. Photo: Alyssa Keown/AP

By [Will Parker](#)
 Jan. 22, 2022 9:00 am ET

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PJC provides legal information and advice to nascent tenant organizations. Top of mind for these renters is their frustration with individualized remedies for substandard housing, whether through local code enforcement agencies or rent escrow actions in the district court. These tools are dulled by inaccessibility, ineffective procedures, and retaliation by landlords.

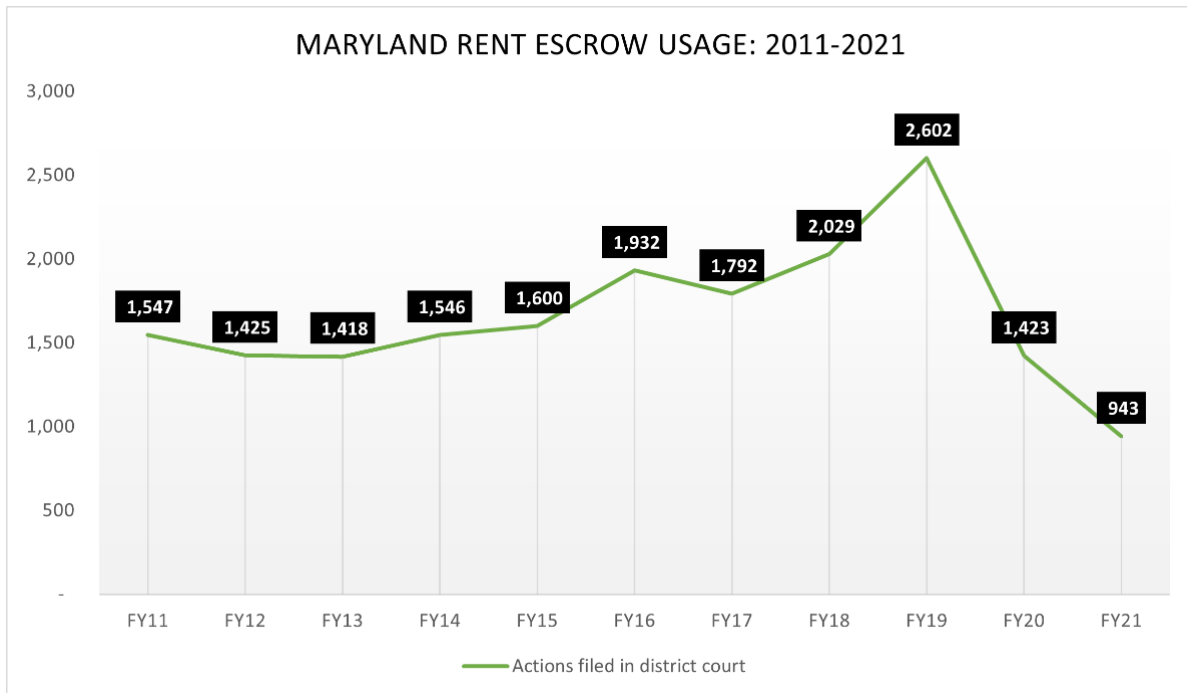
HB0392 addresses these shortcomings by introducing group standing and collective remedies to the rent escrow law (Real Property § 8-211). By allowing tenants to join their interests together, this bill would strengthen tenants' standing to efficiently compel landlords to make repairs. HB0392 would enable a single tenant to file a rent escrow case about building and unit conditions on behalf of multiple tenants or a tenants' organization. Moreover, the bill ensures landlord accountability by enabling tenants organizations to seek damages and attorney's fees from negligent landlords who refuse to make necessary repairs to uninhabitable conditions.

HB0392 mirrors an existing reform in New York City, one that routinely supports tenants in building collective power to organize for safe and healthy rentals. PJC supports the Tenant Justice Act because we believe Maryland renters deserve the same opportunity to build power for better housing.

Individualized rent escrow actions have largely failed Maryland renters.

Tenants' primary legal remedy for substandard housing conditions is a rent escrow action under Real Property § 8-211, which permits a single tenant to pay rent into a court account and, upon showing that defects threaten their health or safety, to seek an array of forms of relief: reduction of rent, court-ordered repairs, lease termination, or equitable distribution of escrowed funds. Section 8-211 does not expressly provide a tenant a claim for money damages, nor does it permit an award of costs and attorneys' fees when the tenant prevails in their case.

Many Maryland renters know the rent escrow law for its overarching failure to make tenants whole and to hold landlords accountable. The law requires a tenant, unlike any other litigant, to pay to be heard. When tenants are heard, only 6 percent of cases result in reduced rent, according to [The Baltimore Sun's review of over 5,000 cases](#). Additionally, renters are avoidant of bringing an escrow action individually because they fear targeting and retaliation by their landlords. They also feel intimidated by the prospect of going alone to face their landlords in a judicial process they know little about. Consequently, rent escrow is perennially underutilized by renters across the state:



Source: Maryland Judiciary, <https://mdcourts.gov/district/about#stats>

While rent escrow is underutilized and produces limited benefits for individual renters, **the procedure is particularly futile for tenants in large properties who are dealing with hazards that affect multiple units.** Just as code enforcement inspections focus on a single unit, rent escrow actions are narrowly concerned with a single litigant's complaint. Judges' findings are confined to the facts, issues, and redress on the four corners of the single tenant's court complaint. This individuated legal procedure leads to the inefficiency of all affected tenants having to bring separate rent escrow actions. Currently, there is no procedure in § 8-211 that allows tenants with common claims in the same building to bring their claims together. This process is particularly onerous for older and disabled renters, for whom it may be difficult travel to the courthouse on multiple occasions, and low-income renters, for whom taking repeated work absence to go to court could risk their livelihoods.

When judges hear building- or complex-wide conditions issues piecemeal and cannot address safety concerns in a single determination, the process risks absurd results. For instance, one tenant's escrow action proceeds because the tenant funded the escrow account, but their neighbor's case is dismissed due to failure to pay into the account. The paying tenant's remedy becomes limited by the fact that the court did not order inspection or repair of the common defects in the non-paying neighbor's unit.

HB0392 targets this gap in the existing law by allowing a single tenant to file on behalf of several or allowing a group of tenants to jointly bring a single action. With the opportunity to file collectively, tenants would be able to exert significantly more pressure on landlords to make repairs of multiple units, to address systemic defects, and to do so with a far lower prospect of retaliation.

HB0392 also provides a new, stronger remedy: an action for money damages brought by a tenants' organization.

This bill also permits tenants to pursue damages against a landlord through their tenants' organization. The tenant organization would have standing to sue on members' behalf to win damages related to their landlord's failure to make necessary repairs. This remedy would prove in many cases more persuasive than the escrowing of rental income alone. Finally, the attorney's fees provision in this bill increases the likelihood that tenants will be able to avail themselves of legal services, as they will be able to enlist attorneys whose practices depend upon the ability to recoup reasonable fees.

Public Justice Center is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on HB0392**. If you have any questions, please contact Zafar Shah, shahz@publicjustice.org, (410) 625-9409 Ext. 237.