



Senate Bill 223

Committee: Judicial Proceedings
Date: February 3, 2021
Position: Unfavorable

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry.

Senate Bill 223 (SB 223) financially penalizes housing providers for accessing the judicial system by: (1) increasing the *surchage* fee for accessing the judicial system from \$8 to \$73; and **prohibiting a housing provider from ever recovering the fee**. MMHA's position has been consistent regarding fee increases; MMHA is open to consideration of increased filing fees, but **the fee must be recoverable**.

I. Unprecedented Decline in Court Filings and Evictions

Since the beginning of the pandemic, Maryland has experienced an historical decline in court filings and evictions. At the beginning of the pandemic, there were dire predictions of an eviction tsunami, but no tsunami ever arrived. In fact, evictions plummeted during the pandemic and have remained low. Over the past three months, court filings and evictions have declined by more than 65% and 58% respectively compared to the same pre-pandemic timeframe. That data is reflective of the consistent and unprecedented decline in court filings and evictions since the beginning of the pandemic.

Housing providers have played a critical role in the eviction decline. Housing providers have spent thousands of staff hours supporting tenants during the rental assistance process, utilized their resources to connect residents with rental assistance, and shown extreme patience as **the time between a court filing and a court hearing for repossession has extended to more than eight months**. Housing providers have conducted that work and shown that patience while their own bills, mortgages, and taxes have come due. Now, as housing providers patiently wait on excessively delayed court systems and the state experiences an historical decline in court filings and evictions, the Attorney General is seeking to financially penalize housing providers for accessing the court system.

II. Recoverability and Court Processes in Other Jurisdictions

To be clear, **NONE** of Maryland's contiguous states prohibit housing providers from recovering filing fees when they access the judicial system. **Any notion that SB 223 aligns Maryland with surrounding states is categorically false**. Further, MMHA is unaware of any other state that prohibits recovery of the filing fee. SB 223 is nothing less than a tax targeted at housing providers designed to restrict and chill the industry's access to the judicial system. To justify this unprecedented tax, the Attorney General has pointed to the number of eviction filings in Maryland compared to our contiguous states, but the Attorney General



has failed to understand that Maryland’s court processes and policies that benefit tenants have led to Maryland’s higher number of filings.

As an example, the right to redeem allows tenants to pay unpaid rent and stay in the property up to and at **any time** prior to the actual eviction taking place. In Maryland, tenants may exercise their right to redeem up to 3 times per calendar year – 4 in Baltimore City. In contrast, the policies in Maryland’s contiguous states provide much less benefit to tenants. For example, in Pennsylvania, tenants are not afforded an absolute the right to redeem, judges can and often do foreclose the right at the request of a housing provider. Unlike Maryland, jurisdictions like Virginia and Washington, D.C., require tenants to pay rent that comes due after a judgement to avoid eviction. These policies lead to less court filings, but they are also less beneficial to tenants than Maryland’s laws.

III. Two Payment Process

The Attorney General claims that Maryland’s court process for repossession is low compared to other states, but he never includes information on the cost of the warrant of restitution. Maryland’s repossession process requires payment of an initial filing fee and a warrant of restitution before an eviction can take place. The chart below illustrates the different costs in Maryland and compares it to that of Virginia, which is similar.

	Maryland	Baltimore City	Virginia
Filing Fee:	\$20 plus \$5 for each additional tenant.	\$30	\$46-\$56
Additional Fee:	\$40 Warrant of Restitution	\$50 Warrant of Restitution	\$25 Writ of Possession
Total Costs:	\$60+	\$80	\$71-\$81

IV. Conclusion

MMHA’s position on court fees has been consistent. We are open to consideration of fee increases, but the fees must remain recoverable. Housing providers should not be punished for utilizing their only option for repossession under Maryland law. **SB 223 will lead to rent increases for tenants that pay their rent, disincentive payment plans, and incentivize housing providers to move forward with evictions.** For the aforementioned reasons, MMHA respectfully requests an unfavorable report on Senate Bill 223.

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