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TO: The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee

FROM: Brian E. Frosh
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RE: SB 223 – Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited
Lease Provisions – **Support**

Chairman Smith, Vice Chair Waldstreicher, and distinguished Members of the Judicial Proceedings Committee, thank you for the opportunity to testify in support of SB 223. This bill, which was a recommendation of the COVID-19 Access to Justice Task Force,¹ represents a renewed attempt to bring Maryland's eviction filing fee in line with other states and to provide needed additional funding for the Maryland Legal Services Corporation.

Senate Bill 223 would increase the surcharge assessed in failure to pay rent, breach of lease, and tenant holding over actions from \$8 to \$73, bringing the effective filing fee for eviction actions to \$80 (\$90 in Baltimore City). The bill would also prevent landlords or the courts from requiring tenants to cover the cost of the surcharge, which would protect tenants who are already struggling to make ends meet from having to shoulder additional financial burdens.

Housing instability was a problem in Maryland long before the pandemic began, with the negative effects falling most heavily on communities of color. Research shows that Black and Latino renters, especially women, "are disproportionately threatened with eviction and disproportionately evicted from their homes."² Between January 2018 and June 2019, the number of Black female-headed households evicted in Baltimore City was 3.9 times higher than

¹ See Md. Att'y Gen. Brian E. Frosh's COVID-19 Access to Justice Task Force, *Confronting the COVID-19 Access to Justice Crisis*, at 30 (Jan. 2021),

https://www.marylandattorneygeneral.gov/A2JC%20Documents1/AG_Covid_A2J_TF_Report.pdf.

² Peter Hepburn et al., *Racial and Gender Disparities among Evicted Americans*, 7 *Sociological Sci.* 649, 659 (2020), https://sociologicalscience.com/download/vol7/december/SocSci_v7_649to662.pdf.

evictions of households headed by white men and 2.3 times higher for Black male-headed households.³

The landlord’s cost of filing in Maryland is \$15, one of the lowest nationwide.⁴ Some states impose fees over \$300. Maryland’s low filing fees cause some landlords to file against the same household month after month, referred to as “serial filing.”⁵ In 2019, more than 660,000 evictions were filed in Maryland district courts.⁶ The filing rate in some counties was over 100%, meaning that more eviction actions were filed than there were homes for rent.⁷ Yet very few of these filings result in court-ordered evictions. This practice has made courts “more like an extension of the residential rental business than an impartial arbitrator between landlords and tenants.”⁸

As in many other jurisdictions, Maryland’s filing rate has dropped since the pandemic began. This decrease in filings can be traced to a number of proactive measures taken by federal and state governments, including the influx of hundreds of millions of dollars in rental assistance funds and eviction moratoria. Moreover, as of October 1, 2021, Maryland landlords must now provide tenants with a notice of intent to file a failure to pay rent action 10 days before filing. That new requirement should also help decrease the number of eviction filings.

Maryland’s filing rate makes the state an outlier. Prior to the pandemic, the filing rate in neighboring states ranged from 4.4% in West Virginia to 16.9% in Delaware, with Maryland’s rate—ranging from 83% in 2016 to 92.5% in 2019—dwarfing them all.⁹ And notwithstanding the decrease in eviction filings in 2020 and 2021, the filing rate in Maryland remains significantly higher than its neighbors.¹⁰ Increasing the barrier to entry by raising the filing fee in evictions is critical to reducing the serial eviction filing problem that persists in Maryland.

³ Tim Thomas et al., *The Evictions Study: Baltimore Eviction Map* (May 8, 2020), <https://evictions.study/maryland/report/baltimore.html>.

⁴ Brian Frosh, Attorney General: Maryland Eviction Process ‘Unfair to Tenants’ | Commentary, BALT. SUN (Dec. 11, 2020), <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1213-frosh-serial-evictions-20201211-nmlu6zmiqjgc7dyohhvqxq5k3cu-story.html>.

⁵ See Lillian Leung et al., *Serial Eviction Filing: Civil Courts, Property Management, and the Threat of Displacement*, 100 *Social Forces* 316, 316 (2020) available at <https://academic.oup.com/sf/article/100/1/316/5903878> (“Serial eviction filings occur when a property manager files to evict the same household repeatedly from the same address.”).

⁶ See District Court of Maryland, *Monthly Statistical Reports, Calendar Year 2019*, <https://mdcourts.gov/sites/default/files/import/district/statistics/2019/Calendar19.pdf>

⁷ Eviction Lab, *Eviction Filing Rate Interactive Map*, <https://evictionlab.org/map/#/2016?geography=states&type=efr> (last visited Jan. 30, 2022).

⁸ Leung et al., *supra* note 6, at 338.

⁹ Researchers at the Eviction Lab provided our office with Maryland filing rates. Filing rates for other states from 2000 through 2016 are available on the Eviction Lab’s interactive map. See *Eviction Filing Rate Interactive Map*, *supra* note 7 (2016 rates: West Virginia (4.4%), Pennsylvania (5.31%), Virginia (14.48%), Delaware (16.19%)).

¹⁰ An analysis of data from the U.S. Census reporting on the number of renter-occupied units by state, Maryland District Court monthly statistical reports, and data on eviction filings in neighboring states contained on the Legal Services Corporation’s Eviction Tracker reflect that Maryland’s filing rate in 2021 was more than 10 times higher than the rate in Pennsylvania and Virginia and more than 6 times higher than Delaware’s filing rate.

Forced displacement—and the constant threat of such displacement—disrupts lives in profound and irrevocable ways. Its harms fall disproportionately on those least able to weather them. As one writer captures the impact of eviction, “without stable shelter, everything else falls apart.” We must do more to help Maryland families keep things together and increase housing stability.

For all the foregoing reasons, I urge the Committee to favorably report Senate Bill 223.

cc: Members of the Judicial Proceedings Committee