



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

**STATEWIDE
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February 14, 2022

The Honorable Luke Clippinger
Judiciary Committee
Room 101
House Office Building
Annapolis, Maryland 21401

**RE: Maryland Legal Aid's Testimony in Support of House Bill (HB) 298 -
Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited
Lease Provisions**

Dear Chair Clippinger and Members of the Committee:

Thank you for the opportunity to testify in support of HB 298. Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. MLA's 12 offices serve residents in each of Maryland's 24 jurisdictions. MLA handles various civil legal matters, including family law, housing, public benefits, consumer law (e.g., bankruptcy and debt collection), and criminal record expungements to remove barriers to obtaining child custody, housing, a driver's license, and employment. Maryland Legal Aid supports HB 298 and asks that the committee give it a favorable report.

This letter indicates that Gregory Countess, Esq. will testify in support of HB 298 on behalf of MLA at Delegate Wanika Fisher's request. This bill increases the surcharge for filing failure to pay rent, tenant holding over, and breach of lease cases involving residential properties from \$8 to \$73, a \$65 increase. HB 298 also prohibits the District Court and/or landlord from assessing this surcharge against the tenant.

Based on the experience of MLA advocates representing tenants in Maryland, the Court consistently and automatically awards the filing fee against the tenant when entering a judgment for possession in favor of the landlord. District Court Form DC-CV-082 is the Complaint form for a failure to pay rent. On the bottom left-hand side of that form is a box titled "Disposition" for the court to fill in its order. The box to enter judgment for possession in favor of the landlord reads: "Judgment in favor of Landlord for possession of the premises **and costs.**" [Emphasis added]. Additionally, for failure to pay rent cases, many landlords add the filing fee to the tenant's ledger, even when the case is dismissed, or the tenant

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prevails. Therefore, tenants will bear the burden for these increased fees without a provision that prohibits surcharges from being passed on to the tenants.

MLA advocates often encounter landlords who automatically and, often through third parties, file serial failure to pay rent cases. For example, MLA represented a tenant on the lower eastern shore whose landlord, through a third party, filed a failure to pay rent case against them when their rent was a few days late. The tenant paid the rent before court and was told by the landlord that it was taken care of and that the tenant did not need to go to court. The third party who filed the case did not dismiss the case, and instead, the landlord was awarded judgment for possession and court costs. The court costs were then added to the tenant's ledger, and when the tenant timely paid their rent the next month, the landlord put the rent payment toward the court costs, and the third party filed yet another failure to pay rent case against the tenant, obtained another judgment for possession plus costs, and so on. This occurred nearly every month for over one year until MLA advocates became involved. MLA advocates have seen this situation, and similar situations occur in various jurisdictions across Maryland.

In failure to pay rent cases, if the landlord obtains a judgment for possession against a tenant, the tenant has the right to redeem the property a certain amount of time before the landlord can seek to foreclose the right to redeem. Often called "pay to stay," a tenant must pay the amount of rent the Court finds to be due and owing to avoid eviction. This includes late fees on top of the rent, plus court costs, and, if obtained, the additional cost of the warrant of restitution. An increase in the filing fee, if allowed to be passed on to the tenant, would mean an increase in the amount a tenant must pay to stay in their home.

Increasing the filing surcharge would discourage landlords from immediately jumping to filing for eviction and instead incentivize them to ensure the accuracy of their records before filing. Additionally, it would encourage landlords to work with tenants to obtain rental assistance or other services to achieve the common goal of ensuring the landlord receives the rent money. This is particularly important for low-income tenants living paycheck to paycheck, where one unexpected expense, no matter how minor, can set them behind in their rent and create a snowball effect such as described above.

To be clear, while MLA supports HB 298, MLA would oppose this bill if amended to pass the increased fee on to the tenants because that would harm already struggling tenants and defeat the bill's intent. Tenants should not have to pay for their eviction.

Thank you for considering this written testimony. **Maryland Legal Aid urges a favorable report on House Bill 298.**

/S/ Gregory Countess
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