

2022-02-16 HB 298 (Support).pdf

Uploaded by: Brian Frosh

Position: FAV

BRIAN E. FROSH
Attorney General



ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.
410-576-6962

February 16, 2022

TO: The Honorable Luke Clippinger
Chair, House Judiciary Committee

FROM: Brian E. Frosh
Attorney General

RE: HB 298 – Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited
Lease Provisions – **Support**

Chairman Clippinger, Vice Chair Moon, and distinguished Members of the Judiciary Committee, thank you for the opportunity to testify in support of HB 298. 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.

House Bill 298 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.

Still, 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 House Bill 298.

cc: Members of the Judiciary Committee

HPRP_HB 298_FAV.pdf

Uploaded by: Carisa Hatfield

Position: FAV



HOMELESS PERSONS REPRESENTATION PROJECT, INC.

HB 298 Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions

Hearing before the House Judiciary Committee, February 16, 2022

Position: FAVORABLE

The Homeless Persons Representation Project, Inc. (HPRP) is a non-profit civil legal aid organization that provides free legal representation to people who are homeless or at risk of homelessness on legal issues that will lead to an end to homelessness. HPRP regularly represents tenants in failure to pay rent cases and other landlord-tenant matters in Baltimore City.

We support HB 298 as drafted, but we would oppose HB 298 if the bill is amended to allow the increased surcharge to be passed through to tenants under any circumstances.

Please do not make tenants pay more for their own eviction.

HB 298 would increase the filing fee surcharge on eviction actions from \$8 to \$73 and prohibit the court and the landlord from passing on this increase to the tenant. Prior to the pandemic, landlords filed 660,000 eviction complaints each year in a State with only 730,000 renter households – the highest eviction filing rate in the nation. The General Assembly took an important step to address this in 2021 by providing tenants with access to counsel when funded while also requiring landlords to send a 10-day notice prior to filing an eviction case. Raising the filing fee – without passing it onto the tenant – would further disincentivize landlords from serial filing. We support HB 298, but we would oppose the bill if it is amended to allow a fee pass-through to tenants:

1. **Passing the fee onto tenants would more than double the total amount that tenants must pay to “pay and stay” and avoid eviction and homelessness.** To “pay and stay” from a rent court judgment, the tenant must pay all court costs. If the bill is amended to allow a pass through, this means more than doubling the total amount a resident must pay to redeem (\$60 to \$125 or \$80 to \$145 in Balt. City). *Some families will be unable to pay the fee – especially very low income, subsidized tenants whose rent is often only \$100/month – and will be evicted because of the increased fee.*
2. **“Judicial discretion” for passing on the fee is what happens now. Tenants almost always lose because most cases end in default judgments for the**

landlord plus costs. Over 90% of rent cases that are not dismissed end in a “default judgment” against the tenant. The Court checks a box on the form: “Judgment in favor of Landlord for possession of the premises and costs.” This is the current exercise of “discretion,” and the tenant almost always loses. Even if the case doesn’t go to trial, the landlord assesses the costs against the tenant via their lease provisions – even if the case is dismissed. The tenant virtually always loses. Even if eviction filings are reduced by 25% and 32,000 tenants receive counsel in eviction cases, that leaves appx. 460,000 eviction filings, the vast majority of which will include a \$65 increased fee that very vulnerable households will have to pay to avoid eviction.

3. **Allowing a fee pass-through defeats the purpose of the bill, which is to disincentivize serial eviction filing.** If the landlord can recover the increased surcharge, it will have little effect on landlord eviction filing.
4. **Tenants still have an incentive to pay the rent in a timely fashion because landlords can still assess a 5% late fee and court filing fee – just not this increased surcharge.**
5. **If a landlord truly wants to evict a tenant who is chronically late, then after three judgments the landlord can foreclose on the right to redeem (i.e., no “pay and stay”).** There is no need for the landlord to continue seeking judgments and passing on the increased surcharge.
6. **When fully funded, Access to Counsel will assist annually approximately 32,000 tenants who have a defense. It does not solve Maryland’s significant affordability gap:** There are 193,819 extremely low-income (\$31,600/year for family of four) renter households in Maryland. 74% of those households are severely cost-burdened, i.e., paying more than 50% of their income in rent. These households are one paycheck or unexpected expense away from facing an eviction.

Even an amendment that would allow landlords to pass through the fee to tenants only after the 3rd failure-to-pay-rent filing in a year would still fall disproportionately on the renters who are least able to pay the increased fee because they are often on the brink of eviction. In the experience of our organization, landlords file against the same tenant repeatedly within the year because the purpose of the eviction filing is not eviction

per se but rather debt collection.¹ For example, if there is a dispute between the landlord and tenant over \$500 in rent or other fees, the tenant may pay the \$1,000 monthly rent timely, but the landlord may still file an eviction complaint for multiple successive months because there remains a \$500 back balance to which the landlord allocates first the tenant's payment each month, charging a late fee in each of those months as well. Even with a prohibition on pass-through of this surcharge, tenants still have ample incentive to pay the rent timely to avoid late fees and the current court costs that landlord pass through pursuant to statute. This additional proposed surcharge should instead serve as an incentive for the landlord to attempt to work with the tenant, accept a payment plan, and connect the tenant to social services if needed, instead of skipping straight to an eviction filing each month.

HPRP is a member of the Renters United Maryland coalition and asks that the Committee issue a **FAVORABLE WITHOUT AMENDMENTS report on HB 298**. If you have any questions, please contact: Carisa A. Hatfield, Esq., at 443-402-5395, or chatfield@hprplaw.org.

¹ “The execution of an eviction is a double-edged sword for landlords, who must balance the costs of unit turnover with those of allowing a tenant to remain in rent arrears. But this is not the case for filing. *Filing* costs a modest fee, and initiates a legal process that leverages the power of the state both symbolically and physically to encourage the tenant to pay her late rent. Moreover, the process of repeated (“serial”) filing for eviction and charging late fees, even on tenants who are expected to eventually pay their rent, is used by some landlords as an additional revenue source.” Drs. Philip ME Garboden and Eva Rosen, *Serial Filing: How Landlords Use the Threat of Eviction*, City and Community: A Journal of the Community and Urban Sociology Section of the American Sociological Association, Vol. 18, No. 2, June 2019, at 11-12 (emphasis original) (internal citations omitted).

HB298_MLSC_Fav.pdf

Uploaded by: Deb Seltzer

Position: FAV



MLSC

MARYLAND LEGAL SERVICES CORPORATION

IOLTA - INTEREST ON LAWYER TRUST ACCOUNTS

**Testimony Concerning HB 298
“Landlord and Tenant - Eviction Actions -
Filing Surcharge and Prohibited Lease Provisions”
Submitted to the House Judiciary Committee
Hearing Date: February 16, 2022**

Position: Favorable

Contact: Deb Seltzer, Executive Director, 410-576-9494 x1009, dseltzer@mlsc.org

Maryland Legal Services Corporation requests a favorable report on House Bill 298, enactment of which would increase surcharges on certain court filing fees and direct that funding to the provision of civil legal aid.

MLSC’s mission is to ensure low-income Marylanders have access to stable, efficient and effective civil legal assistance through the distribution of funds to nonprofit legal services organizations. It currently funds 36 organizations to work toward that mission across the entire state. The Maryland General Assembly created MLSC in 1982 to administer the state’s Interest on Lawyer Trust Accounts (IOLTA) program, and since that time MLSC grantees have assisted nearly 3.9 million Marylanders with a wide variety of civil legal needs.

The Maryland General Assembly enacted surcharges as a funding source for MLSC in 1998, and they currently make up MLSC’s largest funding source. However, MLSC’s two of major revenue sources – IOLTA and the surcharges – were significantly reduced by the COVID-19 pandemic due to near zero interest rates and a dramatic decrease in court filings. Court filings have continued to fluctuate in fiscal year 2022, and MLSC current projects filing fee surcharge revenue for FY22 will equal approximately two-thirds of pre-pandemic averages. Even with the increase in Abandoned Property Fund revenue passed by the Maryland General Assembly last year to stave off a funding crisis, MLSC’s total funding from the MLSC Fund has not recovered.

Furthermore, even before the pandemic, legal services providers did not have the capacity to meet all the civil legal needs of Maryland residents facing financial challenges and unable to afford legal help. At a minimum, it is vital that MLSC’s filing fee surcharge revenue remains stable, with the increase in the surcharge amount balancing a potential decrease in the number of filings. Additional funding would translate to additional life-changing legal assistance, improving quality of life for Maryland’s families and communities.

Established nonprofit legal aid providers help low-income Marylanders with a wide range of issues, including eviction and foreclosure; protection from domestic violence and elder abuse; bankruptcy and debt collection; child support and custody; and access to unemployment, health and other benefits. The pandemic has made these issues both more prevalent and more complicated. Having an experienced advocate can make a tremendous difference for a low-income Marylander who, if not for civil legal aid, would be forced to navigate the legal system alone.

Providing more funding will mean Maryland’s civil legal aid delivery system can sustain and potentially expand vital services that affect housing, economic stability, physical safety and more. Not only do these services help people in need, but they also reduce strain on the court system and streamline interactions with state agencies, saving valuable time and funds. In fact, multiple studies have shown that every dollar invested in civil legal services results in a \$6 return in the form of economic activity, cost savings and increased productivity – a total return of hundreds of millions of dollars each year.

MLSC urges favorable consideration of House Bill 298.

HB 298 FAV House of Ruth.pdf

Uploaded by: Dorothy Lennig

Position: FAV



Marjorie Cook Foundation

Domestic Violence Legal Clinic

2201 Argonne Drive • Baltimore, Maryland 21218 • 410-554-8463 • dlennig@hruthmd.org

TESTIMONY IN SUPPORT OF HOUSE BILL 298

February 16, 2022

DOROTHY J. LENNIG, LEGAL CLINIC DIRECTOR

House of Ruth Maryland is a non-profit organization providing shelter, counseling, and legal services to victims of domestic violence throughout the State of Maryland. House of Ruth has offices in Baltimore City, Prince George’s County, Montgomery County, and Baltimore County. House Bill 298 would increase from not more than \$8 to not more than \$73, the surcharge that the District Court is required to assess per civil case for summary ejectment, tenant holding over, and breach of lease that seeks a judgment for possession of residential property against a residential tenant. The bill also prohibits the landlord from passing on the fee to the tenant. The additional money would go to the Maryland Legal Services Corporation (MLSC), which helps fund many public interest legal service providers in Maryland. **We urge the House Judiciary Committee to issue a favorable report on House Bill 298.**

The House of Ruth Domestic Violence Legal Clinic (the Clinic) receives a significant portion of its funding from MLSC. With this support, the Clinic serves low-income victims of domestic violence throughout the state. Clinic attorneys provide representation in protective order hearings and divorce and custody cases; legal advocates provide information, lethality assessment, safety planning, and referrals to victims who call or visit our walk-in clinics at court houses in Baltimore City and Prince George’s, Montgomery, and Baltimore Counties. Civil legal representation is critical to victims of domestic violence and their children. A 2016 study demonstrated that domestic violence victims who received civil legal representation experienced a notable reduction in physical violence over a 24-month period following the representation, as well as an increase in their psychological well-being and economic self-sufficiency.¹ Not only does civil legal representation work to prevent future domestic violence, but it also helps to mitigate the damage inflicted by that violence. Victims who were represented by legal services attorneys trained in domestic violence more frequently received custody and visitation orders that protected themselves and their children, as compared to cases in which victims were represented by private attorneys or victims who represented themselves.² Civil legal services are a vital part of Maryland’s safety net for men, women and children escaping domestic violence.

¹ Hartley, C. C., & Renner, L. M. (2016). *The Longer-Term Influence of Civil Legal Services on Battered Women*. National Institutes of Justice, U.S. Dept. of Justice. Available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/249879.pdf>.

² Kernic, M. (2015). *Final Report of the “Impact of Legal Representation on Child Custody Decisions among Families with a History of Intimate Partner Violence Study.”* U.S. Dept. of Justice, National Institute of Justice. Available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/248886.pdf>.

Since the onset of the Covid-19 pandemic, MLSC has experienced severe reductions in one of its major sources of funding. Historically, MLSC has relied in large part on the Interest on Lawyers Trust Accounts (IOLTA) as a source of its funds. During the last 22 months, the interest rates have been close to zero, resulting in little to no income for MLSC. The proposed filing fee surcharge increase will avert further reductions to MLSC's funds and allow MLSC and the legal services agencies it supports to continue to provide vitally needed services.

MLSC funding enables the House of Ruth to help many victims of domestic abuse. During FY 2021, the House of Ruth used MLSC and other funding to serve 2,783 victims. Without this support, low-income victims often would have no access to the legal services needed to help end the cycle of violence. The filing fee surcharge will allow MLSC to continue to provide crucial support for these important services.

The House of Ruth urges a favorable report on House Bill 298.

HB298_Rosen_fav.pdf

Uploaded by: Eva Rosen

Position: FAV

SB223 Testimony on Raising the Eviction Filing Fee in Maryland: Favorable
February 14, 2022

My name is Eva Rosen, I am an assistant professor at Georgetown in the McCourt School of Public Policy. Thank you for the opportunity to testify today. I am writing to express my support for HB-298 which would raise the fee to file for eviction in Maryland.

In this testimony I draw on over a decade of experience conducting policy relevant academic research on housing in Maryland, the District of Columbia, and nationally. Broadly, my work focuses on how supply-side actors (landlords and developers) respond to federal, state, and local housing policies with important consequences for low-income families.

I recently completed an analysis of all eviction records over the past 5 years in the District of Columbia. In this [report](#), we document the fees charged to file for eviction in the 50 largest cities in the U.S. Across these areas, the median filing fee is above \$100, well above the current fees charged in Maryland, which are among the lowest in the country. Importantly, we document that jurisdictions with *lower* filing fees tend to have much *higher* filings rates. Based on this research, the DC City Council recommended that the Superior Court raise the filing fee to \$100.

This association is further substantiated by my qualitative interviews and fieldwork with over 150 landlords and property managers in four cities, including both Baltimore and Washington, DC. In places where fees are low, as they are in Maryland, it is cheap and easy for landlords to file on tenants as soon as they are legally allowed to do so, knowing full well that most filings will not result in an eviction. Landlords in my research study report doing exactly this. They explain that they rarely expect, nor hope, to actually evict the tenant. But they file on any and all tenants who are late each month, “like clockwork” they say. This phenomenon, called “serial filing,” where a landlord files for eviction on the same tenant, in the same unit, multiple times per year, accounts for a substantial chunk of all filings. They are made *not* with the intent to evict – since again, the vast majority of filings do not result in eviction – but with the intent to leverage a threat to get tenants to find a way to pay.

Raising the filing fee in order to deter landlords from using the court system in this way is important for several reasons. Filings result in a legal record that makes it harder for tenants to find housing in the future. The landlords in my research say that a history of a filing – even when it does not result in an eviction – is one of the single biggest reasons they take prospective tenants out of the running. Indeed, substantial research shows that publicly available eviction records follow tenants and have a negative impact on their future housing opportunities. A family who misses one rental payment by a few days can struggle to find housing for years to come. In addition, families report that in some cases a filing may be enough for them to leave preemptively, either as a result of fear, threats, or pressure from the landlord.

In addition, since we know that a huge percentage of eviction filings never results in evictions, there is a strong interest in keeping these cases out of the courtroom in the first place. Deterring frivolous eviction suits would save the court time, allowing it to spend its resources on more complicated cases.

It is key that this increased fee not be passed along to tenants. If a landlord chooses to bring a suit against a tenant, like in most other types of lawsuits in this country, they should be responsible for paying the fee, this is part of the cost of doing business. This legislation includes a key clause, expressly prohibiting passing on such fees to tenants, or using any lease language that would stipulate for tenants to be responsible for such fees. With this clause in place, it is my view that raising the filing fee would reduce the amount of frivolous filing on such a large scale that far more tenants would avoid filing records altogether—and thus, future difficulties finding housing—than would face additional fees.

Others have wondered whether the high volume of filings in Maryland is due to its generous right to redemption rather than its low filing fee—in my view this is unlikely to be the case. In the cities I have studied where filings rates are higher, landlords have systematically reported to me that this fee acts as a deterrent. We can also look to the District of Columbia as a comparison case: DC has an even *more* generous right to redemption but has a *lower* filing rate.

Based on this body of research, I support the proposal to raise the filing fee, which I believe will lower the number of filings that would likely never have resulted in an eviction, and that serve to do little more than harm tenants and their housing stability, and clog up the court's time. Thank you for the opportunity to testify today.

Eva Rosen
Eva.rosen@georgetown.edu

HB 298 Testimony.pdf

Uploaded by: Gregory Countess

Position: FAV



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

**STATEWIDE
ADVOCACY SUPPORT UNIT**

Cornelia Bright Gordon, Esq.
Director of Advocacy
for Administrative Law
(410) 951-7728
cbgordon@mdlalab.org

Gregory Countess, Esq.
Director of Advocacy
for Housing & Community
Economic Development
(410) 951-7687
gcountess@mdlalab.org

Anthony H. Davis, II, Esq.
Director of Advocacy
for Consumer Law
(410) 951-7703
adavis@mdlalab.org

Erica I. LeMon, Esq.
Director of Advocacy
for Children's Rights
(410) 951-7648
elemon@mdlalab.org

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

EXECUTIVE STAFF

Wilhelm H. Joseph, Jr., Esq.
Executive Director

Stuart O. Simms, Esq.
Chief Counsel

Gustava E. Taler, Esq.
Chief Operating Officer

Administrative Offices
500 East Lexington Street
Baltimore, MD 21202
(410) 951-7777
(800) 999-8904
(410) 951-7778 (Fax)

www.mdlalab.org
04.2021



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
Gregory Countess, Esq.
Director of Advocacy
for Housing and Community Development
410-951-7687
gcountess@mdlaborg

HB 298_MoCo_Branda_FAV.pdf

Uploaded by: Ilana Branda

Position: FAV



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

HB 298

DATE: February 16, 2022

SPONSOR: The Speaker (By Request - Office of the Attorney General)

ASSIGNED TO: Judiciary

CONTACT PERSON: Leslie Frey (leslie.frey@montgomerycountymd.gov)

POSITION: SUPPORT

Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions

House Bill 298 would protect tenants from superfluous evictions filings by raising the surcharge filing fees for summary ejectment (failure to pay rent), tenant holding over, and breach of lease actions against a residential tenant. Currently, the maximum filing fee is \$8; under the bill, the maximum fee would be raised to \$73. HB 298 also prohibits lease clauses that would make the tenant responsible for paying the fee.

Unfortunately, there are landlords who regularly use evictions filings as a scare tactic with their tenants and file actions with the courts every month. These excessive filings then require households who are vulnerable to becoming unhoused to continually appear in court which can further add to their housing instability. Furthermore, filings and judgments become part of the tenants' rental records, which are accessible to future landlords and can create an additional barrier to accessing alternative housing opportunities. Maryland has among the lowest fees in the country for filing these actions; by raising fees, landlords would not be incentivized to turn to the courts at the earliest opportunity to resolve their issues with tenants.

Montgomery County strongly supports initiatives to mitigate eviction and to keep residents housed as part of COVID-19 economic recovery. We therefore respectfully urge the Committee to issue a favorable report on HB 298.

HB298 MCRC Testimony 2022.pdf

Uploaded by: Isadora Stern

Position: FAV

Testimony to the House Judiciary Committee

HB 298: Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions Position: Favorable

February 16, 2022

The Honorable Luke Clippinger, Chair
House Judiciary Committee
House Office Building, Room 101
Annapolis, Maryland 21401
cc: Members, House Judiciary Committee

Honorable Chair Clippinger and Members of the Committee:

The Maryland Consumer Rights Coalition is a statewide coalition of individuals and organizations that advances financial justice and economic inclusion for Maryland consumers through research, education, direct service, and advocacy. Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland. MCRC is in support of HB 298.

HB 298 would increase the filing fee surcharge on eviction actions from \$8 to \$73 and prohibit the court and the landlord from passing on this increase to the tenant. Prior to the pandemic, landlords filed 660,000 eviction complaints each year in a State with only 730,000 renter households, the highest eviction filing rate in the nation. The General Assembly took an important step to address this issue in 2021 by passing HB 298, which will provide tenants with access to counsel in eviction cases when funded and which requires landlords to send tenants a 10-day notice prior to filing an eviction action.

Additional important steps to further housing justice would be funding the Access to Counsel in Evictions Fund, pausing eviction cases when a rental assistance application is pending or the tenant is seeking legal/social services, and increasing the fee on filing an eviction action without passing that fee increase onto tenants. These actions would further incentivize landlords to work with tenants and social services.

MCRC's Tenant Advocacy program empowers tenants to advocate for themselves by providing information about housing rights and responsibilities, legal information, mediation, and referrals to other nonprofits and legal services. The requests we have received for assistance with eviction have increased by 36% over 2020 and continued to increase in 2021. COVID-19 has exponentially increased the housing insecurity impacting Maryland tenants.

In 2021, our Tenant Advocacy program received 1271 complaints from Maryland residents statewide. Of those 1271, 800 were related to eviction. An increase in the cost of eviction filings would disincentivize landlords from pursuing evictions as a first course of action before considering diversion services.

For these reasons we support HB 298 and urge a favorable report.

Best,
Isadora Stern
Policy Associate

2209 Maryland Ave · Baltimore, MD · 21218 · 410-220-0494

info@marylandconsumers.org · www.marylandconsumers.org · Tax ID 52-2266235

Maryland Consumer Rights Coalition, Inc is a 501(c)(3) nonprofit organization and your contributions are tax deductible to the extent allowed by law.

Health Care for the Homeless - HB 298 FAV - AG Sur

Uploaded by: Joanna Diamond

Position: FAV

**HEALTH CARE FOR THE HOMELESS TESTIMONY
IN SUPPORT OF
HB 298 – Landlord and Tenant – Eviction Actions – Filing Surcharge
and Prohibited Lease Provisions**

**House Judiciary Committee
February 16, 2022**



Health Care for the Homeless supports HB 298, but join with our colleagues at Renters United Maryland in opposing HB 298 if the bill is amended to allow the increased surcharge to be passed through to tenants under any circumstances.

HB 298 would increase the filing fee surcharge on eviction actions from \$8 to \$73 and prohibit the court and the landlord from passing on this increase to the tenant. Prior to the pandemic, landlords filed 660,000 eviction complaints each year in a State with only 730,000 renter households, the highest eviction filing rate in the nation. We applaud the General Assembly in taking the important step of preventing evictions during the 2021 session by passing HB 18, which will provide tenants with access to counsel in eviction cases and which requires landlords to send tenants a 10-day notice prior to filing an eviction action. However, Access to Counsel in Evictions Fund must be funded in order for this program to actually be implemented. Additional important steps to further housing justice include pausing eviction cases when a rental assistance application is pending or the tenant is seeking legal/social services, and increasing the fee on filing an eviction action without passing that fee increase onto tenants. These actions would further incentivize landlords to work with tenants and social services. A number of these initiatives, along with other bills, will be before this body this legislative session and we, along with Renters United Maryland, urge you to consider and pass these bills.

While we support HB 298 as drafted, **if the bill is amended to allow landlords or the court to pass on this \$65 increase to the tenant under any circumstances, the purpose of the bill is eviscerated.** There would no longer be any disincentive for the landlord to file an eviction action if the landlord or the court can pass that surcharge onto the tenant. Further, any additional fees on tenants, even “minor” increases, would have significant effects on renters and housing stability in Maryland. **Do not make tenants pay more for their own eviction!**

Health Care for the Homeless and Renters United Maryland coalition and we will vocally oppose any surcharge increase in which that surcharge may be passed onto the tenant under any circumstances. As such, Health Care for the Homeless asks that the Committee issue a favorable report **without amendments** on HB 298.

Renters United Maryland is a coalition of independent non-profit, legal services, and community-based organizations. In 2022, Renters United Maryland calls on the General Assembly to ensure that Maryland's COVID recovery isn't leaving renters behind. See Renters United Maryland's Housing Justice plan for the 2022 legislative session here: <https://rentersunitedmaryland.org/>.

Health Care for the Homeless is Maryland's leading provider of integrated health services and supportive housing for individuals and families experiencing homelessness. We work to prevent and end homelessness for vulnerable individuals and families by providing quality, integrated health care and promoting access to affordable housing and sustainable incomes through direct service, advocacy, and community engagement. We deliver integrated medical care, mental health services, state-certified addiction treatment, dental care, social services, and housing support services for over 10,000 Marylanders annually at sites in Baltimore City and Baltimore County. For more information, visit www.hchmd.org.

BaltimoreCounty_FAV_HB0298.pdf

Uploaded by: Joel Beller

Position: FAV



JOHN A. OLSZEWSKI, JR.
County Executive

JOEL N. BELLER
Acting Director of Government Affairs

JOSHUA M. GREENBERG
Associate Director of Government Affairs

MIA R. GOGEL
Associate Director of Government Affairs

BILL NO.: House Bill 298

TITLE: Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions

SPONSOR: The Speaker (By Request – Office of the Attorney General)

COMMITTEE: Judiciary

POSITION: **SUPPORT**

DATE: February 16, 2022

Baltimore County **SUPPORTS** House Bill 298 – Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions. This legislation would raise surcharges assessed by the District Court per civil case for summary ejection, tenant holding over, and breach of lease.

Eviction prevention is a core priority for Baltimore County Executive John Olszewski's administration. Amid the COVID pandemic, as eviction concerns mounted due to an unprecedented wave of unemployment, Baltimore County created the Department of Housing and Community Development (DHCD) to meet the surging demand. By taking advantage of strategic partnerships with organizations such as United Way and other governmental partners, DHCD has prevented thousands of evictions to date and continues to find creative solutions to secure housing for County residents.

HB 298 will further Baltimore County's efforts by setting a higher price for civil actions against tenants for summary ejection, tenant holding over, and breach of lease. This legislation would raise surcharges from a maximum \$8 per case to a maximum \$73 per case. Raising the cost of filing civil action against tenants incentivizes landlords come to creative, equitable solutions with their tenants. With a public health crisis continuing to impact the ability of residents to find employment and care for their loved ones, actions that guarantee continued stable housing have never been more critical.

Accordingly, Baltimore County requests a **FAVORABLE** report on HB 298. For more information, please contact Joel Beller, Acting Director of Government Affairs, at jbeller@baltimorecountymd.gov.

HB 298 -Landlord and Tenant - Eviction Actions - F

Uploaded by: Justin Hayes

Position: FAV



Peter Franchot
Comptroller

TESTIMONY OF COMPTROLLER PETER FRANCHOT

Support - House Bill 298 - Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions

*Judiciary Committee
February 16, 2022*

Chair Clippinger, Vice Chair Moon, and members of the Committee, it is my pleasure to provide testimony in **support** of **Senate Bill 223 - Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions**. I would like to thank Speaker Jones for sponsoring this important legislation on behalf of Attorney General Frosh, and the Committee for providing the opportunity for my testimony to be heard.

Housing affordability is an ongoing issue in Maryland, and the COVID-19 pandemic has made keeping families in their homes more important than ever before. Too frequently, some landlords elect to file eviction proceedings prematurely, in part because filing fees in Maryland are nearly the lowest in the nation. While other states may charge hundreds, the current filing surcharge is as low as fifteen dollars. This incentivizes landlords to simply file for eviction due to the low cost, which they are allowed to pass on to tenants.

House Bill 298 would increase the maximum eviction filing fee for landlords to a maximum of 73 dollars, still well below the national average, and ensure that those costs could not be passed on to tenants.

These reasonable measures will work to reduce the number of eviction filings and help fund legal services for vulnerable tenants, all serving to protect tenants and keep Maryland families in their homes.

For the reasons stated above, I respectfully request a favorable report for House Bill 298. Thank you for your time and consideration.

###

HB 298 - Written Testimony - HOUSE.pdf

Uploaded by: Katie Davis

Position: FAV



HB 298 – Eviction Surcharge
HEARING BEFORE THE JUDICIAL PROCEEDINGS COMMITTEE, FEBURARY 16, 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 thought leader and 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 and operating innovative direct pro bono service projects targeting specific legal problems or populations.

PBRC urges a FAVORABLE report on HB 298 for two reasons: PBRC supports HB 298 because the increased evictions surcharge will relieve stress on courts and encourage landlords to work with renters on repayment rather than rushing to court. Additionally, the Maryland Legal Services Corporation (“MLSC”) needs the revenue from the additional surcharges to sustain its funding of critical civil legal services, including those provided by PBRC, to vulnerable residents of our state. For every dollar invested in civil legal services, the state realizes savings of \$6.

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 for their proceedings. That program was extended to assist tenants with extended representation when necessary with MLSC funding in Baltimore City and more recently, in Baltimore County. PBRC attorneys have seen first-hand the number of tenants who appear in court ready to work with the landlords to pay their rent or with a valid defense to an eviction. For many tenants, serial, monthly Failure to Pay Rent filings are a true hardship, requiring them to miss work or disrupt their children's school to repeatedly come to court only to learn that the action has been dismissed by the landlord. Judgments on their credit report also negatively impact their ability to rent again. **In 2021, over 76% of Rent Court clients represented at court either avoided an eviction entirely based on a valid defense, had their cases dismissed by the landlord or were granted a postponement delaying their eviction. The increase in the surcharge for summary ejection cases will encourage landlords to work with renters on repayment, which will ultimately reduce rental debt and negative effects of serial filings on tenants and families while preventing unnecessary strain on the court system.**

Furthermore, the increased surcharge in both summary ejection cases and civil cases in general will funnel much-needed funds to MLSC to help fund work like the Rent Court Program. MLSC funding comprised 29% of PBRC’s budget in fiscal year 2021. In addition to Rent Court, PBRC’s projects include home preservation (covering tax sale, advance planning, and foreclosure prevention), consumer protection, immigration (including unification of unaccompanied children with their families), and senior stability. These projects incorporate extensive volunteer service components through community, courthouse and remote clinics that offer essential legal help to thousands of clients in need. PBRC also recruits, trains, and engages hundreds of pro bono attorneys in the myriad of civil legal areas that impact low-income individuals. **Grant funding from MLSC helps makes this possible.**

While PBRC supports HB 298 as drafted, if the bill is amended to allow landlords or the court to pass on this increase to the tenant under any circumstances, the primary purpose of the bill will be eviscerated. There would no longer be any disincentive for landlords to file serial eviction actions, and the benefit to the courts would be lost. The extra charge would be borne by those least able to handle it, and more tenants would be evicted unnecessarily. **PBRC and Renters United Maryland would oppose any surcharge increase in which that surcharge may be passed onto the tenant under any circumstances.**

In sum, PBRC, a member of Renters United of Maryland, urges a FAVORABLE report on HB 298.

Please contact Katie Davis, Director of PBRC's Courtroom Advocacy Project, with any questions.
kdavis@probonomd.org • 443-703-3049

HB 298- CLS FAVORABLE.pdf

Uploaded by: Kayla Williams

Position: FAV



HB 298 Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions

Hearing before the House Judiciary Committee, February 16, 2022

Position: FAVORABLE

Community Legal Services of Prince George’s County, Inc., is a non-profit organization established to provide quality legal services to low-income residents in Prince George County. We provide representation to tenants facing eviction in both Prince George’s and Anne Arundel County.

We support HB 298 as drafted, but we would oppose HB 298 if the bill is amended to allow the increased surcharge to be passed through to tenants under any circumstances.

Please do not make tenants pay more for their own eviction.

HB 298 would increase the filing fee surcharge on eviction actions from \$8 to \$73 and prohibit the court and the landlord from passing on this increase to the tenant. Prior to the pandemic, landlords filed 660,000 eviction complaints each year in a State with only 730,000 renter households – the highest eviction filing rate in the nation. The General Assembly took an important step to address this in 2021 by providing tenants with access to counsel when funded while also requiring landlords to send a 10-day notice prior to filing an eviction case. Raising the filing fee – without passing it onto the tenant – would further disincentivize landlords from serial filing. We support HB 298, but we would oppose the bill if it is amended to allow a fee pass-through to tenants:

1. **Passing the fee onto tenants would more than double the total amount that tenants must pay to “pay and stay” and avoid eviction and homelessness.** To “pay and stay” from a rent court judgment, the tenant must pay all court costs. If the bill is amended to allow a pass through, this means more than doubling the total amount a resident must pay to redeem (\$60 to \$125 or \$80 to \$145 in Balt. City). *Some families will be unable to pay the fee – especially very low income, subsidized tenants whose rent is often only \$100/month – and will be evicted because of the increased fee.*
2. **“Judicial discretion” for passing on the fee is what happens now. Tenants almost always lose because most cases end in default judgments for the landlord plus costs.** Over 90% of rent cases that are not dismissed end in a “default judgment” against the tenant. The Court checks a box on the form: “Judgment in

favor of Landlord for possession of the premises and costs.” This is the current exercise of “discretion,” and the tenant almost always loses. Even if the case doesn’t go to trial, the landlord assesses the costs against the tenant via their lease provisions – even if the case is dismissed. The tenant virtually always loses. Even if eviction filings are reduced by 25% and 32,000 tenants receive counsel in eviction cases, that leaves appx. 460,000 eviction filings, the vast majority of which will include a \$65 increased fee that very vulnerable households will have to pay to avoid eviction.

3. **Allowing a fee pass-through defeats the purpose of the bill, which is to disincentivize serial eviction filing.** If the landlord can recover the increased surcharge, it will have little effect on landlord eviction filing.
4. **Tenants still have an incentive to pay the rent in a timely fashion because landlords can still assess a 5% late fee and court filing fee – just not this increased surcharge.**
5. **If a landlord truly wants to evict a tenant who is chronically late, then after three judgments the landlord can foreclose on the right to redeem (i.e., no “pay and stay”).** There is no need for the landlord to continue seeking judgments and passing on the increased surcharge.
6. **When fully funded, Access to Counsel will assist annually approximately 32,000 tenants who have a defense. It does not solve Maryland’s significant affordability gap:** There are 193,819 extremely low-income (\$31,600/year for family of four) renter households in Maryland. 74% of those households are severely cost-burdened, i.e., paying more than 50% of their income in rent. These households are one paycheck or unexpected expense away from facing an eviction.

Even an amendment that would allow landlords to pass through the fee to tenants only after the 3rd failure-to-pay-rent filing in a year would still fall disproportionately on the renters who are least able to pay the increased fee because they are often on the brink of eviction. In the experience of our organization, landlords file against the same tenant repeatedly within the year because the purpose of the eviction filing is not eviction *per se* but rather debt collection.¹ For example, if there is a dispute between the landlord

¹ “The execution of an eviction is a double-edged sword for landlords, who must balance the costs of unit turnover with those of allowing a tenant to remain in rent arrears. But this is not the case for

and tenant over \$500 in rent or other fees, the tenant may pay the \$1,000 monthly rent timely, but the landlord may still file an eviction complaint for multiple successive months because there remains a \$500 back balance to which the landlord allocates first the tenant's payment each month, charging a late fee in each of those months as well. Even with a prohibition on pass-through of this surcharge, tenants still have ample incentive to pay the rent timely to avoid late fees and the current court costs that landlord pass through pursuant to statute. This additional proposed surcharge should instead serve as an incentive for the landlord to attempt to work with the tenant, accept a payment plan, and connect the tenant to social services if needed, instead of skipping straight to an eviction filing each month.

Community Legal Services of Prince George's County, Inc., is a member of the Renters United Maryland coalition and asks that the Committee **issue a FAVORABLE WITHOUT AMENDMENTS report on HB 298**. If you have any questions, please contact: Kayla Williams, Supervising Attorney, Williams@clspgc.org, 240-391-6532 Ext. 2.

filing. *Filing* costs a modest fee, and initiates a legal process that leverages the power of the state both symbolically and physically to encourage the tenant to pay her late rent. Moreover, the process of repeated (“serial”) filing for eviction and charging late fees, even on tenants who are expected to eventually pay their rent, is used by some landlords as an additional revenue source.” Drs. Philip ME Garboden and Eva Rosen, *Serial Filing: How Landlords Use the Threat of Eviction*, City and Community: A Journal of the Community and Urban Sociology Section of the American Sociological Association, Vol. 18, No. 2, June 2019, at 11-12 (emphasis original) (internal citations omitted).

MLSC - MCASA - testimony - house - 2022 - FAV HB29

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

P.O. Box 8782
Silver Spring, MD 20907
Phone: 301-565-2277
Fax: 301-565-3619

For more information contact:
Lisae C. Jordan, Esquire
443-995-5544
mcasa.org

Testimony Supporting House Bill 693 and House Bill 298 Lisae C. Jordan, Executive Director & Counsel February 16, 2022

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judiciary Committee to report favorably on House Bill 693 and House Bill 298

House Bill 693 and House Bill 298 Increased Legal Services to Help Survivors and Other Low Income Marylanders.

House Bill 693 – Filing Fee Surcharge to Support Civil Legal Services and Provide Rental Assistance
HB693 would address the increasing need for legal services by increasing filing fees. This bill would also generate support for Rental Assistance Programs in the State. MCASA supports the technical amendments to this bill developed by MLSC.

House Bill 729 – Increase in Surcharge on Summary Ejectment, Tenant Holding Over, and Breach of Lease cases to address Eviction Crisis and Support Civil Legal Services
This bill was developed by the Attorney General through the COVID 19 Task Force on Access to Justice. It would bring filing fees in landlord tenant cases closer in line with surcharges filed in other states. Proceeds would support civil legal services, including regarding housing.

MCASA's Sexual Assault Legal Institute (SALI) receives significant funding from the Maryland Legal Services Corporation. With this support, SALI serves low-income victims of sexual assault all over the State. SALI uses MLSC funding to support attorneys and advocates in cases including school & education issues, peace orders, protective orders (including for incest), U-visas to allow immigrant victims to stay in the US and assist with prosecution, privacy matters, and other matters arising from the sexual assault or abuse. MLSC funding is especially critical in child sexual abuse cases.

COVID is increasing the need for legal services.

Perpetrators are emboldened by the pandemic. They are using the pandemic to gain or renew access to victims, intimidate survivors into silence, and interfere with survivors' attempts to seek safety and justice. Sexual assault survivors are dealing with the "paradox of social distancing," increasing economic instability, homelessness, job loss, mental health needs, amplified trauma, and isolation. This crisis has led not only to an increase in the number of survivors seeking services, but to an increase in the number of services survivors seek.

Sexual assault and child sexual abuse can impact a wide array of legal issues.

Examples of MLSC-funded cases at SALI include the following (identifying information has been changed to protect privacy):

“Gina”, ten year old girl, was sexually assaulted by her step-father and step-uncle on separate occasions. Gina is autistic and has challenges communicating. Since the incidents she has had sleep disorders, shows signs of disassociation, and has begun therapy and counseling. Despite her disability, Gina was able to help prosecute and convict both perpetrators in Frederick County Circuit Court. Gina and her mother were in the U.S. without documentation. After the criminal case was completed they went to the local rape crisis center which referred Gina and her mother to SALI. A SALI attorney worked with the clinicians helping Gina and documented the abuse and its effects. The attorney then obtained law enforcement certification verifying that Gina and her mother helped prosecute a violent criminal. With this documentation as support, a petition for a U-visa was filed and granted. Now Gina and her mother are in America legally and continuing to work to heal from Gina’s sexual abuse.

“Jennifer” is a 12 year old girl who was fondled by her biological father while visiting him in Prince George's County. After she her mother about the abuse, the mother filed a Petition for a Protective Order and reported the abuse to the police. She was referred to SALI by both the local sexual assault program and through the written information police provide to all crime victims. A SALI advocate performed an intake and provided safety planning; the case was then assigned to an attorney. The SALI attorney advised Jennifer’s mother about her options and discussed how a civil protective order proceeding could impact the criminal case. The SALI attorney then provided representation in the protective order case, preparing three witnesses to testify: the victim, her mother, and a babysitter who was the first to hear about the abuse. Fortunately, the SALI attorney negotiated a consent order, so the child was spared having to testify. Keeping witnesses off the stand also helps protect the criminal case by reducing opportunities for impeachment. While the protective order was entered without a trial, it was strong: it ordered that the perpetrator stay away from the victim, granted the mother custody and provided for no visitation between the perpetrator and the victim. After the order was entered on the record, officers immediately arrested the perpetrator and he was detained pending his criminal trial.

“James”, a 7 year old boy in Anne Arundel County, lived in public housing with his family. One day a 13 year old boy who also lived in the housing project took James and another boy into the woods and sexually assaulted them. After telling his mother and the police what happened, James became afraid to leave the house. James’s mother, “Linda”, contacted SALI for assistance in having the family transferred to another public housing project.

SALI advocated with the Anne Arundel Housing Commission on the family’s behalf. The family was moved to the top of the waiting list and was placed in a new apartment as soon as one became available, instead of enduring a long waiting process (months instead of potentially 1-2 years). By the time the family was moved, the date to register new students in the new school district had passed. SALI again intervened by contacting the new school district and advocating that the family be able to register late due to the extenuating circumstances. The children were soon successfully enrolled and a victim of child sexual abuse is able to continue his recovery.

Legal services like those described above are a vital part of Maryland's safety net for children, women, and men victimized by sexual violence. As our State searches for ways to respond to sex

offenses, we must continue to remember individual victims and all of their needs, including their need for legal services.

MCASA member programs across Maryland use MLSC funding to help survivors of sexual assault, domestic violence, and child abuse. In addition to SALI, these programs include the Life Crisis Center on the Lower Eastern Shore, the Southern Maryland Center for Family Advocacy, Citizens Assisting and Sheltering the Abused in Washington County, Heartly House in Frederick, HopeWorks in Howard, Sexual Assault/Spousal Abuse Resource Center (SARC) in Harford County, and others. Together, these programs provide legal services for over 7500 victims and survivors annually.

Without the support of the Maryland Legal Services Corporation and the programs it funds, low-income victims and survivors would often have no access to the legal services needed to recover, heal, and have access to justice.

**The Maryland Coalition Against Sexual Assault and its
Sexual Assault Legal Institute
urges the Judiciary Committee to
report favorably on House Bill 693 and House Bill 298**

HB 298 PJC Testimony FAV.pdf

Uploaded by: Matt Hill

Position: FAV



C. Matthew Hill
Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 229
hillm@publicjustice.org

HB 298 Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions

Hearing before the House Judiciary Committee, February 16, 2022

Position: FAVORABLE

The Public Justice Center (PJC) is a nonprofit public interest law firm that stands with tenants to protect and expand their right to safe, habitable, affordable, and non-discriminatory housing. **We support HB 298 as drafted, but we would oppose HB 298 if the bill is amended to allow the increased surcharge to be passed through to tenants under any circumstances.**

Please do not make tenants pay more for their own eviction.

HB 298 would increase the filing fee surcharge on eviction actions from \$8 to \$73 and prohibit passing on this increase to the tenant. Prior to the pandemic, landlords filed 660,000 eviction complaints each year in a State with only 730,000 renter households – the highest eviction filing rate in the nation. The General Assembly took an important step to address this in 2021 by providing tenants with access to counsel when funded while also requiring landlords to send a 10-day notice prior to filing an eviction case. Raising the fee – without passing it onto the tenant – would further disincentivize filing.

- 1. Passing the fee onto tenants would more than double the total amount that tenants must pay to “pay and stay” and avoid eviction and homelessness.** To “pay and stay” from a rent court judgment, the tenant must pay all court costs. If the bill is amended to allow a pass through, this means more than doubling the total amount a resident must pay to redeem (\$60 to \$125 or \$80 to \$145 in Balt. City). *Some families will be unable to pay the fee – especially very low income, subsidized tenants whose rent is often only \$100/month – and will be evicted because of the increased fee.*
- 2. “Judicial discretion” for passing on the fee is what happens now. Tenants almost always lose because most cases end in default judgments for the landlord plus costs.** Over 90% of rent cases that are not dismissed end in a “default judgment” against the tenant. The Court checks a box on the form: “Judgment in favor of Landlord for possession of the premises and costs.” This is the current exercise of “discretion,” and the tenant almost always loses. Even if the case doesn’t go to trial,

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

the landlord assesses the costs against the tenant via their lease provisions – even if the case is dismissed. The tenant virtually always loses. Even if eviction filings are reduced by 25% and 32,000 tenants receive counsel in eviction cases, that leaves appx. 460,000 eviction filings, the vast majority of which will include a \$65 increased fee that very vulnerable households will have to pay to avoid eviction.

3. **Allowing a fee pass-through defeats the purpose of the bill, which is to disincentivize serial eviction filing.** If the landlord can recover the increased surcharge, it will have little effect on landlord eviction filing.
4. **Tenants still have an incentive to pay the rent in a timely fashion because landlords can still assess a 5% late fee and court filing fee – just not this increased surcharge.**
5. **If a landlord truly wants to evict a tenant who is chronically late, then after three judgments the landlord can foreclose on the right to redeem (i.e., no “pay and stay”).** There is no need for the landlord to continue seeking judgments and passing on the increased surcharge.
6. **When fully funded, Access to Counsel will assist annually approximately 32,000 tenants who have a defense. It does not solve Maryland’s significant affordability gap:** There are 193,819 extremely low-income (\$31,600/year for family of four) renter households in Maryland. 74% of those households are severely cost-burdened, i.e., paying more than 50% of their income in rent. These households are one paycheck or unexpected expense away from facing an eviction.

Even an amendment that would allow landlords to pass through the fee to tenants only after the 3rd failure-to-pay-rent filing in a year would still fall disproportionately on the renters who are least able to pay the increased fee because they are often on the brink of eviction. In the experience of our organization, landlords file against the same tenant repeatedly within the year because the purpose of the eviction filing is not eviction *per se* but rather debt collection.¹ For example, if there is a dispute between the landlord and

¹ “The execution of an eviction is a double-edged sword for landlords, who must balance the costs of unit turnover with those of allowing a tenant to remain in rent arrears. But this is not the case for filing. *Filing* costs a modest fee, and initiates a legal process that leverages the power of the state both symbolically and physically to encourage the tenant to pay her late rent. Moreover, the process of repeated (“serial”) filing for eviction and charging late fees, even on tenants who are expected to eventually pay their rent, is used by some landlords as an additional revenue source.” Drs. Philip ME Garboden and Eva Rosen, *Serial Filing: How Landlords Use the Threat of Eviction*, City and The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

tenant over \$500 in rent or other fees, the tenant may pay the \$1,000 monthly rent timely, but the landlord may still file an eviction complaint for multiple successive months because there remains a \$500 back balance to which the landlord allocates first the tenant's payment each month, charging a late fee in each of those months as well. Even with a prohibition on pass-through of this surcharge, tenants still have ample incentive to pay the rent timely to avoid late fees and the current court costs that landlord pass through pursuant to statute. This additional proposed surcharge should instead serve as an incentive for the landlord to attempt to work with the tenant, accept a payment plan, and connect the tenant to social services if needed, instead of skipping straight to an eviction filing each month.

Finally, some of the opposition in the Senate testified that the serial filing rate in Maryland is due to courts purportedly refusing to allow "future rent." In our experience and the experience of four colleagues with whom I consulted around the state, the court does regularly award "future rent" in failure-to-pay-rent cases.

Public Justice Center is a member of the Renters United Maryland coalition and asks that the Committee issue a **FAVORABLE REPORT WITHOUT AMENDMENTS on HB 298**. If you have any questions, please contact Matt Hill, hillm@publicjustice.org, 410-625-9409, ext. 229.

Community: A Journal of the Community and Urban Sociology Section of the American Sociological Association, Vol. 18, No. 2, June 2019, at 11-12 (emphasis original) (internal citations omitted).

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

HB298 - FAV-Molly Amster, JUFJ.pdf

Uploaded by: Molly Amster

Position: FAV

February 16, 2022

Molly Amster
Baltimore, MD 21218



THINK JEWISHLY. ACT LOCALLY.

TESTIMONY ON HB298/SB223 - POSITION: FAVORABLE

Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions

TO: Chair Clippinger, Vice Chair Moon, and members of the Judiciary Committee

FROM: Molly Amster, on behalf of Jews United for Justice

My name is Molly Amster. I am a resident of District 43 and am the Maryland Policy Director and Baltimore Director for Jews United for Justice (JUFJ). **I am submitting this testimony on behalf of JUFJ in support of HB298/SB223, Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions.** JUFJ organizes 6,000 Jews and allies from across Maryland in support of state and local social, racial, and economic justice campaigns.

Jewish sacred texts recognize that having safe, stable housing is key to a healthy society, and we know that it is key to reducing racial inequities. These texts have taken on even more urgency in the past two years: all people should be able to stay in their homes, especially during a pandemic.

While we support HB298/SB223 as drafted, if the bill is amended to allow landlords or the court to pass on the \$65 increase to the tenant under any circumstances, the purpose of the bill is eviscerated. There would no longer be any disincentive for the landlord to file an eviction action if the landlord or the court can pass that surcharge onto the tenant. Further, renters who are trying to scrape together enough money to pay their rent and late fees to stay in their homes would then have to come up with an additional amount to avoid eviction, leading to more evictions. **Our organization and Renters United Maryland would vocally oppose any surcharge increase in which that surcharge may be passed onto the tenant under any circumstances.**

On behalf of JUFJ, I respectfully urge this committee to return a favorable report on HB298/SB223.

HB298_testimony_evictionlab.pdf

Uploaded by: Peter Hepburn

Position: FAV

Statement in support of House Bill 298 Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions

February 16, 2022

Lillian Leung, Doctoral Student in Sociology, Princeton University

Peter Hepburn, Assistant Professor of Sociology, Rutgers University-Newark

Matthew Desmond, Maurice P. Daring Professor of Sociology, Princeton University

America was in the midst of an affordable housing and eviction crisis well before the COVID-19 pandemic. In 2019, nearly half (46.3%) of renting households nationwide were housing cost burdened, spending more than 30% of their monthly income on housing, and nearly a quarter of renters (23.9%) spent over half their income on housing.¹ Housing cost burden is highest for renters of color and low-income households. Housing cost burden in Maryland is slightly above the national average: 49.9% of renting households are classified as housing cost burdened and 24.5% are severely burdened.²

Increasing housing cost burden places a growing number at risk of eviction. Princeton University's Eviction Lab estimates that 3.7 million eviction cases were filed nationwide in 2016. That amounts to an eviction filing rate of 9.6%: 9.6 evictions filed for every 100 renting households.³ In Maryland, however, we have collected data that suggest dramatically higher eviction filing rates— as high as 92.5% in 2019 (see Appendix A).

The COVID-19 pandemic has had a particularly severe effect on renters. Between March, 2020 and March 2021, more than half of renter households lost income, and almost one in five renters struggled to pay rent in early 2021.⁴ Data from the Census Pulse Survey indicates that 17.6% of renters in Maryland were behind on rent between July and September 2021, above the national average of 15%.⁵

¹ Joint Center for Housing Studies at Harvard University. "The State of the Nation's Housing 2021." Harvard University, 2021.

² Author's calculations based on 2019 one-year American Community Survey Data for Maryland. Underlying data are available at:

<https://data.census.gov/cedsci/table?t=Renter%20Costs&g=0400000US24&y=2019&tid=ACSDT1Y2019.B25070&hidePreview=true>

³ Ashley Gromis, et al., "Estimating the National Prevalence of Eviction Using Millions of Public Court Records," Working Paper: Princeton University, Eviction Lab, 2020.

⁴ Joint Center for Housing Studies at Harvard University. "The State of the Nation's Housing 2021." Harvard University, 2021.

⁵ Estimates for Maryland come from "The Highest Share of Households Behind on Rent were in the South" (<https://www.jchs.harvard.edu/behind-on-rent-map>) and the national average is presented in the Joint Center for Housing Studies at Harvard University's report on "America's Rental Housing 2022."

However, state and local policies have helped to reduce eviction rates during the crisis. Eviction filing rates across the country fell in response to federal and state eviction moratoria, widespread availability of emergency rental assistance, and various other policies that supported housing stability.⁶ Between March, 2020 and November, 2021, 45.1% as many eviction cases as normal were filed in Maryland. Still, this amounts to 520,449 eviction filings.⁷

By way of comparison, the Eviction Lab has been collecting eviction filing data from six states and 31 cities during the pandemic. Our sample covers a quarter of all renters nationwide, but does not include Maryland.⁸ We tracked 664,244 eviction filings across all of these jurisdictions over the equivalent 21-month period, 43.1% of historical average. Compared to Maryland, reductions in eviction filings have been larger in New York City (21.7% of historical average), Philadelphia (26.0% of historical average), and Richmond, VA (26.8% of historical average). There were 82 times as many eviction cases filed in Maryland as in Minnesota over this 21-month period, despite the fact that there are only 20% more renter households in Maryland.

Maryland's high eviction filing rate reflects the fact that the threat of eviction is often used as a rent collection and property management tool, rather than a means of removing tenants. The strategic use of eviction filings was the subject of our analysis of serial eviction filings.⁹ Serial eviction filings take place when landlords and property managers repeatedly file evictions against the same household, at the same address, across multiple months and even years. Analyzing court records from across the country, we found that nearly one-third of households facing eviction in 2014 were filed against repeatedly at the same address. Interviews with 33 landlords and property managers led us to conclude that serial eviction filings were often used as a tool to facilitate rent collection—the threat of displacement a powerful inducement to pay rent.

Serial eviction filing is a plausible property management strategy only in places where eviction filing fees are low and regulatory barriers minimal. Jurisdictions that make eviction cheaper and quicker had significantly higher rates of serial eviction filings. In Indiana, Illinois, and Florida, less than one in every ten cases was a repeat filing. By contrast, almost half of eviction cases filed in 2014 were part of a serial eviction case in Delaware, South Carolina, and Virginia. In these states, eviction courts function as the court of first, not last resort.

⁶ Peter Hepburn, Renee Louis, Joe Fish et al., “U.S. Eviction Filing Patterns in 2020,” *Socius* (2021): 1-18.

⁷ Data are sourced from the Maryland Courts: <https://mdcourts.gov/district/about#stats>. The baseline comparison is the average number of filings over the 21-month period starting in March 2017 and March 2018 (running through November 2018 and 2019, respectively).

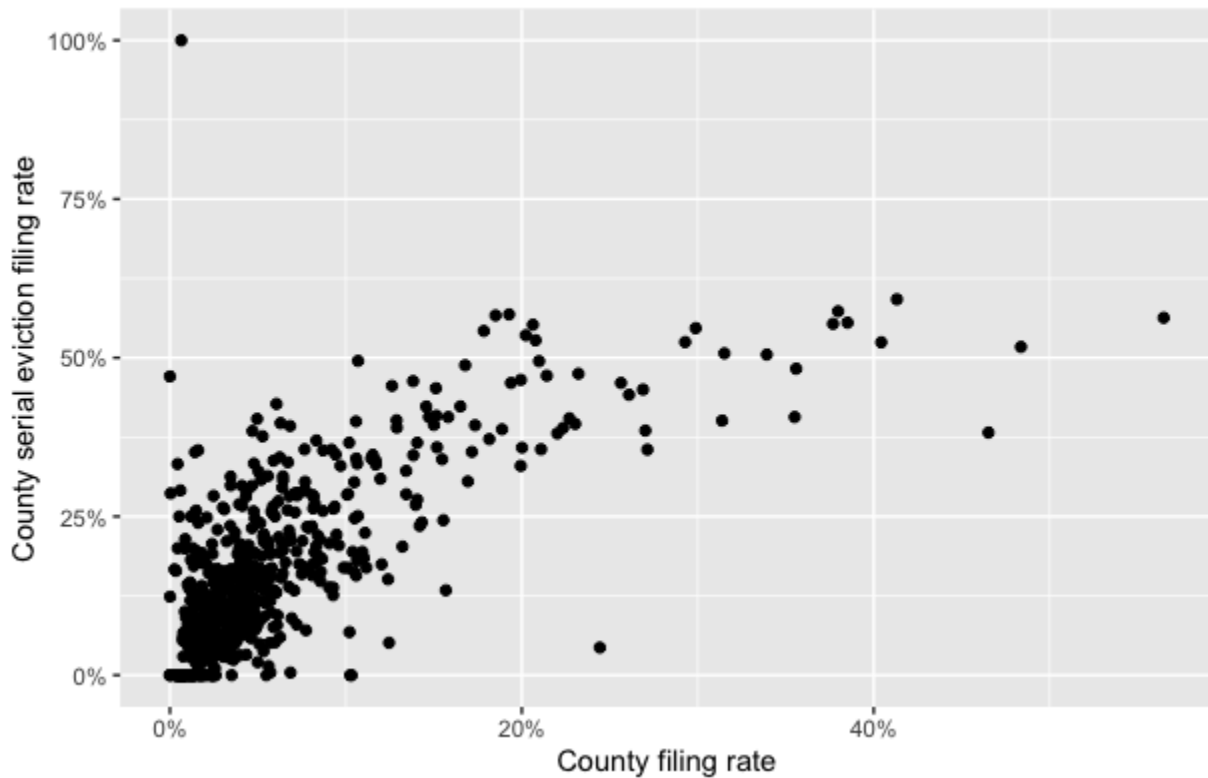
⁸ These data are available through the Eviction Tracking System: <https://evictionlab.org/eviction-tracking/>.

⁹ Lillian Leung, Peter Hepburn, and Matthew Desmond, “Serial Eviction Filing: Civil Courts, Property Management, and the Threat of Displacement,” *Social Forces* (2020): 1-29.

To put this in context of HB 298, the current filing fee for Failure to Pay Rent cases in Maryland is \$15 (except Baltimore City, where it costs \$25). This is among the lowest in the country. The average filing fee nationwide is \$112, with Minnesota having the highest average filing fee (\$295.5).¹⁰ Only Washington, D.C. has an eviction filing fee as low as Maryland's.

Due to the unavailability of case-level eviction filing data in the state, we cannot estimate serial eviction filing rates in Maryland. We provide statistics from nearby and similar states in Appendix B. Our analyses exploring the association between eviction filing rates and *serial* eviction filing rates demonstrate that states with higher overall filing rates tend to also have higher serial eviction filing rates as well (see Plot 1).

Plot 1. County-level serial eviction filing rate by overall eviction filing rate.



Note: Estimates are based on data from Leung et al. (2020). All estimates pertain to rates for 2014. No serial eviction filing data are available for Maryland.

There is considerable evidence to suggest that serial eviction filings are a common occurrence in Maryland. As noted above, the state's overall eviction filing rate—which we can calculate given aggregate statistics described in Appendix A—is extraordinarily high. In 2019, 675,625 landlord-tenant cases were processed, translating to approximately 92.54 cases per 100 renting

¹⁰ Figures are based on 2018 filing fee information collected by the Eviction. Filing fees might vary across counties within the same state; figures cited are state average.

households.¹¹ In the most extreme cases, we see a filing rate of 177.0% in Baltimore County, 131.5% in Prince George’s County, and 106.5% in Baltimore City in 2019. Rates of over 100% suggest many of these filings were likely part of serial eviction cases. Extrapolating the general pattern observed in Plot 1 to the eviction rates in Maryland, it seems more likely than not that a considerable share of all eviction filing in the state are serial eviction filings.

Serial eviction filings result in serious consequences for tenants, even those who never receive an eviction judgment. Having multiple eviction filings tarnishes tenants’ rental histories and creates barriers to finding housing in the future. In our interviews with property managers, many noted that they rejected applicants with negative rental history, even those that did not culminate in an eviction judgment. This pattern has also been documented by a number of journalists studying the tenant screening industry.¹²

Serial eviction filings also increase housing costs for households that are already struggling to pay rent. Landlords and property managers that we interviewed noted that they typically pass court costs, including filing and attorney fees, to tenants. We estimated that, across the country, each eviction filing translates into approximately \$180 in fines and fees for the typical renter household that pays to stay in their unit, raising their monthly housing cost by 20%. This bill’s provisions ensuring that landlords and property managers do not pass on these costs should help to reduce the financial burdens of tenants who are already at risk of eviction.

Increasing the filing fee for eviction cases should serve to reduce undue and frivolous eviction filings, limit serial eviction filings, and lower administrative stress and burden on the court system. Trying to put pre-pandemic caseloads in context, we estimate that each district court in Maryland must handle an average of almost 400 cases *weekly*.¹³ Some, however, process far more than that. A 2015 report by the Public Justice Center and the Right to Housing Alliance estimates the rent court in Baltimore City, which has one of the state’s highest eviction filing rates, processes roughly 1,000 cases per day. The report describes “overwhelmed dockets” and rapid processes that undermine the court’s fairness.¹⁴

Our research indicates that HB 298 (Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions) would likely reduce Maryland’s eviction filing rates and result

¹¹ Monthly statistic reports were summed to obtain figures for 2019:

<https://mdcourts.gov/sites/default/files/import/district/statistics/2019/Calendar19.pdf>

¹² Megan Kimble, “The Blacklist,” *The Texas Observer*, 12/9/2020; Lauren Kirchner, “Data Brokers May Report COVID-19–Related Evictions for Years,” *The Markup*, 8/4/2020; Kyle Swenson, “The stimulus relieved short-term pain, but eviction’s impact is a long haul,” *The Washington Post*, 2/8/2021.

¹³ We produced a back-of-the-envelope calculation by dividing the total number of filings in Maryland in 2019 by 52 weeks and by the 33 district court locations in Maryland.

¹⁴ The Public Justice Center, the Right to Housing Alliance, Dan Pasciuti, and Michele Cotton. 2015. “Justice Diverted: How Renters Are Processed in the Baltimore City Rent Court.”

http://www.publicjustice.org/wp-content/uploads/2019/09/JUSTICE_DIVERTED_PJC_DEC15.pdf

in fewer unnecessary, serial eviction filings. The pass-through prohibition written into the law serves as a critical disincentive to landlords and ensuring that court costs are not passed on to tenants.

Appendix A

We have calculated state-level eviction filing rates using court statistics retrieved from Maryland’s annual court reports. Data for 2000 to 2016 are drawn from Maryland Judiciary’s annual Statistical Abstracts.¹⁵ Data for 2017 through November 2021 are sourced from monthly statistical reports on the Maryland Courts’ website.¹⁶ National filing rates are drawn from the Eviction Lab’s website and are available only between 2000 and 2016.¹⁷

The filing rate is calculated by dividing the number of landlord-tenant cases filed that year by the number of renting households, drawn from the U.S. Census Bureau’s American Community Survey. The rates below do not account for serial eviction filings.

State-level eviction filing rates in Maryland, 2000-2021

Year	Maryland Filing Rate (%)	National Filing Rate (%)
2000	82.27	6.00
2001	77.25	6.38
2002	81.14	6.96
2003	80.51	7.04
2004	79.22	7.07
2005	79.33	7.22
2006	81.62	7.49
2007	86.38	6.42
2008	88.87	6.50
2009	87.05	6.44
2010	91.25	7.05
2011	86.43	7.22
2012	88.39	6.98
2013	87.08	6.73

¹⁵ <https://mdcourts.gov/publications/annualreports>

¹⁶ <https://mdcourts.gov/district/about#stats>

¹⁷ <https://evictionlab.org/>

2014	83.75	6.60
2015	83.33	6.27
2016	83.65	6.12
2017	89.44	NA
2018	90.28	NA
2019	92.54	NA
2020	42.55	NA
2021 (partial) ¹⁸	45.15	NA

Appendix B

State	Average Filing Fee (2018) (\$)	State Serial Eviction Filing Rate (%)
Delaware	40	56.3
North Carolina	126	41.3
South Carolina	40	46.7
Virginia	44.5	50.7
West Virginia	50	10

¹⁸ Court data for 2021 is only available up to November 2021. The eviction rate calculated therefore is likely lower than what the actual filing rate for a complete year would be.

2022.02.01 - A2JC Written Testimony - HB298 - Fili

Uploaded by: Reena Shah

Position: FAV

COMMISSIONERS

Ward B. Coe III, Chair
Gallagher, Evelius & Jones
Franklyn Baker
United Way of Central Maryland
Sarah Coffey Bowes
Civil Justice, Inc.
Meryl Davis Burgin
CareFirst BlueCross BlueShield
Hon. Kathleen M. Dumais
Maryland House of Delegates
David Eppler, Vice Chair
Designee, OAG
Guy Flynn
DLA Piper
Susan Francis
Maryland Volunteer Lawyers Service
Hon. Brian E. Frosh
Attorney General of MD
Herb Garten
Fedder Garten, P.A.
Sharon E. Goldsmith
Pro Bono Resource Center of Maryland
Jessica Gorsky
Whiteford Taylor & Preston
Sharon Krevor-Welsbaum
Brown Goldstein & Levy
Thomas E. Lynch
Tom Lynch Law
Wilhelm Joseph
Maryland Legal Aid
John Nethercut
Public Justice Center
Pamela Ortiz
Maryland Judiciary
Michael Pinard
University of Maryland
Carey School of Law
Jessica Quincosa
Community Legal Services of Prince
George's County
Hon. Samuel I. Rosenberg
Maryland House of Delegates
Deb Seltzer
Maryland Legal Services Corporation
Victoria Schultz, Treasurer
University of Baltimore School of Law
Kerri L. Smith
Silverman Thompson
Will Smith
Maryland State Senate
Matthew Stubenberg
Law School Access to Justice
Jeff Waldstreicher
Maryland State Senate
Hon. Cathy Serrette
Circuit Court for Prince
George's County
Donald Tobin
University of Maryland School of Law
Ronald Weich
University of Baltimore School of Law
Hon. Christopher West
Maryland Senate

STAFF
Reena K. Shah
Executive Director

HB298

**Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited
Lease Provisions
House Judiciary Committee
SUPPORT**

The Maryland Access to Justice Commission (A2JC) is an independent entity supported by the Maryland State Bar Association (MSBA) that unites leaders to drive reforms and innovations to make the civil justice system accessible, fair and equitable for all Marylanders. Prominent leaders from different segments of the legal community in Maryland – including the deans of the two law schools, the attorney general, law firm partners, heads of the legal services providers and funders, corporate counsel, academics, legislators, the state bar and judiciary comprise the A2JC.

During the height of the COVID-19 pandemic, A2JC served as the lead partner in the Maryland Attorney General’s COVID-19 Access to Justice Task Force, with its executive director serving as the A2J Task Force’s vice chair. One of the recommendations coming out of the Task Force final report [Confronting the COVID-19 Access to Justice Crisis](#) has resulted in HB298 and has the potential to serve two purposes: 1. decrease the number of Failure to Pay Rent court filings; 2. fund the Access to Counsel in Evictions Program, which was passed, but not funded during the 2021 legislative session.

We support HB298 as is, but we would oppose HB298 if the bill is amended to allow the increased surcharge to be passed through to tenants under any circumstances.

HB298 would increase the filing fee surcharge on eviction actions from \$8 to \$73 and prohibit the court and the landlord from passing on this increase to the tenant. Prior to the pandemic, landlords filed 660,000 eviction complaints each year in a State with only 730,000 renter households, the highest eviction filing rate in the nation.

The General Assembly took an important step to address the eviction crisis in 2021 by passing HB18, which provides tenants with access to counsel in eviction cases when the law is funded and which requires landlords to send tenants a 10-day notice prior to filing an eviction action.

A2JC led and was heavily involved in the work of the [Access to Counsel Task Force](#), which was legislatively mandated by HB18. The Task Force studied and made recommendations on how to implement the Access to Counsel in Evictions Program. One of the key challenges the Task Force identified to implement the Program is the exceedingly high number of case filings in Maryland. In addition to putting tenants to a continuous churn of insecurity and stress that traps tenants in a cycle of debt, the

number of case filings also increases the cost to implement HB18, which provides counsel to anyone facing an eviction in Maryland.

Additionally, HB18 remains unfunded. In order for access to counsel to have its intended effect of preventing evictions, it needs funding. A2JC has worked with partners and legislators to push for the use of federal ERAP funding to fund HB18 and add funding HB18 to the state budget. We continue to pursue all available options for funding and support HB298 because it could serve as an additional source of funds.

While we support HB298 as drafted, if the bill is amended to allow landlords or the court to pass on this \$65 increase to the tenant under any circumstances, the purpose of the bill is eviscerated. There would no longer be any disincentive for the landlord to file an eviction action if the landlord or the court can pass that surcharge onto the tenant. We would vocally oppose any surcharge increase in which that surcharge may be passed onto the tenant under any circumstances.

Even an amendment that would allow landlords to pass through the fee to tenants only after the 3rd failure-to-pay-rent filing in a year would still fall disproportionately on the renters who are least able to pay the increased fee because they are often on the brink of eviction.

HB298 aims to reduce evictions by disincentivizing serial filings. Currently, the barriers to entry for an eviction filing are too low and allow for hundreds of thousands of cases to be filed and churned through the courts unnecessarily. Filing fees in Maryland are one of the lowest in the country and could be increased to both reduce evictions and address the funding gap for the Access to Counsel in Eviction Fund.

Based on the information provided above, the Maryland Access to Justice Commission requests the House Judiciary Committee to deliver a FAVORABLE REPORT WITHOUT AMENDMENTS on HB298. Please contact Reena Shah - reena@msba.org - with any questions.

CASH_HB 298- Landlord and Tenant - Eviction Action

Uploaded by: Robin McKinney

Position: FAV



HB 298 - Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions
Judiciary Committee
February 16, 2022
SUPPORT

Chair Clippinger, Vice-Chair, and members of the committee, thank you for the opportunity to submit testimony in support of House Bill 298. This bill would increase the filing fee surcharge on eviction actions from \$8 to \$73 and prohibit the court and the landlord from passing on this increase to the tenant.

The CASH Campaign of Maryland promotes economic advancement for low-to-moderate income individuals and families in Baltimore and across Maryland. CASH accomplishes its mission through operating a portfolio of direct service programs, building organizational and field capacity, and leading policy and advocacy initiatives to strengthen family economic stability. CASH and its partners across the state achieve this by providing free tax preparation services through the IRS program 'VITA', offering free financial education and coaching, and engaging in policy research and advocacy. **Almost 4,000 of CASH's tax preparation clients earn less than \$10,000 annually. More than half earn less than \$20,000.**

Prior to the pandemic, landlords filed 660,000 eviction complaints each year in a State with only 730,000 renter households – the highest eviction filing rate in the nation. The General Assembly took an important step to address this in 2021 by providing tenants with access to counsel when funded while also requiring landlords to send a 10-day notice prior to filing an eviction case. Raising the filing fee – without passing it onto the tenant – would further disincentivize landlords from serial filing. We support HB 298, but we would oppose the bill if it is amended to allow a fee pass-through to tenants:

1. **Passing the fee onto tenants would more than double the total amount that tenants must pay to “pay and stay” and avoid eviction and homelessness.** To “pay and stay” from a rent court judgment, the tenant must pay all court costs. If the bill is amended to allow a pass through, this means more than doubling the total amount a resident must pay to redeem (\$60 to \$125 or \$80 to \$145 in Balt. City). *Some families will be unable to pay the fee – especially very low income, subsidized tenants whose rent is often only \$100/month – and will be evicted because of the increased fee.*
2. **“Judicial discretion” for passing on the fee is what happens now. Tenants almost always lose because most cases end in default judgments for the landlord plus costs.** Over 90% of rent cases that are not dismissed end in a “default judgment” against the tenant. The Court checks a box on the form: “Judgment in favor of Landlord for possession of the premises and costs.” This is the current exercise of “discretion,” and the tenant almost always loses. Even if the case doesn’t go to trial, the landlord assesses the costs against the tenant via their lease provisions – even if the case is dismissed. The tenant virtually always loses. Even if eviction filings are reduced by 25% and 32,000 tenants receive counsel in eviction cases, that leaves appx. 460,000 eviction filings, the vast majority of which will include a \$65 increased fee that very vulnerable households will have to pay to avoid eviction.
3. **Allowing a fee pass-through defeats the purpose of the bill, which is to disincentivize serial eviction filing.** If the landlord can recover the increased surcharge, it will have little effect on landlord eviction filing.
4. **Tenants still have an incentive to pay the rent in a timely fashion because landlords can still assess a 5% late fee and court filing fee – just not this increased surcharge.**

Creating Assets, Savings and Hope



5. **If a landlord truly wants to evict a tenant who is chronically late, then after three judgments the landlord can foreclose on the right to redeem (i.e., no “pay and stay”).** There is no need for the landlord to continue seeking judgments and passing on the increased surcharge.
6. **When fully funded, Access to Counsel will assist annually approximately 32,000 tenants who have a defense. It does not solve Maryland’s significant affordability gap: [There are 193,819 extremely low-income \(\\$31,600/year for family of four\) renter households in Maryland. 74% of those households are severely cost-burdened, i.e.,](#) paying more than 50% of their income in rent. These households are one paycheck or unexpected expense away from facing an eviction.**

Even an amendment that would allow landlords to pass through the fee to tenants only after the 3rd failure-to-pay-rent filing in a year would still fall disproportionately on the renters who are least able to pay the increased fee because they are often on the brink of eviction. In the experience of our organization, landlords file against the same tenant repeatedly within the year because the purpose of the eviction filing is not eviction *per se* but rather debt collection.¹ For example, if there is a dispute between the landlord and tenant over \$500 in rent or other fees, the tenant may pay the \$1,000 monthly rent timely, but the landlord may still file an eviction complaint for multiple successive months because there remains a \$500 back balance to which the landlord allocates first the tenant’s payment each month, charging a late fee in each of those months as well. Even with a prohibition on pass-through of this surcharge, tenants still have ample incentive to pay the rent timely to avoid late fees and the current court costs that landlord pass through pursuant to statute. This additional proposed surcharge should instead serve as an incentive for the landlord to attempt to work with the tenant, accept a payment plan, and connect the tenant to social services if needed, instead of skipping straight to an eviction filing each month.

For these reasons, we encourage a favorable report on HB 298.

¹“The execution of an eviction is a double-edged sword for landlords, who must balance the costs of unit turnover with those of allowing a tenant to remain in rent arrears. But this is not the case for filing. Filing costs a modest fee, and initiates a legal process that leverages the power of the state both symbolically and physically to encourage the tenant to pay her late rent. Moreover, the process of repeated (“serial”) filing for eviction and charging late fees, even on tenants who are expected to eventually pay their rent, is used by some landlords as an additional revenue source.” Drs. Philip ME Garboden and Eva Rosen, *Serial Filing: How Landlords Use the Threat of Eviction*, City and Community: A Journal of the Community and Urban Sociology Section of the American Sociological Association, Vol. 18, No. 2, June 2019, at 11-12 (emphasis original) (internal citations omitted).

MAP_HB 298_Support_Eviction Actions - Filing Surch

Uploaded by: Stacey Jefferson

Position: FAV



Member Agencies:

211 Maryland

Advocates for Children and Youth

Baltimore Jewish Council

Behavioral Health System Baltimore

CASH Campaign of Maryland

Catholic Charities

Energy Advocates

Episcopal Diocese of Maryland

Family League of Baltimore

Fuel Fund of Maryland

Health Care for the Homeless

Homeless Persons
Representation Project

Job Opportunities Task Force

Laurel Advocacy & Referral Services,
Inc.

League of Women Voters of Maryland

Loyola University Maryland

Maryland Catholic Conference

Maryland Center on Economic Policy

Maryland Community Action
Partnership

Maryland Family Network

Maryland Food Bank

Maryland Hunger Solutions

Paul's Place

Public Justice Center

St. Vincent de Paul of Baltimore

Welfare Advocates

Marylanders Against Poverty

Julia Gross, Co-Chair

P: 410-528-0021 ext 6029

E: jgross@mdhungersolutions.org

Kali Schumitz, Co-Chair

P: 410-412- 9105 ext 701

E: kschumitz@mdeconomy.org

TESTIMONY IN SUPPORT OF HB 298

Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions

House Judiciary Committee

February 16, 2022

Submitted by Julia Gross and Kali Schumitz, Co-Chairs

Marylanders Against Poverty (MAP) supports HB 298, which would raise the filing fee surcharge for eviction actions in Maryland. However, **we would oppose HB 298 if the bill is amended to allow the increased surcharge to be passed through to tenants under any circumstances.**

Do not make tenants pay more for their own eviction!

Each year in Maryland, more than 30,000 people experience homelessness. Leading researchers with the Aspen Institute and others have [documented the ways in which eviction cause homelessness and other forms of immense human suffering](#):

- [Following eviction](#), a person's likelihood of experiencing homelessness increases, mental and physical health are diminished, and the probability of obtaining employment declines.
- Eviction is linked to [numerous poor health outcomes](#), including depression, suicide, and anxiety, among others.
- Eviction is also [linked with respiratory disease](#), which could increase the risk of complications if COVID-19 is contracted, as well as mortality risk during COVID-19.
- Eviction makes it more expensive and more difficult for tenants who have been evicted to [rent safe and decent housing](#), apply for credit, borrow money, or purchase a home.
- Instability, like eviction, is [particularly damaging to children](#), who suffer in ways that impact their educational development and well-being for years.

This does not include the [enormous public costs of eviction and homelessness](#) from Medicaid-insured homeless persons forced to use the emergency room as their primary care physician or the increased number of children forced to enter foster care due to eviction.

A critical component of ending evictions and homelessness is creating new affordable housing opportunities for families with limited incomes. Yet another component must be reducing the incentive for landlords to seek eviction and protecting tenants' current legal rights to secure, habitable housing in any eviction action.

Raising the fee would give landlords an incentive to communicate with tenants before filing for eviction. Namely, landlords would have an incentive to work out a payment plan or find out whether severe conditions of disrepair on the property should be fixed to facilitate the payment of rent. Raising the filing fee is but one small way in which the State can discourage eviction actions and the devastating consequences of eviction. **However, if the bill is amended to allow landlords or the court to pass on this \$65 increase to the tenant under any circumstances, the purpose of the bill is eviscerated.** There would no longer be any disincentive for the landlord to file an eviction action or work with the tenant if the landlord or the court can pass that surcharge onto the tenant.

MAP and Renters United Maryland would oppose any surcharge increase in which that surcharge may be passed onto the tenant under any circumstances. As such, MAP asks the Committee to issue a favorable report without amendments on HB 298.

***Marylanders Against Poverty (MAP)** is a coalition of service providers, faith communities, and advocacy organizations advancing statewide public policies and programs necessary to alleviate the burdens faced by Marylanders living in or near poverty, and to address the underlying systemic causes of poverty.*

HB 298 - MSBA Support with Amendment Letter (2022.

Uploaded by: Shaoli Katana

Position: FWA

MEMORANDUM

To: Members of the House Judiciary Committee

From: Maryland State Bar Association (MSBA)
Shaoli Katana, Esq., Director

Subject: House Bill 298 – Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions

Date: February 14, 2022

Position: **Support with Amendment**

The Maryland State Bar Association (MSBA) respectfully Supports with Amendment **House Bill 298 - Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions**. House Bill 298 increases, from not more than \$8 to not more than \$73, the surcharge that the District Court is required to assess per civil case for summary ejection, tenant holding over, and breach of lease that seeks a judgment for possession of residential property against a residential tenant; requiring the District Court to assess the surcharge against a landlord and prohibiting the court from awarding or assigning the surcharge against a residential tenant; etc.

MSBA represents more attorneys than any other organization across the State in all practice areas. MSBA serves as the voice of Maryland’s legal profession. Through its Laws Committee and various practice-specific sections, MSBA monitors and takes positions on legislation of importance to the legal profession.

MSBA supports access to justice for Marylanders and funding of the justice system. MSBA has been a strong advocate for the Maryland Legal Services Corporation (MLSC), an entity that provides a significant resource for legal services in Maryland. This bill seeks to increase the MLSC Fund through a filing surcharge increase, and MSBA supports that initiative.

MSBA strongly values the mission of its partner, the Maryland Access to Justice Commission, an independent entity bringing together civil justice partners to help provide equal access to the civil justice system, as well as the charge of HB 298’s drafter, the Office of the Attorney General. Both the Access to Justice Commission and the Office of the Attorney General have been strong leaders of the much-needed Covid-19 Access to Justice Task Force during the

pandemic, developing strategies and solutions to address the many civil legal justice challenges resulting from the pandemic.

While MSBA supports increased funding for MLSC, MSBA recommends that the bill be amended to remove the proposed language from 7-301(c)(2)(ii) that does not permit assessment of the surcharge to be awarded or assigned by the District Court to the prevailing party. The intention of MSBA's amendment is to allow for recoverability of costs, while still supporting the strong need for increased access to civil legal aid funding and the broader goals of the bill.

For the reasons stated, MSBA **Supports with Amendment HB 298**.

For additional information, please feel free to contact Shaoli Katana at MSBA at shaoli@msba.org.

HB 298-AOBA--UNF.pdf

Uploaded by: Erin Bradley

Position: UNF



Bill No: HB 298 -- Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions

Committee: Judiciary

Date: 2/16/22

Position: Oppose

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's Counties. Many AOBA members manage market-rate affordable rental communities that operate on thin margins and house low and moderate-income Marylanders.

This bill would increase the surcharge for summary ejectment, tenant holding over or breach of lease from \$8 to \$73. The fee will be assessed against the housing provider and may not be awarded or assigned as a fee against the resident. A housing provider may not use a lease that contains a provision that requires a resident to be responsible for payment of a filing surcharge assessed by the Court. The bill specifies that surcharge fees cannot be added to the judgement amount if the Court finds in the housing provider's favor.

AOBA supports efforts to reduce the number of evictions in Maryland but cannot support an exorbitant fee increase that increases the cost to access the Court system by over 800%. In Prince George's County, 156,238 failure to pay rent cases were filed using the court's online filing system in 2019. Had those filings been brought with the proposed \$73 surcharge fee, it would have cost housing providers in excess of \$11,405,374 to access the District Court to exercise their only legal remedy when a resident has failed to pay the rent. This bill will also dramatically increase costs when a housing provider attempts to enforce the legal contract they entered with the resident on occasions when the resident violates that contract in non-financial ways.

Further, the rhetoric around this bill has been misleading and mischaracterizes the actual costs to file for an eviction. It has been said that the \$15 filing fee is one of the lowest in the Country. The statement ignores the total court costs involved in a failure to pay rent case that ranges from \$60 to \$80. This total includes a \$15 or \$25 filing fee, a

\$5 surcharge for each tenant of record, and a \$40 or \$50 warrant of restitution. These total costs align with most of our border states where the total cost to evict is \$71-\$81 in Virginia and \$45 in Delaware. According to TransUnion, the national average for court costs is \$50.

The fee increase is not tied to anything. It is an arbitrary amount that seeks to weaponize filing fees to create a new barrier for housing providers accessing the Court. However, as designed by the Maryland General Assembly, the court system and current eviction process is the only remedy available to housing providers seeking to remove residents that have not paid rent or otherwise violate community rules. The current system also allows residents the ability to redeem up to three times per year – four in Baltimore City. In fact, the right to redeem contributes to the high number of eviction filings as many of the filings are levied against the same group of residents who consistently owe outstanding rent.

Additionally, we have no evidence of any other state that prohibits the filing fee from being passed on to the resident by the housing provider or the court. This would be an unprecedented tax on housing providers' access to the court system. It has been said that an increased filing fee and the inability for a housing provider to pass those costs through to a resident will deter filings or change filing practices so housing providers wait longer to file for a failure to pay rent eviction. Unfortunately, that would ultimately increase the number of physical evictions as residents would be forced to pay a much larger, possibly prohibitive, outstanding rent balance to utilize their right of redemption. Thus, the prohibition on passing the filing fee to the tenant (1) is a tax on housing providers' access unique to Maryland; (2) could be construed as a taking not imposed on any other litigant in the State; and (3) if it does modify housing provider behavior, could have the unintended consequence of increasing actual evictions as residents cannot redeem.

However, housing providers do not take lightly the impact an eviction has on a household. During the COVID-19 pandemic they have reached out to cost-burdened residents to create payment plans—often accepting small amounts to help keep impacted residents safely housed. AOBA members have also applied for rental assistance on behalf of and in conjunction with residents; have held resource fairs and food pantries to help their communities overcome extreme financial hardship. AOBA would welcome the opportunity to work with the legislature to develop balanced and innovative approaches that help underserved and disenfranchised communities. Yet this bill is neither balanced, nor does it truly help community members. It is merely punitive towards the rental housing industry which provides some of the most affordable housing in Maryland.

For these reasons AOBA requests and unfavorable report on HB 298.

For further information contact Erin Bradley, AOBA Vice President of Government Affairs, at 301-904-0814 or eradley@aoba-metro.org.

MMHA - 2022 - H_B_298 - Unfavorable.pdf

Uploaded by: Grason Wiggins

Position: UNF



House Bill 298

Committee: Judiciary
Date: February 16, 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.

House Bill 298 (“HB 298”) 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. During the final quarter of 2021, court filings and evictions 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 HB 298 aligns Maryland with surrounding states is categorically false**. Further, MMHA is unaware of any other state that prohibits recovery of the filing fee. HB 298 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. **HB 298 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 HB 298.

Grason Wiggins, MMHA Senior Manager of Government Affairs, 912.687.5745

HB 298- Testimony of RMI.pdf

Uploaded by: Katherine Howard

Position: UNF

REGIONAL MANAGEMENT INC.

Testimony of Regional Management, Inc. House Bill 298 - Oppose February 16, 2022

For over 60 years Regional Management, Inc., a founding member of the Maryland Multi Housing Association, has managed over 5,000 affordable, unsubsidized rental homes for Baltimore City and County residents. We voluntarily serve lower and middle income customers because that is our mission and market niche and we provide these services without taking any Government tax breaks or requiring our customers to seek any government subsidies. Our rentals are well planned, sustainable, multifamily garden and townhouse style housing and, at an average age of 40 years old, all of these units remain attractive, affordable and well maintained, Our staff members take pride in serving our customers and we have continued to provide excellent service throughout the pandemic regardless of the fact that, even with the help provided by rental assistance programs, we still are experiencing a rent delinquency rate of 28%.

RMI, OPPOSES House Bill 298 for all of the reasons provided by MMHA. However, RMI and its staff specifically want to dispel the Attorney General's naive notion that "knocking on tenant's doors" to collect delinquent rents is a viable alternative to seeking Court redress.

A. "Door Knocking" Is Inherently Dangerous

Tenants with delinquent rent payments are highly stressed and often volatile. A perfect example of this is the case of Tionn Casey, a former RMI tenant, who mistakenly believed that during the pandemic he was not responsible for paying rent and that any rent he paid during the pandemic should be refunded to him. In August, 2021 he owed almost \$11,000 in unpaid rent. RMI notified him by letter about applying for rental assistance but he refused to do so unless RMI refunded his previously paid rent. See, staff notes attached.

On August 13, 2021 Casey shot a 64-year-old RMI Maintenance Mechanic 3 times while he was performing requested service to Casey's air conditioner because the Mechanic could not add an additional air conditioner to Casey's apartment. When the Mechanic explained that he did not have the authority to do so, the tenant pulled out his gun and shot the Mechanic as he ran from the apartment. The Mechanic survived this attempted murder because he received immediate care from Maryland Shock Trauma Center however, none of the 3 bullets can safely be removed from his legs and buttocks, he suffers extensive nerve damage to both of his legs, is in constant pain and cannot return to work. Casey awaits Trial for multiple counts of attempted murder, See CBS Baltimore (WIZ) article, attached. This is only one example of the dangerous unpredictability of tenant reactions that Housing Providers and their staff will inevitably encounter if they follow the Attorney General's callow suggestion. This Legislature has long acknowledged that the way to avoid horrific outcomes like this is to bring disputes to the Court system which provides fair, unbiased and knowledgeable decision making for all litigants. HB 298's unrecoverable "Legal Access Tax" in favor of "Door Knocking" debt collection will exacerbate, not diffuse these inevitable situations.

B. "Door Knocking" often seen as a "Shakedown" Debt Collection tactic, may expose Housing Providers to unnecessary litigation.

The Attorney General and other supporters of HB 298 recently told this Legislature that instead of Housing Providers bringing unpaid rent matters before an unbiased judicial arbiter, that they want them to resort to knocking on residents' doors to demand rent payments. In response, one Democratic lawmaker accurately described that as a "shakedown" and cautioned the supporters against encouraging such behavior. RMI agrees with that Democratic lawmaker, and argues that members of the Maryland General Assembly should refuse to promote the shakedown of residents — it is unconscionable.

Moreover, the Attorney General's suggestion that 'Door Knocking' is a substitute for established legal process will ultimately expose Housing Providers to potential litigation under Fair Debt Collection laws, particularly if they utilize a "Door Knocking " service. See, *Siwulec v. J.M. Adjustment Services, LLC*, 2012 WL 666649 (3d Cir. 2012), where the Court of Appeals for the Third Circuit found that a Bank's "door knock" service was subject to the FDCPA, and was not a mere delivery service of letters for the Bank and *Romine v. Diversified Collection Services, Inc.*, 155 F.3d 1142 (9th Cir. 1998), where the Ninth Circuit held that Western Union was a debt collector when it advertised "Talking Telegrams" to aid debt collectors in contacting delinquent debtors.

For all of these reasons Regional Management, Inc. asks this Legislature to continue to support the rights of both Tenants and Housing Providers to safely bring their rent collection matters before Maryland's Courts as they have done for over 50 years under this Legislature's guidance and governance and give

HB 298 an UNFAVORABLE report

Respectfully Submitted;
Katherine Kelly Howard, Esq.
General Counsel for Regional Management, Inc.
410 539 2370
khoward@regionalmgmt.com

23 [1522EEAS] 1522 E EAST 36TH ST 133-6-0066 OAKR STU 1ST
 TIONN A. CASEY RENT 681.00 OCCUPIED 1/14/12
 LEASE BEGINS 1/14/21 A TYPE 1YR

CODES: - DIR . DAT) EXT / PO = RECALL , OT ! OT ADDR : OT \$; # 0 REJ

5/22/20	COMMENT:									BILL SENT
6/02/20	BALANCE	FEB/14	MO		34.00		CASEY			
6/02/20	RENT	MAR/14			681.00					
6/02/20	RENT	APR/14			681.00					
6/02/20	ON/ACCT	MAY/14			680.00					
6/23/20	COMMENT:									BILL SENT
7/22/20	COMMENT:									BILL SENT
8/24/20	COMMENT:									BILL SENT
9/22/20	COMMENT:									BILL SENT
9/24/20	NO RENT INCREASE : PRESENT RENT EQUAL SCHEDULE									
4/14/21	OLD TEN'T COLL.				100.00		JOHNSON		221	
4/14/21	REFUND OF RENT				33.33CR		&RUPP & ASSOC.			
4/30/21	-----				2,142.67	-----				557.00
5/12/21	OLD TEN'T COLL.				200.00		JOHNSON		221	
5/12/21	REFUND OF RENT				66.66CR		&RUPP & ASSOC.			
6/15/21	OLD TEN'T COLL.				100.00		JOHNSON		221	
6/15/21	REFUND OF RENT				33.33CR		&RUPP & ASSOC.			
STATUS E	ON/ACCT	.00	BCCF	T						557.00
Q	1.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
Window RENTINQ/1 at CPMCP1										
RCV		FORM	LTAI		Col 7	Row 1	Page 1	E1SR3		

Mr. Casey would like his April, May and June 2020 rents reimbursed because he was not supposed to pay because of the pandemic. He said he did not receive any bills and will not apply for any assistance until he has proof he owes. I told him we can send him a letter of what is owed and a copy of any bills if we had any. Phone # 443-804-4278

- Sonia
6-17-2020

**Regional
Management
Inc.**

June 18, 2021

Via: Mail

Re: 1522 East 36th St Apt E
Tenant(s) Tionn A. Casey
Rent Amount: \$681.00

To Whom It May Concern:

In reference to the above unit, the total amount needed to bring your rent account up to date is:

\$681.00	June 14 th rent (2020)
\$681.00	July 14 th rent
\$681.00	Aug. 14 th rent
\$681.00	Sept. 14 th rent
\$681.00	Oct. 14 th rent
\$681.00	Nov. 14 th rent
\$681.00	Dec. 14 th rent
\$681.00	Jan. 14 th rent (2021)
\$681.00	Feb. 14 th rent
\$681.00	Mar. 14 th rent
\$681.00	April 14 th rent
\$681.00	May 14 th rent
\$681.00	June 14 th rent

TOTAL AMOUNT DUE: \$8,853.00

Please pay by certified check or money order, made payable to Regional Management Inc. (RMI) at 11 E. Fayette St. If you have any questions, please feel free to contact me at 410-539-2370 Ext 1354.

Sincerely,

Mrs. Ivy Ologbosere
Tenant Relations Supervisor
Regional Management Inc.
ishufford@regionalmgmt.com

(410) 539-2370 11 EAST FAYETTE ST. BALTIMORE, MARYLAND 21202

©CBS Baltimore

Baltimore Man Charged With Attempted Murder For Shooting Maintenance Worker

BALTIMORE (WJZ) — A Baltimore man is charged with first-degree attempted murder for shooting a maintenance worker in northeast Baltimore last month, police said.

Officers responded on the afternoon of August 13 to an apartment on the 1500 block of East 36 Street, where they found a 64-year-old maintenance worker suffering from gunshot wounds to the lower extremities.

Other maintenance workers directed officers to the apartment of 41-year-old Tionn Antonio Casey.

Police learned the worker made a maintenance visit to Casey's apartment. Police said Casey, armed with a handgun, demanded the worker leave the apartment.

As the worker attempted to leave the apartment, Casey shot the victim, police said. Casey remained in the apartment until police arrived. He was arrested without incident.

Casey is currently being held without bail at Central Booking.

MBIA Letter of Opposition HB 298.pdf

Uploaded by: Lori Graf

Position: UNF

February 16, 2022

The Honorable Luke H. Clippinger
House Judiciary Committee
House Office Building, Room 101
6 Bladen St., Annapolis, MD 21401

RE: HB 298 Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions

Dear Chairman Smith:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **HB 298 Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions**. **MBIA Opposes** the Act in its current version.

This bill would prevent surcharge penalties from being assessed against tenants in civil cases against residential tenants. MBIA respectfully opposes this measure. This bill would create an asymmetric legal proceeding in which one party can be assessed a charge while another cannot. Additionally, the bill would increase the potential penalties assessed from \$8 to \$73. This bill codifies an unfair playing field in legal proceedings and penalties should be determined to apply to the parties at fault, and not prevented in favor of maintaining an imbalance in favor of tenants due to an unfair and untrue assessment of the duplicity and financial position of a landlord.

For these reasons, MBIA respectfully requests the Committee give this measure an unfavorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the House Judiciary Committee

HB 298 Testimony Opposition to Surcharge_fnl_2-9-

Uploaded by: Trevlyn Johnson

Position: UNF

Robin Carter
Chairperson, Board of Commissioners
Janet Abrahams
President | Chief Executive Officer



February 16, 2022

TO: Members of the House Judiciary Committee
FROM: Housing Authority of Baltimore City
RE: House Bill 298
Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions

POSITION: OPPOSE

Chair Luke Clippinger, Vice-Chair David Moon and Members of the Committee, please be advised that the Housing Authority of Baltimore City and the thirteen (13) other public housing authorities in Maryland, as listed below, oppose House Bill 298. We respectfully request an unfavorable report on this bill or an amendment exempting all housing authorities from the surcharge.

The Housing Authority of Baltimore City (HABC) is a federally funded public housing authority mandated by federal law to provide safe, federally subsidized housing to low-income residents of Baltimore City. HABC owns and manages about 7,000 rental units in Baltimore City.

In 2019 before the current health emergency, HABC filed over 10,000 summary ejectment cases in rent court and evicted residents who did not pay their rent pursuant to federal regulations. Federal law provides that residents pay 30% of their income. Accordingly, HABC has a number of residents who pay \$100.00 or less per month in rent. Prior to filing in rent court, HABC, like other housing authorities, sends a notice informing residents who have not paid their rent that a case would be filed in court. In 2019, federal regulations required housing authorities to send a 14-day notice to residents in such case, which gave those residents an additional 14 days to pay their rent prior to a court filing. Unfortunately, some residents repeatedly do not pay their rent until after the failure to pay rent case is filed in court, resulting in multiple rent court filings against the same households during the year. The cost of filing fees cannot be recouped if the resident pays before trial.

HABC has been encouraging residents who have overdue rent balances to apply for Emergency Rental Assistance Program funds and has entered into many repayment agreements with residents for payment of their back rent. It has always been the goal to use litigation as a last resort to address rent arrears. Despite efforts to collect back rent outside of court, HABC still has many residents who owe significant rent arrears that extend past two years.

Adding a surcharge to file a summary ejectment case in rent court would place a harsh financial burden on HABC. The proposed surcharge of up to \$73.00 on 10,000 rent cases, for instance, would add another \$730,000 to file those cases. In addition to rent court cases, HABC also files breach of lease actions due to lease violations that include criminal activity. The surcharge would be a crushing burden on HABC and would severely impact HABC's ability to serve the residents of Baltimore City.

HABC and other housing authorities in Maryland would be adversely affected if HB 298 were to pass because this surcharge would have to be paid from each housing authorities' allocation of federal operating funds. The federal operating funds are granted to housing authorities by the U.S. Department of Housing

Housing Authority of Baltimore City | 417 East Fayette Street, Baltimore, MD 21202
 410.396.3232 www.HABC.org @BmoreHabc

and Urban Development to operate the public housing program for low-income residents. Essentially, taxpayer money would be used to pay the surcharge.

Requiring HABC and other Maryland public housing authorities to spend a substantial amount of their operating budget on the surcharge would greatly diminish the ability of HABC and other Maryland housing authorities to provide public housing and services to lower income residents of Baltimore City. Any additional surcharge, whether it would be \$73.00 or \$10.00, would have a financial impact on HABC's abilities to provide the current level of services to low-income residents.

Unlike private landlords, HABC cannot raise rents to generate additional funds to offset the impact of the surcharge. Further, HABC is mandated by federal regulations to ensure that residents comply with their leases, which require HABC to file in court due to violations of a resident's lease when alternative measures are not possible. Additionally, unlike a private landlord, HABC cannot choose to not renew a lease at the end of its term for residents who repeatedly pay late or fail to pay. The leases for public housing residents automatically renew unless terminated through a court action.

As previously stated, all Maryland public housing authorities ("PHAs") are subject to the same federal regulations and requirements. There are thirty (30) PHAs in Maryland, which provide housing assistance for low-income households in the various jurisdictions. The Maryland PHAs listed below are also indicating their opposition to this bill for the reasons set forth herein.

House Bill 298 would adversely impact all Maryland PHAs by forcing the use of federal operating funds to pay the surcharge fee and reducing the amount of money available to provide housing services to low-income residents of Maryland.

HABC respectfully requests an amendment to this bill to exempt all PHAs from this surcharge.

If such an amendment is not made, HABC respectfully requests an **unfavorable** report on House Bill 298.

HABC is authorized to state that the following thirteen (13) Maryland PHAs join HABC in opposition to this Bill:

- **Crisfield Housing Authority;**
- **Elkton Housing Authority;**
- **Glenarden Housing Authority;**
- **Hagerstown Housing Authority;**
- **Housing Authority of The City of Annapolis;**
- **Housing Authority of The City of College Park;**
- **Housing Authority Prince George's County;**
- **Housing Authority of Washington County**
- **Housing Commission of Anne Arundel County;**
- **Housing Commission of Talbot County;**
- **Housing Opportunities Commission of Montgomery County;**
- **Howard County Housing Commission; and**
- **Wicomico County Housing Authority.**

HB 298_realtors_castelli_unf.pdf

Uploaded by: William Castelli

Position: UNF



House Bill 298– Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions

Position: Unfavorable

Maryland REALTORS® opposes HB 298 which significantly increases the surcharge for summary ejectment, breach of lease or tenant holding over actions. State law currently limits such fees to \$8 -18 (similar to other civil actions) but this is just the surcharge and does not include filing fees or the warrant of restitution.

REALTORS® often manage property for owners who lease their single-family property for many reasons. Sometimes it is because the owner is seeking to create additional income for their family by holding onto property they once lived in. Sometimes, they choose rental real estate as a separate investment vehicle where the rent helps pay the mortgage so that they will eventually have equity in the property at the end of the mortgage term. Sometimes, it is because the owner of the property was under water and instead of selling the property at a loss, they keep it until they can recover some equity. Other times an owner may have a temporary but longer-term job relocation and they would like to hold onto the property and move back in when their temporary assignment is over.

By increasing the surcharge to \$73 and making it unrecoverable in court, the legislation makes a costly eviction process even more so - particularly for small landlords. Landlords may spend hundreds to thousands of dollars when a tenant is evicted. Some counties require a property owner to hire a moving crew to remove any personal property left behind by the tenant. All turnover properties will be cleaned and often painted after a tenant leaves. Eviction is an option of the last resort because of these expenses. Almost all landlords have a strong financial incentive to keep tenants in a property as long as possible.

Some of our property managers report that between 3-20% of their rental owners are selling properties due to the strong sales market and continued uncertainty in the rental market. For that reason, it is important that the concerns of tenants and landlords are appropriately balanced.

The Maryland REALTORS® could support a smaller increase in the surcharge but believe the surcharge with other fees should be recoverable by the property owner in court.

**For more information contact bill.castelli@mdrealtor.org,
susan.mitchell@mdrealtor.org, or lisa.may@mdrealtor.org**