

HB 693--AOBA Statement--FAV.pdf

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Position: FAV



Bill No: HB 693-- Courts - Surcharges and Payment to Special Funds

Committee: Judiciary

Date: 2/16/22

Position: Favorable

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.

House Bill 693 increases the surcharge in civil cases to not more than \$85. The bill increases the surcharge fee for summary ejectment from \$8 to not more than \$68, which shall be deposited as follows, \$30 into access to counsel special fund; \$30 into Rental Assistance Special Fund; \$8 into Maryland Legal Services Corporation Fund.

While AOBA does not often support fee increases, the Association is open to appropriate and recoverable fee increases. As such, AOBA supports HB 693 which will provide additional resources to MDEC and ultimately a state rental assistance program while also supporting the Access to Counsel special fund. The revenue generated will reinforce state priorities and the bill provides balance by allowing the court to determine who is responsible for court costs.

For these reasons AOBA requests a favorable report on HB 693.

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

MMHA - 2022 - HB 693 - Favorable.pdf

Uploaded by: Grason Wiggins

Position: FAV



House Bill 693

Committee: Judiciary
Date: February 16, 2022
Position: Favorable

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members house more than half a million residents of the State of Maryland.

House Bill 693 (“HB 693”) increases the surcharge for a summary ejectment proceeding by more than 800%, but HB 693 allows for a judge to decide whether a housing provider may recover the surcharge. **MMHA’s position regarding court fees has been consistent. MMHA is open to consideration of a reasonable increase in the summary ejectment filing fee as long as it is fully recoverable.**

I. Recoverability is Critical

By allowing the surcharge to be recovered, HB 693 ensures that evictions remain low, that Maryland retains affordable housing, and that Maryland’s law aligns with every surrounding jurisdiction. To be clear, states like New York also allow housing providers to recover court costs. **In fact, MMHA is unaware of any state in the country that prohibits recovery of court costs.** The ability to recover court costs is critical. Just like every other industry in Maryland, when housing providers access Maryland’s impartial judicial system in good faith, housing providers should be allowed to recover the costs of the court proceeding.

If housing providers were unable to recover their court costs, housing providers would be forced to account for those unrecoverable costs in their budget, which would result in rent increases. Those increases would only make housing less affordable for residents that consistently pay their rent. Other jurisdictions have recognized this fact, which is why every one of Maryland’s surrounding jurisdictions allow housing providers to recover their court costs.

Maryland’s court system is designed to benefit tenants. Maryland’s tenants are afforded: (1) one of the longest grace periods for unpaid rent in the country, (2) access to free attorneys throughout the court process, (3) a significant number of notices that include contact information for free attorneys, (4) and a “right to redeem” model that allows tenants to pay unpaid rent and stay in the property up to and at **any time** prior to an 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 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. Further, none of Maryland’s surrounding jurisdictions have enacted an Access to Counsel Program for tenants. As such, policies in Maryland’s surrounding jurisdictions lead to less court filings, but they are also less beneficial to tenants than Maryland’s laws.



II. Fee Amount and Two-Payment Process

HB 693 increases the total cost to file a summary ejectment case to \$90 in Baltimore City and \$80 in the rest of the state. That total amount is high compared to surrounding jurisdictions like Virginia (\$45-\$56) and Delaware (\$45). The fee amount in HB 693 could be reduced to more closely align Maryland with surrounding states. **Therefore, MMHA requests that the committee review a surcharge increase of \$40, which would more closely align Maryland with surrounding jurisdictions.**

The summary ejectment process requires two payments, the filing fee and the warrant of restitution. Maryland’s cost for the warrant of restitution means that the total costs during the court process is already similar to surrounding states. The chart below illustrates the cost of the two payment process compared to Virginia.

	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

III. Unprecedented Decline in Court Filings and Evictions

Since the beginning of the pandemic, Maryland has experienced an historical decline in both 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, based upon objective data from the District Court of Maryland, evictions have plummeted during the pandemic and have remained low. In the final quarter of 2021, both court filings and evictions have declined by more than 65% and 58% respectively compared to the same pre-pandemic timeframe. That data is reflective of the consistent and unprecedented decline in court filings and evictions since the beginning of the pandemic.

Housing providers have played a critical role in the eviction decline. Housing providers have spent thousands of staff hours supporting tenants during the rental assistance process, utilized their resources to connect residents with rental assistance, and shown extreme patience as **the time between a court filing and a court hearing for repossession has extended to more than eight months**. Housing providers have conducted that work and demonstrated astounding patience while their own bills, mortgages, and taxes have come due.

IV. Conclusion

MMHA’s position regarding court fees has been consistent. MMHA is open to consideration of a reasonable increase in the summary ejectment filing fee that is fully recoverable. Housing providers should not be



MARYLAND MULTI-HOUSING ASSOCIATION, INC.

punished for utilizing their only option for repossession under Maryland law. **While further discussions and review are warranted regarding the amount of the fee increase, MMHA is in full support of the recoverability aspect of HB 693.** By allowing housing providers to recover court costs, HB 693 aligns Maryland with every one of its surrounding jurisdictions, including states like New York.

Grason Wiggins, MMHA Senior Manager of Government Affairs, 912.687.5745

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

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

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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 693 - MSBA Support Letter (2022.02.14).pdf

Uploaded by: Shaoli Katana

Position: FAV

MEMORANDUM

To: Members of the House Judiciary Committee

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

Subject: House Bill 693 - Courts - Surcharges and Payment to Special Funds

Date: February 14, 2022

Position: Support

The Maryland State Bar Association (MSBA) joins its partner, the Maryland Access to Justice Commission, and supports **House Bill 693 - Courts - Surcharges and Payment to Special Funds**. House Bill 693 increases certain surcharges on certain fees, charges, and costs in certain civil cases in the circuit courts and the District Court; requires that certain surcharges collected be deposited into the Maryland Legal Services Corporation Fund and directed to certain special funds in the State; establishes the Rental Assistance Special Fund as a special, nonlapsing fund; and requires interest earnings of the Rental Assistance Special Fund to be credited to the Rental Assistance Special Fund.

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. Since the start of COVID-19, A2JC, MSBA, and justice partners worked hard to secure emergency funding to make up for the 70% decline in civil legal aid funding. During the 2021 legislative session, we successfully advocated for \$9 million to the Maryland Legal Services Corporation to fund a diversity of civil legal aid programs through the state. In 2020, through the work of the COVID-19 Task Force, we succeeded in advocating for \$11.7 million in funding from Governor Hogan and Attorney General Frosh.

MSBA and its partner the Access to Justice Commission recently supported and secured the passage of the legal right to counsel in eviction matters, to help many Maryland renters negatively impacted by the pandemic. HB 693 takes the next step to implement the program

through much-needed funding for the Access to Counsel in Evictions Special Fund, as well as the Rental Assistance Special Fund, and to Maryland Legal Services Corporation Fund.

For the reasons stated above, MSBA **supports** HB 693 and respectfully requests a **favorable report**. For additional information, please feel free to contact Shaoli Katana at MSBA at shaoli@msba.org.

HB 693_realtors_fav.pdf

Uploaded by: William Castelli

Position: FAV



House Bill 693 – Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions

Position: Favorable

Maryland REALTORS® supports HB 693 which increases certain court fees including the surcharge for summary ejection. State law currently limits this fee to \$8. Although this is a substantial increase in the eviction surcharge, the REALTORS® can support such an increase when nearly half of this fee will help fund rental assistance in addition to access to counsel and legal services.

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.

Increasing the surcharge from \$8 to \$68 is no small step given that the evictions are already an expensive process. Landlords, particularly small landlords with single-family property, 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.

Nevertheless, the Maryland REALTORS® can support such an increase as long as \$30 of it helps fund rental assistance programs that help both the tenant and landlord.

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

HPRP_HB 693_FWA.pdf

Uploaded by: Carisa Hatfield

Position: FWA



HOMELESS PERSONS REPRESENTATION PROJECT, INC.

HB 693: Courts – Surcharges and Payment to Special Funds

**Hearing before the House Judiciary Committee,
February 16, 2022**

Position: FAVORABLE WITH AMENDMENTS

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 693 as long as it includes one key amendment: The Court and the landlord must be prohibited from passing onto tenants the increased filing fee for failure-to-pay-rent (summary ejectment) actions. Unless amended, after a default judgment, renters desperately seeking to avoid eviction would be required to pay this \$60 increase to “pay and stay” and avoid eviction & homelessness. Some will not be able to do so. **If HB 693 does not include this amendment, we must oppose the bill.**

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

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 in eviction cases 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. A prohibition on passing the increased fee onto tenants is essential:

1. **Passing the fee onto tenants would 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 doubling the total amount a resident must pay to redeem (from \$60 to \$120; or \$80 to \$140 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**

normally 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. 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 \$60 increased fee that very vulnerable households will have to pay to avoid eviction.

3. **Allowing a fee pass-through defeats a major 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.

If an amendment that prohibits pass-through to tenants is not feasible, we suggest striking the increased fee for summary ejectment from the bill. We support additional funding for civil legal services and access to counsel in evictions. Our concern is with raising the surcharge on rent court actions from \$8 to \$68 and allowing a pass-through to tenants. Suggested amendments to prohibit a pass through are below.

HPRP is a member of the Renters United Maryland coalition and asks that the Committee issue a **FAVORABLE WITH AMENDMENTS report on HB 693**. If you have any questions, please contact: Carisa A. Hatfield, Esq., at 443-402-5395, or at 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).

Three amendments borrowed from HB 298 re: prohibiting pass through to tenants:

Amendment 1: Page 3, line 1, add new subparagraph (c)(2)(ii):

(ii) IF ASSESSED UNDER ITEM (I)1 OF THIS PARAGRAPH, SHALL BE ASSESSED AGAINST A LANDLORD AND MAY NOT BE AWARDED OR ASSIGNED BY THE DISTRICT COURT AS A FEE OR COST AGAINST A RESIDENTIAL TENANT; AND

Amendment 2: Adopt amendments to RP § 8-208 from HB 298:

Article – Real Property
8–208.

(d) A landlord may not use a lease or form of lease containing any provision that:

(7) Is against public policy and void pursuant to § 8–105 of this title; [or]

(8) Permits a landlord to commence an eviction proceeding or issue a notice to quit solely as retaliation against any tenant for planning, organizing, or joining a tenant organization with the purpose of negotiating collectively with the landlord; OR

(9) PROVIDES THAT A TENANT IS RESPONSIBLE FOR, OR REQUIRES A TENANT TO AGREE TO BE RESPONSIBLE FOR, PAYMENT OF A FILING SURCHARGE ASSESSED AGAINST THE LANDLORD BY THE DISTRICT COURT UNDER § 24 7–301(C)(2)(I)1 OF THE COURTS ARTICLE.

Amendment 3: Revisions to RP 8-401 from HB 298:

8–401.

(a) Whenever the tenant or tenants fail to pay the rent when due and payable, it shall be lawful for the landlord to have again and repossess the premises in accordance with this section.

(b) (1) Whenever any landlord shall desire to repossess any premises to which 1 the landlord is entitled under the provisions of subsection (a) of this section, the landlord 2 or the landlord’s duly qualified agent or attorney shall ensure that the landlord has completed the procedures required under subsection (c) of this section.

(2) After completing the procedures required under subsection (c) of this section, a landlord or the landlord’s duly qualified agent or attorney may file the landlord’s written complaint under oath or affirmation, in the District Court of the county wherein the property is situated:

(i) Describing in general terms the property sought to be repossessed;

(ii) Setting forth the name of each tenant to whom the property is rented or any assignee or subtenant;

(iii) Stating the amount of rent and any late fees due and unpaid, less the amount of any utility bills, fees, or security deposits paid by a tenant under § 7–309 of the Public Utilities Article;

(iv) Requesting to repossess the premises and, if requested by the landlord, a judgment for the amount of rent due, costs, EXCLUDING ANY SURCHARGE ASSESSED AGAINST THE

LANDLORD UNDER § 7-301(C)(2)(I)1 OF THE COURTS ARTICLE, and any late fees, less the amount of any utility bills, fees, or security deposits paid by a tenant under § 7-309 of the Public Utilities Article;

(v) If applicable, stating that, to the best of the landlord's knowledge, the tenant is deceased, intestate, and without next of kin; and

(vi) If the property to be repossessed is an affected property as defined in § 6-801 of the Environment Article, stating that the landlord has registered the affected property as required under § 6-811 of the Environment Article and renewed the registration as required under § 6-812 of the Environment Article and:

1. A. If the current tenant moved into the property on or after February 24, 1996, stating the inspection certificate number for the inspection conducted for the current tenancy as required under § 6-815(c) of the Environment Article; or

B. On or after February 24, 2006, stating the inspection certificate number for the inspection conducted for the current tenancy as required under § 6-815(c), § 6-817(b), or § 6-819(f) of the Environment Article; or

2. Stating that the owner is unable to provide an inspection certificate number because:

A. The owner has requested that the tenant allow the owner access to the property to perform the work required under Title 6, Subtitle 8 of the Environment Article;

B. The owner has offered to relocate the tenant in order to allow the owner to perform work if the work will disturb the paint on the interior surfaces of the property and to pay the reasonable expenses the tenant would incur directly related to the relocation; and

C. The tenant has refused to allow access to the owner or refused to vacate the property in order for the owner to perform the required work.

HB693_MLSC_FWA.pdf

Uploaded by: Deb Seltzer

Position: FWA



MLSC

MARYLAND LEGAL SERVICES CORPORATION

IOLTA - INTEREST ON LAWYER TRUST ACCOUNTS

Testimony Concerning HB 693
“Courts - Surcharges and Payment to Special Funds”
Submitted to the House Judiciary Committee
Hearing Date: February 16, 2022

Position: Favorable with Amendments

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

Maryland Legal Services Corporation requests a favorable report with amendments on House Bill 693, 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 Circuit Court and District Court surcharge amounts balancing a potential decrease in the number of court filings at every level.

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.

House Bill 693 also provides a funding source for the new Access to Counsel in Evictions Program. As the administrator of the Program, MLSC looks forward to building on our previous eviction prevention

grants to ensure the Program proceeds effectively and efficiently, once funding is provided. When funded, the Program will provide legal representation as well as related tenant outreach and education, ensuring low-income tenants facing loss of housing know their rights and have an advocate to guide them through the court process. A stable funding source must be identified so that these life-changing services are available to all low-income Marylanders who need them.

With the amendment proposed by other advocates prohibiting the pass-through of the summary ejection surcharge onto tenants, MLSC urges favorable consideration of House Bill 693.

HB 693 PJC Testimony FWA .pdf

Uploaded by: Matt Hill

Position: FWA



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HB 693: Courts – Surcharges and Payment to Special Funds

Hearing before the House Judiciary Committee, February 16, 2022

Position: FAVORABLE WITH AMENDMENTS

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 693 as long as it includes one key amendment: The Court and the landlord must be prohibited from passing onto tenants the increased fee for failure-to-pay-rent (summary ejectment) actions.** Unless amended, after a default judgment, renters desperately seeking to avoid eviction would be required to pay this \$60 increase to “pay and stay” and avoid eviction & homelessness. Some will not be able to do so. **If HB 693 does not include this amendment, we must oppose the bill.**

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

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 in eviction cases 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 serial filing. A prohibition on tenant pass-through is essential:

- 1. Passing the fee onto tenants would 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 doubling the total amount a resident must pay to redeem (from \$60 to \$120; or \$80 to \$140 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 normally 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

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“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. 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 \$60 increased fee that very vulnerable households will have to pay to avoid eviction.

3. **Allowing a fee pass-through defeats a major 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

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
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\$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.

If an amendment that prohibits pass-through to tenants is not feasible, we suggest striking the increased fee for summary ejection from the bill. We support additional funding for civil legal services and access to counsel in evictions. Our concern is with raising the surcharge on rent court actions from \$8 to \$68 and allowing a pass-through to tenants. Suggested amendments to prohibit a pass through are below.

Public Justice center is a member of the Renters United Maryland coalition and asks that the Committee issue a **FAVORABLE WITH AMENDMENTS report on HB 693**. If you have any questions, please contact Matt Hill, hillm@publicjustice.org, 410-625-9409.

Three amendments borrowed from HB 298 re: prohibiting pass through to tenants:

Amendment 1: Page 3, line 1, add new subparagraph (c)(2)(ii):

(ii) IF ASSESSED UNDER ITEM (I)1 OF THIS PARAGRAPH, SHALL BE ASSESSED AGAINST A LANDLORD AND MAY NOT BE AWARDED OR ASSIGNED BY THE DISTRICT COURT AS A FEE OR COST AGAINST A RESIDENTIAL TENANT; AND

Amendment 2: Adopt amendments to RP § 8-208 from HB 298:

Article – Real Property
8–208.

(d) A landlord may not use a lease or form of lease containing any provision that:
(7) Is against public policy and void pursuant to § 8–105 of this title; [or]

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).

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(8) Permits a landlord to commence an eviction proceeding or issue a notice to quit solely as retaliation against any tenant for planning, organizing, or joining a tenant organization with the purpose of negotiating collectively with the landlord; OR

(9) PROVIDES THAT A TENANT IS RESPONSIBLE FOR, OR REQUIRES A TENANT TO AGREE TO BE RESPONSIBLE FOR, PAYMENT OF A FILING SURCHARGE ASSESSED AGAINST THE LANDLORD BY THE DISTRICT COURT UNDER § 24 7-301(C)(2)(I)1 OF THE COURTS ARTICLE.

Amendment 3: Revisions to RP 8-401 from HB 298:

8-401.

(a) Whenever the tenant or tenants fail to pay the rent when due and payable, it shall be lawful for the landlord to have again and repossess the premises in accordance with this section.

(b) (1) Whenever any landlord shall desire to repossess any premises to which 1 the landlord is entitled under the provisions of subsection (a) of this section, the landlord 2 or the landlord's duly qualified agent or attorney shall ensure that the landlord has completed the procedures required under subsection (c) of this section.

(2) After completing the procedures required under subsection (c) of this section, a landlord or the landlord's duly qualified agent or attorney may file the landlord's written complaint under oath or affirmation, in the District Court of the county wherein the property is situated:

(i) Describing in general terms the property sought to be repossessed;

(ii) Setting forth the name of each tenant to whom the property is rented or any assignee or subtenant;

(iii) Stating the amount of rent and any late fees due and unpaid, less the amount of any utility bills, fees, or security deposits paid by a tenant under § 7-309 of the Public Utilities Article;

(iv) Requesting to repossess the premises and, if requested by the landlord, a judgment for the amount of rent due, costs, EXCLUDING ANY SURCHARGE ASSESSED AGAINST THE LANDLORD UNDER § 7-301(C)(2)(I)1 OF THE COURTS ARTICLE, and any late fees, less the amount of any utility bills, fees, or security deposits paid by a tenant under § 7-309 of the Public Utilities Article;

(v) If applicable, stating that, to the best of the landlord's knowledge, the tenant is deceased, intestate, and without next of kin; and

(vi) If the property to be repossessed is an affected property as defined in § 6-801 of the Environment Article, stating that the landlord has registered the affected property as required under § 6-811 of the Environment Article and renewed the registration as required under § 6-812 of the Environment Article and:

1. A. If the current tenant moved into the property on or after February 24, 1996, stating the inspection certificate number for the inspection conducted for the current tenancy as required under § 6-815(c) of the Environment Article; or

B. On or after February 24, 2006, stating the inspection certificate number for the inspection conducted for the current tenancy as required under § 6–815(c), § 6–817(b), or § 6–819(f) of the Environment Article; or

2. Stating that the owner is unable to provide an inspection certificate number because:

A. The owner has requested that the tenant allow the owner access to the property to perform the work required under Title 6, Subtitle 8 of the Environment Article;

B. The owner has offered to relocate the tenant in order to allow the owner to perform work if the work will disturb the paint on the interior surfaces of the property and to pay the reasonable expenses the tenant would incur directly related to the relocation; and

C. The tenant has refused to allow access to the owner or refused to vacate the property in order for the owner to perform the required work.

2022.02.14 - A2JC Written Testimony - HB693 - Fili

Uploaded by: Reena Shah

Position: FWA

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HB693

Courts - Surcharges & Payment to Special Funds
House Judiciary Committee
FAVORABLE with AMENDMENTS

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.

FAVORABLE TO HB693 only with one Key Amendment

We support HB 693 as long as it includes one key amendment: *The Court and the landlord must be prohibited from passing onto tenants the increased filing fee for failure-to-pay-rent (summary ejectment) actions.* Unless amended, after a default judgment, renters desperately seeking to avoid eviction would be required to pay this \$60 increase to “pay and stay” and avoid eviction and homelessness. Some will not be able to do so. If HB 693 does not include this amendment, ***we must oppose the bill.***

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.

HB693 has the Potential to Reduce Eviction Filings and Fund Access to Counsel in Evictions Program.

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 HB693 with amendments because it could serve as an additional source of funds.

While we do not support HB693 as drafted, if the bill is amended to allow landlords or the court to NOT pass on the increase to the tenant, the bill will work to reduce the amount of eviction filings and fund the Access to Counsel Program.

There would be a disincentive for the landlord to file an eviction action if the landlord or the court cannot 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.

HB693 has the potential 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, as long as tenants are not bearing the brunt of that cost.

Based on the information provided above, the Maryland Access to Justice Commission requests the House Judiciary Committee to deliver a FAVORABLE REPORT WITH AMENDMENTS on HB693. Please contact Reena Shah - reena@msba.org - with any questions.

MAP HB 693 Testimony FWA.pdf

Uploaded by: Stacey Jefferson

Position: FWA



TESTIMONY IN SUPPORT OF HB 693

HB 693 - Courts – Surcharges and Payment to Special Funds

House Judiciary Committee, February 16, 2022

Submitted by Julia Gross and Kali Schumitz, Co-Chairs

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

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Marylanders Against Poverty (MAP) supports HB 693 only if the bill is amended to stop the court and the landlord from passing onto tenants the increased filing fee for failure-to-pay-rent (summary ejection) actions. Unless the bill is amended to prohibit passing through the fee to tenants, tenants will be required to pay this \$60 increase to “pay and stay” and avoid eviction & homelessness. Some will not be able to do so. If HB 693 does not include this amendment, we must oppose the bill.

Eviction often leads to homelessness. 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.

Making it more difficult for extremely low-income families to avoid eviction by requiring them to pay an additional \$60 to pay and stay is inequitable. Particularly for subsidized tenants who may only pay \$50 per month in rent, requiring them to pay an additional \$60 in costs when they’ve fallen behind undermines many of the progressive policies that the General Assembly has enacted to reduce homelessness. We strongly favor amending the bill to prohibit passing the fee onto tenants or striking the increased summary ejection fee from the bill altogether.

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.