

HB0691 - Landlord and Tenant – Failure to Repair Serious and Dangerous Defects

- Tenant Remedies (Tenant Safety Act)

Hearing before the House Environment & Transportation Committee,

Feb. 24, 2023, 1:00PM

Position: SUPPORT (FAV)

My name is Michael English, and I strongly support House Bill 0691, the Tenant Safety Act, because it would support tenants facing dangerous conditions in accessing rent escrow.

I'll be honest with you, a few months ago, I had no idea what rent escrow was, and even now my knowledge is somewhat limited, with the gaps filled in by my more well versed advocates I've come to work with. Still, that shows just how important this law is. If housing advocates aren't familiar with the legalities of collective rent escrow and lawsuits, then what are the chances a group of tenants are? What chance do they have of navigating a complex process that is set up to divide and conquer them? This reform will make it much easier for them to seek collective justice.

As it stands, there are many more tenants suffering with uninhabitable living conditions than file for rent escrow. For many, the prospect of bringing an individual lawsuit raises insurmountable fear of retaliation and abuse by unscrupulous landlords. For others, the filing fee and time missed from work are infeasible on a lean budget. For others still, the intimidating prospect of facing off against landlords and judges chills their pursuit of a remedy.

HB0691 addresses such obstacles by introducing group filing procedure to the rent escrow law (Real Property § 8-211). By allowing tenants to join their interests together, this bill would have an enormous impact on tenants' ability to organize quickly and efficiently to compel landlords to make potentially life-saving repairs. HB0691 would enable a single tenant to file a rent escrow case about building and unit conditions that other tenants with the same landlord on the same property could join. Moreover, the bill ensures landlord accountability by enabling tenants to seek damages and attorney's fees from negligent landlords who refuse to make necessary repairs to uninhabitable conditions.

HB0691 facilitates tenants in demanding necessary housing improvements that would benefit all Marylanders, renters and homeowners alike. The bill allows a single tenant or a group of tenants, incorporated or unincorporated, living on the same premises with the same landlord, to seek repairs, damages for unaddressed repairs, and attorney's fees. In individual habitability actions, tenants face a massive power imbalance when seeking necessary repairs from their landlords. In response to an individual escrow filing,

landlords can, and do, refuse to act or refuse to extend a tenant's lease. Landlords can also easily harass individual tenants, file an eviction, or unilaterally lock the tenant out, despite the fact that it is illegal to do so. In providing a collective option for seeking repairs through the courts and the added remedy of damages and attorney's fees, HB0691 reduces the likelihood of intimidation of individual tenants and ensures that those living in truly threatening housing conditions will have a fair shot at compelling negligent landlords to act in the interest of life, health and safety.

HB0691 also gives tenants more power to compel repairs by ensuring that tenants and courts can hold negligent landlords accountable. As it stands, the only remedies available to tenants that file rent escrow for repairs are rent abatement, distribution of escrow funds or an injunction 90 days after a court finding that the conditions complained of by the tenant exist. These remedies alone, however, have proven unavailing with numerous negligent landlords.

There are also limited legal services available to support low-income tenants pursuing rent escrow, which means that tenants often must file on their own or forgo filing altogether. HB0691 strengthens the remedies available to tenants and ensures that tenants can hold landlords responsible for negligence and delay in a way that fully accounts for the harm they suffer. First, by providing groups of tenants with the opportunity to file together, tenants will be able to hold landlords accountable for the repairs they are already legally required to make. Second, by permitting tenants to pursue damages against a landlord who fails to make repairs, landlords and their agents will be required to account for the actual harm caused by their refusals and failures to make necessary repairs – a remedy that is much more persuasive than lost rental income alone. Finally, the attorney's fees provision increases the likelihood that tenants will be able to avail themselves of legal services, as they will be able to enlist attorneys whose practices depend upon the ability to recoup reasonable fees.

HB0691 also codifies the already-existing implied warranty of habitability and clarifies tenants' right to enforce it. Landlords are currently required to ensure their properties are suitable for human habitation, but negligent landlords often freely collect rent without being held to this basic, common-sense standard. HB0691 provides an important tool to hold these negligent landlords accountable.

Further, HB0691 promotes judicial economy by allowing tenants to address building or complex-wide conditions issues in a single case.

HB0691 also has the added benefit of allowing for resolution of tenants' conditions issues with the same landlord and increasing access to justice overall. Currently, it is difficult for a group of tenants to bring an action against a landlord together. Indeed, practitioners report that it is functionally impossible to bring an escrow case on behalf of a group of tenants because existing class action requirements are not designed with escrow in mind. Instead, tenants on the same premises with the same

landlord are generally required to file individual actions, with each tenant paying a filing fee, drafting a separate complaint and appearing in court. This process is particularly onerous for older and disabled renters, for whom it may be difficult travel to the courthouse on multiple occasions, and low-income renters, for whom taking three separate days off of work to go to court could risk their livelihoods. In addition, this process requires judges to hear building or complex-wide conditions issues piecemeal and prevents them from assessing and addressing important safety issues in a single determination. HB0691 would explicitly provide a mechanism for tenants to raise related issues and conditions in a single, streamlined case in court, and provide tenants with better access to justice – a change that simply makes more sense.

I ask that the Committee issue a report of FAVORABLE on HB0691.

Thank you

Michael English