



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

**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: FAVORABLE (With Sponsor’s Amendments)

Maryland Legal Aid (MLA) submits its written and oral testimony on HB0691 at the request of bill sponsor Delegate Vaughn Stewart.

MLA is a non-profit law firm that provides free legal services to the State’s low-income and vulnerable residents. Our 12 offices serve residents in each of Maryland’s 24 jurisdictions and handle a range of civil legal matters, including housing, family law, public benefits, bankruptcy and other debt collection matters, and criminal record expungements. MLA urges the Committee’s favorable report on HB0691, which would allow groups of tenants to file rent escrow actions.

HB0691 creates 3 sorely needed tools for renters to rein in negligent landlords who refuse to make necessary repairs to dangerous housing conditions:

1. The bill enables a tenant association or a single tenant, as “lead petitioner,” to file a rent escrow case for repair of hazardous conditions that affect multiple units or commons areas of a building or complex. Notably, HB0691 does not contemplate that an entire rental community could “live rent free,” as opponents might say. The group escrow procedure in the bill requires the lead petitioner to pay rent into the court’s escrow account. Although fellow tenants who opt into the escrow action would not have to pay their own rents into that account, they would consequently still need to pay rent or raise a defense to non-payment in an “Failure to Pay Rent” proceeding.
2. HB0691 also codifies the Implied Warranty of Habitability (“IWH”), which is typically ignored in Maryland courts. While the IWH is already codified in Baltimore City public local law, it exists throughout Maryland as common law. Nonetheless, it is typically either ignored completely or conflated with the rent escrow statute. When renters wish to set off the economic damages related to violation of the IWH against their landlords’ claims for rent, district courts too often instruct them to pay their rent into escrow. This ubiquitous

confusion of two distinct legal claims – one for damages, the other for injunctive relief via repairs – requires the clarification offered by this bill.

3. HB0691 sets forth a “fee shifting” provision in the existing rent escrow law, whereby prevailing tenants would win attorney’s fees and costs. Currently, renters who pursue a rent escrow claim have no statutory basis to win attorneys’ fees and or to recover their filing costs and litigation expenses. HB0691 rectifies that omission from the law. This is an important mechanism to attract attorneys to these cases. The recent enactment of the Access to Counsel in Evictions law did not include affirmative rent escrow actions except where the renter has been constructively evicted (meaning, they have already temporarily vacated the rental unit).

These tools help to balance Maryland’s nearly 50-year-old rent escrow law. HB0691 would enormously impact tenants’ ability to act collectively, quickly, and efficiently to compel potentially life-saving repairs.

The need for HB0691 is readily apparent across the state:

Prince George’s County

Several years ago, in Prince George’s County, pipes burst at an affordable rental housing building primarily serving the elderly. The property was flooded on several floors. The owner decided to only wet vac the carpeted flooring and failed to remove drywall. Predictably, mold grew throughout the common areas on the premises. Compounding the problem, routine maintenance was deficient, residents alleged. The owner failed to clean and maintain the HVAC systems and neglected to replace air filters. Apparently, as a result, condensation accumulated in the HVAC units and leaked out of the systems, causing mold to spread inside the rental units.

Individual resident complaints received negligible response from the owner. These residents, many of whom had respiratory health issues, struggled with accelerating health concerns. They banded together to attempt to force the owner, who continued to deny the existence of a problem, to address their concerns. Yet, they endured months of hardship as they attempted to find counsel to explore class action relief.

Missing from their toolkit was the relief provided by HB0691, which would have offered this group of tenants an expedited means to access the courts together and to obtain holistic repairs of their inter-related conditions by court order.

Charles County

Last December, a group of elderly residents in a Charles County affordable multifamily rental property suffered through a miserable Christmas. Many of their units were flooded and without heat during a record-breaking cold front that had swept across Maryland during the holiday season. Those residents could seek redress for the harms caused by flooding and lack of heat in individual actions, but consequently, the court's findings would be limited to one single unit at a time. If only a few impacted tenants could pay into escrow, other units would be left out of the court's orders for repair. HB0691 would allow these renters to file a single affirmative rent escrow action and to win uniform redress for all units so long as one tenant pays into the escrow account.

Baltimore City

For Baltimore tenants at two unlicensed multifamily affordable rental developments, HB 691 would have provided tenants an efficient way, as a group, to petition for repairs of numerous life-threatening code violations.

Coupled with the rent escrow reforms in HB0972 and HB0976, which, respectively, add mold as a basis for rent escrow relief and require the State to establish standards for mold inspection and remediation, HB0691 presents the General Assembly the opportunity to strengthen the protections it promised to Maryland renters in the 1975 rent escrow law.

The human right to housing is one of the most essential and broadly recognized human rights. It finds strong recognition in International Law, Federal Law, State Law, and case law at all levels. The Universal Declaration of Human Rights guarantees “the right to a standard of living adequate for the health and well-being of [the individual] and of his[/her] family, including food, clothing, shelter and medical care and necessary social services.” The Universal Declaration of Human Rights, G.A. Res. 217, U.N. GAOR, 3d Sess., pt. 1, U.N. Doc. A/810 (1948). One of the basic aspects of the right to housing is that such housing should be safe, decent and sanitary.

HB0691 moves Maryland further along that continuum and we ask the Committee for a favorable report. If you have any questions, please contact:

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