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February 22, 2023

To: The Honorable Kumar P. Barve  
Chair, Environment and Transportation Committee

From: Kira Wilpone-Welborn, Assistant Attorney General  
Consumer Protection Division

Re: House Bill 691 – Landlord and Tenant - Failure to Repair Serious and Dangerous Defects  
- Tenant Remedies (Tenant Safety Act)(SUPPORT)

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The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports House Bill 691, the Tenant Safety Act, sponsored by Delegate Vaughn Stewart. Landlord-tenant complaints are consistently among the top complaints received from consumers by the Division. A significant number of the landlord-tenant complaints the Division receives each year involve complaints about the conditions in rental housing. Occasionally, the Division is able to resolve the complaints by having landlords agree to address the conditions or reimburse a tenant for any repair costs paid by a tenant. If, however, the Division is unable to achieve an amicable resolution to a complaint, it will recommend that a tenant seek an individual judicial remedy, such as filing a rent escrow action, regardless of whether the complaint involves an individual or a systemic health and safety issue, because, presently, the rent escrow provisions of the Real Property Article are intended to provide only individual tenants with a means of incentivizing landlords to repair dangerous defects in their individual unit. Similarly situated tenants in the same building with unaddressed health and safety violations are required to each petition the court to order their landlord to make repairs, creating a patchwork of repaired units and units that continue to have unaddressed serious health and safety violations. House Bill 691 seeks to remedy the present deficiencies in Real Property Article § 8-211 by modifying the statute in three ways.

First, House Bill 691 seeks to codify a cause of action of breach of the warranty of habitability. The current rent escrow framework does not explicitly make clear that tenants should be able to recover for damages that accrue before an escrow action is filed but after a landlord has notice of a dangerous defect. House Bill 691’s codification of the warranty of habitability cause of action would (1) permit a tenant to combine a breach of warranty action that

can provide relief for past harms with a rent escrow action that can help address continuing injuries, but (2) make it clear that the breach of warranty action does not require the tenant to make rental payments into the court.

Second, House Bill 691 would permit multiple tenants, or a tenant organization, to bring a rent escrow or breach of warranty of habitability action against their landlord for similar claims of unaddressed health and safety violations. The current rent escrow framework requires each individual tenant in a building to file an action against their landlord despite having the same or similar complaints of unaddressed health and safety violations. When each tenant is required to file their own rent escrow action to seek a judicial order of repair, a variety of outcomes can result. Some tenants elect to forego the rent escrow process due to time and financial constraints, leaving their unit subject to continued unsafe and unhealthy conditions. Other tenants may file complaints in District Court, but the actions themselves could result in a variety of dispositions. As such, the current rent escrow system can result in a patchwork of unaddressed health and safety conditions at the same building or complex. House Bill 691's expansion of § 8-211 to groups of tenants and tenant organizations would allow tenants to pool their resources to address systemic health and safety violations, thus reducing the burden on the judiciary and leading to uniform remediation of violations and consistent relief for similar tenants.

Finally, House Bill 691 would permit prevailing petitioners reasonable attorneys' fees, expenses, and costs. Presently, tenants filing rent escrow actions often file *pro se* or rely on legal service agencies to assist with these cases. Permitting tenants to seek attorneys' fees and costs when prevailing in complaints for unrepaired health and safety violations may attract more attorneys to provide representation in rent escrow actions because their fees and costs can be reimbursed.

Accordingly, the Division requests that the Environment and Transportation Committee give House Bill 691 a favorable report.

cc: The Honorable Vaughn Stewart  
Members, Environment and Transportation Committee