



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

February 7, 2023

The Honorable Delegate Kumar Barve, Chair
House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, Maryland 21401

RE: Testimony of Maryland Legal Aid in Support of **House Bill 151 – Real Property - Residential Leases - Notification of Rent Increases**

Dear Chair Barve and Members of the Committee:

Maryland Legal Aid (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 submits its written and oral testimony on HB0151 at the request of bill sponsor Delegate Melissa Wells.

Serving thousands of low-income renter households each year, MLA sees up close that sudden rent increases wreak havoc on the economic security of families, workers, elders, and people with disabilities.

Since 2020, Maryland rents have exploded. Our clients in private, unsubsidized rentals increasingly reported rent hikes of 10% or greater during the COVID-19 period. In fact, the median rent for a 2-bedroom apartment in the Baltimore-Columbia-Towson Metro Statistical rose over 15% to \$1,678.00 between 2020 and 2022.¹ From September 2020 to 2021, Maryland ranked in the top-4 for highest year-over-year percentage-growth in rents.²

MLA supports House Bill 151 as a modest bill that intends to give Maryland renters adequate time to prepare for destabilizing rent increases. The bill requires, for any rent increase of 4% or

¹ RentData.org, Maryland Fair Market Rent for 2023,
<https://www.rentdata.org/states/maryland/2023>.

² Natalie Campisi, "States With The Highest Rent Hikes. And How Renters Can Negotiate,"
Forbes, <https://www.forbes.com/advisor/mortgages/states-with-highest-rent-hikes>.

higher, that the landlord provide written notice to the tenant at least 120 days before the increase becomes effective.

However, MLA has concerns about omissions and ambiguities in the bill language that would likely narrow the application of this notice policy. The bill raises questions of preemption of local law, as well.

Lease renewals are not expressly mentioned in the bill.

Neither subsections (a) nor (b) specify how the notice of rent increase should interact with existing lease terms or statutory requirements relating to renewal or termination of the lease. Subsection (b), as drafted, would obscure the elementary contractual principle that the landlord may not increase the rent before the expiration of the term.

As importantly, the bill must account for the tenant's reasonable opportunity to evaluate a proposed rent increase, to reject the increase, and then to have adequate notice of lease termination (non-renewal).

Under recently enacted law (Md. Code, Real Prop. art. § 8-402(c)(2)(i)-(ii)), the non-renewal notice period is

- 90 days before the expiration of the current year of a year-to-year tenancy (excluding farm tenancies),
- 60 days before the expiration of a term greater than 1 week or a month-to-month tenancy, and
- 21 days before the expiration of an orally formed week-to-week tenancy.

As presently drafted, with a 120-day notice provision, HB0151 *does* afford a reasonable opportunity to the tenant to review a proposed rent increase – if just for 30 days before a 90-day non-renewal notice period triggers, as provided by statute.

However, potential amendments sought by landlords and realtors to reduce this rent increase notice to 60 days would be incompatible with the statutory requirements for non-renewal of a lease. Such amendments would also eliminate the tenant's ability to evaluate a proposed rent increase before the non-renewal notice period triggers.

The bill’s applicability to month-to-month rentals is uncertain.

Per subsection (a) of the bill, the notice requirement would apply “only to a residential lease for a term of at least 1 year.” This phrasing leaves uncertain whether the notice applies to a lease for a term of at least 1 year that, upon expiration, converted to a month-to-month term. It appears also to exclude completely any lease that initiated as a month-to-month term. Anecdotally, among our clients facing a prohibitive rent increase, MLA encounters month-to-month tenancies in most cases.

E-mailed notice is not good notice.

HB0151 specifies that a notice of rent increase may be provided by e-mail. MLA finds that our clients frequently do not receive e-mailed notices or receive them untimely. This is due to common factors, such as forgotten passwords, unavailability of devices or internet connectivity, lack of digital literacy, and visual disability. Notice by e-mail has merits, for instance, delivery-receipt and read-receipt options, but overall, it is sufficient only when integrated with other forms of delivery, such as mailing or posting.

Remove potential preemption of local law.

HB0151 likely does not intend to preempt local efforts to protect renters from rent increases via notice requirements. One such effort is Montgomery County’s ordinance on rent increases, which includes detailed procedures for notice to tenants. The intent not to preempt stronger local laws of comparable subject matter should be expressed clearly in the bill.

HB0151 in the context of rampant unaffordability.

As of January 2023, “[t]he national average rent-to-income (RTI) reached 30% for the first time” in over 20 years of tracking by Moody’s Analytics.³ Housing costs in excess of 30% of income is considered “cost burdened,” and in Maryland, nearly half of all Maryland renter households were cost burdened by 2020.⁴ Additionally, half of those households were “severely” burdened,

³ Lu Chen and Mary Le, “Key Takeaways from the 4th Quarter Housing Affordability Update,” Moody’s Analytics (19 Jan. 2023), <https://cre.moodyanalytics.com/insights/market-insights/q4-2022-housing-affordability-update>.

⁴ National Center for Smart Growth and Enterprise Community Partners, Inc., 2020 Maryland Housing Needs Assessment & 10-Year Strategic Plan 23 (Dec. 2020), <https://dhcd.maryland.gov/Documents/Other%20Publications/Report.pdf>.

paying more than 50% of income toward housing costs.⁵ Montgomery, Prince George’s, and Baltimore counties and Baltimore City accounted for almost 70% of Maryland’s severely cost-burdened households.⁶ According to the National Low-Income Housing Coalition’s latest *Out of Reach* report, a minimum-wage worker in Maryland would have to work 78 hours per week to afford a 1-bedroom unit at fair market rent.⁷

With pervasive housing cost burdens, any rent increase forces Maryland’s renters into untenable trades offs between essential needs or otherwise into the position of having to leave their rental home because the ends don’t meet. The challenge of moving in today’s rental market burdens people of color disproportionately. As reported by National Public Radio, “a 2022 [Zillow survey](#) found that Black and Latinx renters were nearly twice as likely to report submitting five or more [rental] applications, and that people of color reported paying a higher median application fee than white renters.”⁸

For these reasons, the notice requirements of HB0151 are helpful, though modest. Amendments set forth below would expand the benefit of the bill to more households and those with greatest need for it.

Amendment

HB0151 should be amended to

- expand its applicability to all leases/tenancies, including month-to-month tenancies,
- work in congruence with existing requirements for non-renewal notices under Real Prop. § 8-402,
- provide a better delivery method for the notice, and
- clarify that the bill, if passed, would not preempt stronger local law.

Accordingly, MLA proposes the following amendment:

⁵ *Id.*

⁶ *Id.*

⁷ National Low Income Housing Coalition, *Out of Reach: Maryland*, <https://nlihc.org/oor/state/md> (access on 3 Feb. 2023).

⁸ Jennifer Ludden, “Rental application fees add up fast in a tight market. But limiting them is tough,” National Public Radio (13 Jan. 2023), <https://www.npr.org/2023/01/13/1148426491/rental-application-fees-housing-affordable-market-states-laws>.

14 8-209

15 (A) THIS SECTION APPLIES ONLY TO A RESIDENTIAL LEASE [FOR A TERM OF
16 AT LEAST 1 YEAR].

17 (B) A LANDLORD SHALL NOTIFY A TENANT IN WRITING [OR THROUGH
18 E-MAIL AT LEAST 120 DAYS] BEFORE INCREASING THE TENANT'S RENT BY
19 MORE THAN 4%.

20 **(C) THE NOTICE OF RENT INCREASE SHALL BE SENT TO THE TENANT BY**
19 **FIRST-CLASS MAIL WITH CERTIFICATE OF MAILING AND PROVIDED**

20 **(1) FOR A LEASE FOR A TERM 1 YEAR OR GREATER, AT LEAST 120**
21 **DAYS BEFORE THE EXPIRATION OF THE LEASE;**

22 **(2) FOR A MONTH-TO-MONTH TENANCY, AT LEAST 90 DAYS**
23 **BEFORE THE EXPIRATION OF THE TENANCY; AND**

24 **(3) IN THE CASE OF WEEK-TO-WEEK TENANCIES, 28 DAYS BEFORE**
25 **THE EXPIRATION OF THE TENANCY.**

26 **(D) THIS SECTION SHALL NOT SUPERCEDE PROVISIONS OF A LOCAL LAW OR**
ORDINANCE OF COMPARABLE SUBJECT MATTER THAT PROVIDE FOR BROADER SCOPE,
ADDITIONAL NOTICE, OR ADDITIONAL METHODS OF DELIVERY OF NOTICE.

(CLEANED UP)

8-209

(A) THIS SECTION APPLIES ONLY TO A RESIDENTIAL LEASE.

(B) A LANDLORD SHALL NOTIFY A TENANT IN WRITING BEFORE
INCREASING THE TENANT'S RENT BY MORE THAN 4%.

(C) THE NOTICE OF RENT INCREASE SHALL BE SENT TO THE TENANT
BY FIRST-CLASS MAIL WITH CERTIFICATE OF MAILING AND PROVIDED:

(1) FOR A LEASE FOR A TERM 1 YEAR OR GREATER, AT LEAST
120 DAYS BEFORE THE EXPIRATION OF THE LEASE;

(2) FOR A MONTH-TO-MONTH TENANCY, AT LEAST 90 DAYS
BEFORE THE EXPIRATION OF THE TENANCY; AND

(3) IN THE CASE OF WEEK-TO-WEEK TENANCIES, 28 DAYS BEFORE THE
EXPIRATION OF THE TENANCY.

(D) THIS SECTION SHALL NOT SUPERCEDE PROVISIONS OF A LOCAL LAW OR ORDINANCE OF COMPARABLE SUBJECT MATTER THAT PROVIDE FOR BROADER SCOPE, ADDITIONAL NOTICE, OR ADDITIONAL METHODS OF DELIVERY OF NOTICE.

Maryland Legal Aid urges the Committee to issue a FAVORABLE WITH AMENDMENT report on House Bill 0151. If you have any questions, please contact Zafar Shah, (410) 951-7672, zshah@mdlalab.org.