



Testimony to the Senate Finance Committee
SB 453 – State and Private Construction Contracts – Prompt Payment
Requirements
Position: UNFAVORABLE
February 23, 2023

SB 453 would require private construction contracts to include language that requires the owner to pay the contractor within 60 days of receiving their invoice or force them to pay the contractor a 9% interest penalty. The proposed contract requirements would not only place a financial and administrative burden on affordable housing developers who are already working with very tight budgets, but it will also create an additional administrative burden on construction companies using subcontractors and result in increased construction costs. Most all affordable housing developers are receiving loan funds from the Maryland Department of Housing and Community Development (DHCD), in addition to loans from the federal government, private banks and investors, and possibly local governments, to construct their affordable housing projects. These are large and complex projects with multiple funding sources. Each lender/funding source has their own process and timeline for reviewing and approving draw requests during construction, so it is common for a lender to take 60+ days to approve a draw and release a payment to the owner. This includes the DHCD loan funds that have to be disbursed through the Comptroller's office via a paper check that gets mailed to the owner.

Affordable housing developers have very little cushion in their construction budgets and with rising inflation and interest rates, and the increase in construction costs all impacting the viability of projects in recent years, they simply cannot afford an additional 9% interest "penalty" if their loan funds are not released in a timely manner by a lender, forcing them to delay payment to their contractor. If this bill passes, less affordable housing projects will get built because the costs are simply too high, and the budgets won't pencil out. We request an Unfavorable report on SB 453.

MAHC is the leading organization for the affordable rental housing industry in Maryland and represents over 185 member organizations, including nonprofit and for-profit developers, State and local housing authorities, property management companies, financial institutions, community development organizations, contractors, tax credit investors, consultants and individuals. Our members would be negatively impacted by SB453.

Respectfully submitted on February 23, 2023 by Miranda Darden-Willems, Executive Director, on behalf of the MAHC Board of Directors.

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