

HB0691 - Landlord and Tenant – Failure to Repair Serious and Dangerous Defects - Tenant Remedies (Tenant Safety Act)

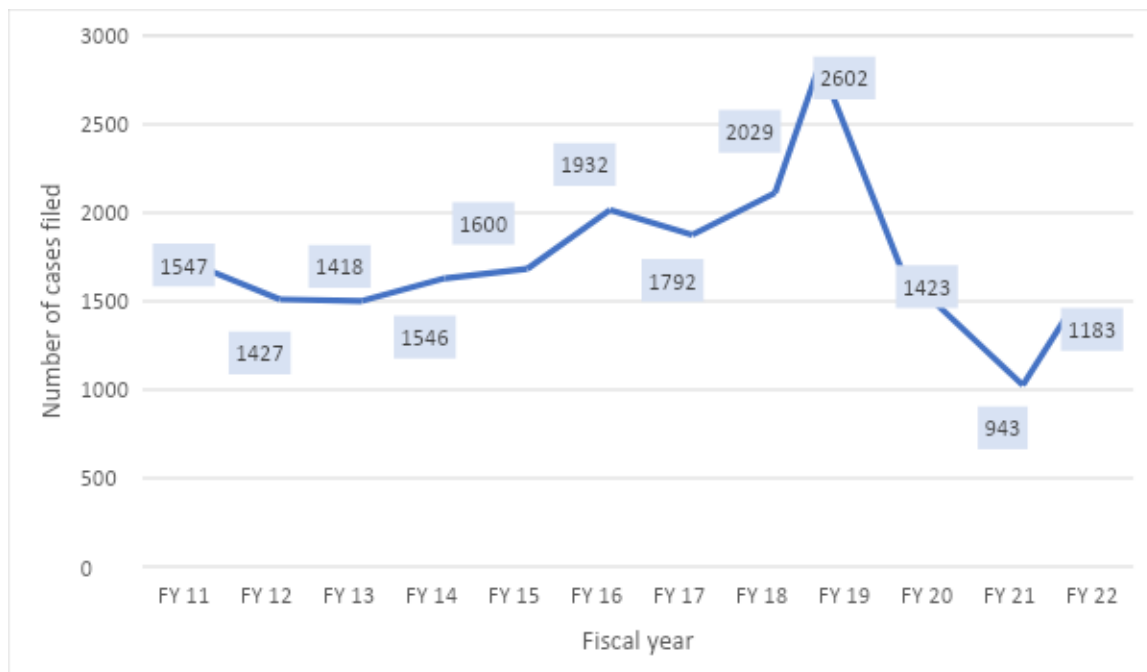
Hearing before the Senate Judicial Proceedings Committee,
April 4, 2023, 1:00PM

Position: SUPPORT (FAV)

My name is Michael Lent, of District 8, and I support House Bill 691, the Tenant Safety Act, **with sponsor amendments only**, because it would support tenants facing dangerous conditions in accessing rent escrow.

I had been a renter for over 15 years. I believe if this legislation had existed before when I had lived in poor apartment units it would have given me the security and added comfort to talk with my neighbors about similar issues with water damage and pests. It could have lessened our collective distress, brought us closer, and got our apartments fixed faster. Why have a number of small disparate defenses when they all come from the same issue? Think how easy it can be to partially fix a problem in one apartment but not the underlying issue that is still affecting the rest of the building.

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. The intimidating prospect of facing off against landlords and judges chills their pursuit of a remedy. These factors help to explain the paltry numbers of rent escrow actions filed by individual renters each year.



Data Source: Maryland Judiciary, <https://mdcourts.gov/district/about#stats>

HB0691 addresses such obstacles by introducing a 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 facing similar conditions 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 mirrors an existing procedure in New York City called the "group HP process," which routinely supports tenants in addressing harmful building conditions quickly and collectively in a summary process. Our organization supports the Tenant Safety Act because I believe Maryland renters deserve the same opportunity to build power for better housing.

1. HB0691 supports tenant organizing for repairs to conditions that threaten life, health and safety

HB0691 facilitates tenants in demanding necessary housing improvements that would benefit all Marylanders, renters and homeowners alike. The bill allows a group of tenants living on the same premises with the same landlord to ask the Court to order the landlord to make repairs to serious threats to life, health or safety.

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 group option for seeking repairs through the courts, 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.

2. HB0691 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, the bill also codifies the already-existing implied warranty of habitability and clarifies an individual tenant's 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. 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. Landlords are usually represented by attorneys in these matters, so this provision helps level the playing field.

3. 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. It is functionally impossible to bring an escrow case on behalf of a group of tenants because class actions are not permitted in District Court while rent escrow cases are within the exclusive jurisdiction of District Court. While joinder of tenants may be possible in some cases, it is not common in the current practice of the District Court. Instead, tenants on the same premises with the same landlord are generally required to file individual actions, with each tenant paying a filing fee and drafting a separate complaint. 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.

Sponsor Delegate Vaughn Stewart has attempted to address concerns raised by the Judiciary and the Maryland Multi-Housing Association through a number of amendments. I support amendments offered by Del. Stewart but urge the Committee to reject any further weakening of the bill.

I am asking that the Committee **issue a report of FAVORABLE on HB0691 with sponsor amendments only.**

Sincerely,

Michael Lent
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