

HB691 Juberg Fav.pdf

Uploaded by: Arielle Juberg

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

I am a resident of District 8. I am testifying in support of the Tenant Safety Act (HB0691). This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are working in collaboration with CASA & Renters United Maryland.



As someone who formerly rented, I have looked for affordable and safe housing in Baltimore. I've lived in apartments with insufficient insulation, antiquated appliances, and pest problems. Sometimes, these problems can be annoyances; other times, they can be serious risks to health and safety. No one should have to live in unsafe conditions, and tenants should have the ability to work together to address their problems.

At present in Maryland, a group of tenants experiencing the same substandard living conditions from the same landlord each have to file an action individually, and they frequently do not have the benefit of representation, as it can be challenging to afford counsel. Even when tenants are able to file, as has been the case in Baltimore for decades, only 6% of cases in rent court resulted in reduced rent, according to a Baltimore Sun review of over 5,500 cases from 2010 to 2016¹ – a troublingly low rate.

Maryland was ranked 32nd among the 50 states for severe housing problems in a recent analysis of US Housing & Urban Development data from 2015-2019². Our state should be leading the nation at providing safe and affordable housing. Instead, we have too many properties with significant issues like severe cost burden or insufficient kitchen and plumbing facilities.

This legislation addresses two growing concerns among Marylanders: first, their need for safer housing conditions, and second, the need to lower the barrier of entry to courts to address poor housing conditions. Remarkably, this bill addresses both concerns *while increasing court efficiency*. Since conditions issues cases can be compiled across a particular property owned by a particular landlord into a single proceeding, the courts are saved the administrative burden of duplicative cases.

It is for these reasons that I am encouraging you to vote **in support of HB0691**.

Thank you for your time, service, and consideration.

Sincerely,

Arielle Juberg
3411 Upton Road
Baltimore, MD 21234

¹ <https://data.baltimoresun.com/news/dismissed/>

² https://www.americashealthrankings.org/explore/annual/measure/severe_housing_problems/state/MD

HB0691 Tenant Safety Act FAV.pdf

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR HB0691

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

Bill Sponsor: Delegate Stewart

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of HB0691 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of individuals and grassroots groups with members in every district in the state with well over 30,000 members.

The preamble of this bill gets at the heart of the issue that needs to be addressed - It is the public policy of the state that meaningful sanctions be imposed upon those who allow dangerous conditions and defects to exist in leased premises, and that an effective mechanism be established for repairing these conditions and halting their creation.

No one should be forced to live in a dangerous environment while paying for the privilege to do so. This bill provides a remedy for this issue by allowing a group of tenants, or tenant organization, or a single tenant to request injunctive relief or an action for money damages and attorney fees if the landlord refuses to make repairs or correct the problem in a reasonable period of time after being notified.

This legislation does not imply that any and all issues that a tenant has should be covered, only conditions and defects which constitute, or if not promptly corrected will constitute, a fire hazard or a serious and substantial threat to the life, health or safety of occupants. This is more than fair to the landlord and supports the many tenants in Maryland who deserve to live in a building that is not dangerous to their health or their person.

We support this bill and recommend a **FAVORABLE** report in committee.

691_Final.pdf

Uploaded by: Christina Nemphos

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with CASA & Renters United Maryland. I am a resident of Maryland District 40 and live in the Medfield neighborhood of Baltimore. **I am testifying in support of the Tenant Safety Act (HB0691).**



This bill would enable a group of tenants with the same landlord facing issues in the same property to join a single rent escrow action together, much as a similar law currently does in New York City¹. Under this law, tenants could make use of the rent escrow process without each having to create a separate filing, ensuring tenants who may be behind on rent are still able to demand remedies from their landlords to potentially life-threatening conditions. It would also provide for attorney's fees and damages in these group actions to allow groups of tenants to enlist the assistance of counsel in organizing a case.

At present in Maryland, a group of tenants experiencing the same substandard living conditions from the same landlord each have to file an action individually, and they frequently do not have the benefit of representation as it can be challenging to afford counsel. Even when tenants are able to file, as has been the case in Baltimore for decades, only 6% of cases in rent court result in reduced rent, according to a Baltimore Sun review of over 5,500 cases from 2010 to 2016² – a troublingly low rate.

Maryland was ranked 32nd among the 50 states for severe housing problems in a recent analysis of US Housing & Urban Development data from 2015-2019³. Our state should be leading the nation at providing safe and affordable housing. Instead, we have too many properties bearing significant issues like severe cost burden or insufficient kitchen and plumbing facilities.

This legislation addresses two growing concerns among Marylanders: first, their need for safer housing conditions, and second, the need to lower the barrier of entry to courts to address poor housing conditions. Remarkably, this bill addresses both concerns *while increasing court efficiency*. Since conditions issues cases can be compiled across a particular property owned by a particular landlord into a single proceeding, the courts are saved the administrative burden of duplicative cases. **This bill consolidates and improves an existing system, helping to remove a barrier to obtaining safe living conditions and streamlining court operations.**

It is for these reasons that I am encouraging you to vote **in support of HB0691**.

Thank you for your time, service, and consideration.

Sincerely,
Christina Nemphos
1301 W 42nd Street, Baltimore, Md 21211
Showing Up for Racial Justice Baltimore

¹ <https://www.nysenate.gov/legislation/laws/RPP/230>

² <https://data.baltimoresun.com/news/dismissed/>

³ https://www.americashealthrankings.org/explore/annual/measure/severe_housing_problems/state/MD

HB691.pdf

Uploaded by: Christina Pham Linhoff

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with CASA & Renters United Maryland. I am a resident of District 46. **I am testifying in support of the Tenant Safety Act (HB0691).**

This bill would enable a group of tenants with the same landlord facing issues in the same property to join a single rent escrow action together, much as a similar law currently does in New York City. Under this law, tenants could make use of the rent escrow process without each having to create a separate filing, ensuring tenants who may be behind on rent are still able to demand remedies from their landlords to potentially life-threatening conditions. It would also provide for attorney's fees and damages in these group actions to allow groups of tenants to enlist the assistance of counsel in organizing a case.

At present in Maryland, a group of tenants experiencing the same substandard living conditions from the same landlord each have to file an action individually, and they frequently do not have the benefit of representation as it can be challenging to afford counsel. Even when tenants are able to file, as has been the case in Baltimore for decades, only 6% of cases in rent court result in reduced rent, according to a Baltimore Sun review of over 5,500 cases from 2010 to 2016 – a troublingly low rate.

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It is for these reasons that I am encouraging you to vote **in support of HB0691**.

Thank you for your time, service, and consideration.

Sincerely,
Christina Pham Linhoff
46 E Randall St, Baltimore, MD 21230
Showing Up for Racial Justice Baltimore

HB691.pdf

Uploaded by: Daryl Yoder

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with CASA & Renters United Maryland. I am a resident of District 44A. **I am testifying in support of the Tenant Safety Act (HB0691).**



This bill would enable a group of tenants with the same landlord facing issues in the same property to join a single rent escrow action together, much as a similar law currently does in New York City¹. Under this law, tenants could make use of the rent escrow process without each having to create a separate filing, ensuring tenants who may be behind on rent are still able to demand remedies from their landlords to potentially life-threatening conditions. It would also provide for attorney's fees and damages in these group actions to allow groups of tenants to enlist the assistance of counsel in organizing a case.

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It is for these reasons that I am encouraging you to vote **in support of HB0691**.

Thank you for your time, service, and consideration.

Sincerely,
Daryl Yoder
309 Glenmore Ave.
Catonsville, MD 21228
Showing Up for Racial Justice Baltimore

¹ <https://www.nysenate.gov/legislation/laws/RPP/230>

² <https://data.baltimoresun.com/news/dismissed/>

³ https://www.americashealthrankings.org/explore/annual/measure/severe_housing_problems/state/MD

Tenant Safety Act 2023 4.pdf

Uploaded by: Jan Kleinman

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,



This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with CASA & Renters United Maryland. I am a resident of District 40, and am lucky enough to own my house. Yet I have been a renter, and know several friends who are renters. Often, renters are folks with little time and money, so empowering them to take collective action should a landlord be unresponsive to building deficiencies seems plain logical. **I am testifying in support of the Tenant Safety Act (HB0691).**

This bill would enable a group of tenants with the same landlord facing issues in the same property to join a single rent escrow action together, much as a similar law currently does in New York City¹. Under this law, tenants could make use of the rent escrow process without each having to create a separate filing, ensuring tenants who may be behind on rent are still able to demand remedies from their landlords to potentially life-threatening conditions. It would also provide for attorney's fees and damages in these group actions to allow groups of tenants to enlist the assistance of counsel in organizing a case.

At present in Maryland, a group of tenants experiencing the same substandard living conditions from the same landlord each have to file an action individually, and they frequently do not have the benefit of representation as it can be challenging to afford counsel. Even when tenants are able to file, as has been the case in Baltimore for decades, only 6% of cases in rent court result in reduced rent, according to a Baltimore Sun review of over 5,500 cases from 2010 to 2016² – a troublingly low rate.

Maryland was ranked 32nd among the 50 states for severe housing problems in a recent analysis of US Housing & Urban Development data from 2015-2019³. Our state should be leading the nation at providing safe and affordable housing. Instead, we have too many properties bearing significant issues like severe cost burden or insufficient kitchen and plumbing facilities.

This legislation addresses two growing concerns among Marylanders: first, their need for safer housing conditions, and second, the need to lower the barrier of entry to courts to address poor housing conditions. Remarkably, this bill addresses both concerns *while increasing court efficiency*. Since conditions issues cases can be compiled across a particular property owned by a particular landlord into a single proceeding, the courts are saved the administrative burden of duplicative cases.

It is for these reasons that I am encouraging you to vote **in support of HB0691**.

Thank you for your time, service, and consideration.

Sincerely,
Jan Kleinman
816 Union Ave

¹ <https://www.nysenate.gov/legislation/laws/RPP/230>

² <https://data.baltimoresun.com/news/dismissed/>

³ https://www.americashealthrankings.org/explore/annual/measure/severe_housing_problems/state/MD

Baltimore, MD 21211

Showing Up for Racial Justice Baltimore

HB691.docx.pdf

Uploaded by: Katherine Wilkins

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with CASA & Renters United Maryland. I am a resident of **12A. I am testifying in support of the Tenant Safety Act (HB0691).**



This bill would enable a group of tenants with the same landlord facing issues in the same property to join a single rent escrow action together, much as a similar law currently does in New York City¹. Under this law, tenants could make use of the rent escrow process without each having to create a separate filing, ensuring tenants who may be behind on rent are still able to demand remedies from their landlords to potentially life-threatening conditions. It would also provide for attorney's fees and damages in these group actions to allow groups of tenants to enlist the assistance of counsel in organizing a case.

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It is for these reasons that I am encouraging you to vote **in support of HB0691**.

Thank you for your time, service, and consideration.

Sincerely,

Katherine Wilkins
5605 Foxcroft Way
Columbia MD 21045

Showing Up for Racial Justice Baltimore

¹ <https://www.nysenate.gov/legislation/laws/RPP/230>

² <https://data.baltimoresun.com/news/dismissed/>

³ https://www.americashealthrankings.org/explore/annual/measure/severe_housing_problems/state/MD

HB 691 Crossover_Consumer Protection Division_Fav_

Uploaded by: Kira Wilpone-Welborn

Position: FAV

ANTHONY G. BROWN
Attorney General

CANDACE MCLAREN LANHAM
Chief of Staff

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Fax No.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.
410-576-6986
kwilponeweborn@oag.state.md.us

April 3, 2023

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings 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)

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 four 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 tenants in the same building or complex to join their rent escrow or breach of warranty of habitability actions 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. Permitting tenants to join similar claims allows 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.

Third, House Bill 691 explicitly identifies mold that is a threat to the health of occupants as a condition governed by Real Property Article § 8-211. While Section 8-211(e)(5) currently covers “any condition which presents a health . . . hazard...”, specifically listing mold in § 8-211 will more directly help tenants facing a health hazard from mold, particularly those who lack legal representation, to seek remediation and repairs from their landlord.

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 Judicial Proceedings Committee give House Bill 691 a favorable report.

cc: Members, Judicial Proceedings Committee

HB691 - fav - ems - 2023.pdf

Uploaded by: Liz Simon-Higgs

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

I am submitting this testimony as a resident of D46, a ten-year member of the Property Tax Assessment Appeals Board in Baltimore City, and a member of Showing Up for Racial Justice – Baltimore. **I am testifying in support of the Tenant Safety Act (HB0691).**



This bill would enable a group of tenants with the same landlord facing issues in the same property to join a single rent escrow action together, much as a similar law currently does in New York City¹. Under this law, tenants could make use of the rent escrow process without each having to create a separate filing, ensuring tenants who may be behind on rent are still able to demand remedies from their landlords to potentially life-threatening conditions. It would also provide for attorney's fees and damages in these group actions to allow groups of tenants to enlist the assistance of counsel in organizing a case.

At present in Maryland, a group of tenants experiencing the same substandard living conditions from the same landlord each have to file an action individually, and they frequently do not have the benefit of representation, as it can be expensive to hire counsel. **Even when tenants do file, only 6% of cases in rent court result in reduced rent, according to a Baltimore Sun review of over 5,500 cases from 2010 to 2016² – a disturbingly low rate.**

Maryland was ranked 32nd among the 50 states for severe housing problems in a recent analysis of US Housing & Urban Development data from 2015-2019³. Our state could be leading the nation at providing safe and affordable housing. But we are not.

This legislation addresses two growing concerns among Marylanders: first, their need for safer housing conditions, and second, the need to lower the barrier of entry to courts to address poor housing conditions. Remarkably, this bill addresses both concerns *while increasing court efficiency*. Since conditions issues cases can be compiled across a particular property owned by a particular landlord into a single proceeding, the courts are saved the administrative burden of duplicative cases.

It is for these reasons that I am strongly encouraging you to vote **in support of HB0691**.

Thank you for your time, service, and consideration.

Sincerely,
Liz Simon-Higgs
308 E Randall Street
Baltimore, MD 21230
Showing Up for Racial Justice Baltimore

¹ <https://www.nysenate.gov/legislation/laws/RPP/230>

² <https://data.baltimoresun.com/news/dismissed/>

³ https://www.americashealthrankings.org/explore/annual/measure/severe_housing_problems/state/MD

HB 691 Tenant Safety Act Public Justice Ctr FAV in

Uploaded by: Matt Hill

Position: FAV



C. Matthew Hill
Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 229
hillm@publicjustice.org

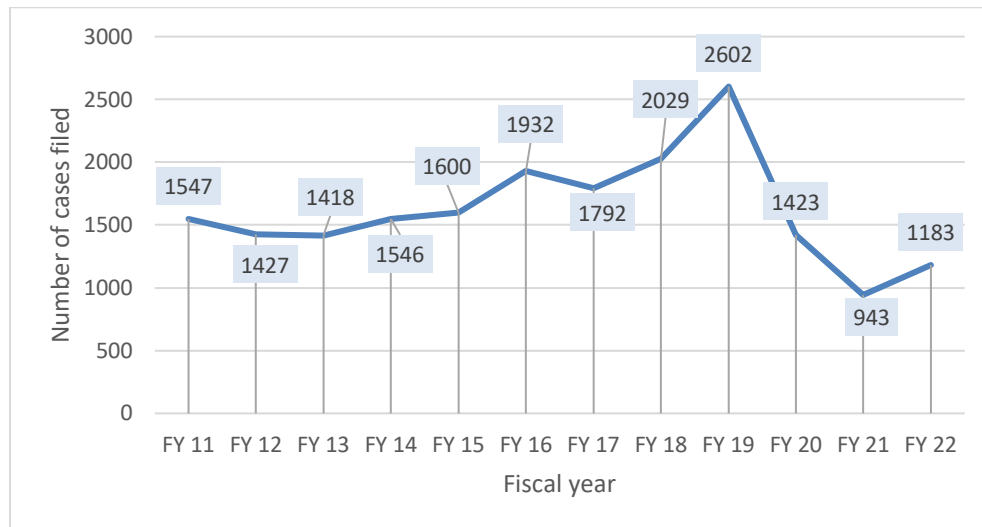
HB 691 - Landlord and Tenant – Failure to Repair Serious and Dangerous Defects - Tenant Remedies (Tenant Safety Act)

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

Position: SUPPORT (FAV)

Public Justice Center (PJC) is a nonprofit public interest law firm that assists over 800 renters each year. We stand with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing. We support House Bill 691, the Tenant Safety Act, because it would support tenants facing dangerous conditions in accessing rent escrow. We support House Bill 691, the Tenant Safety Act, with sponsor amendments only, because it would support tenants facing dangerous conditions in accessing rent escrow.

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 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 we 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

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

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. We support amendments offered by Del. Stewart but urge the Committee to reject any further weakening of the bill.

Public Justice Center is a member of the Renters United Maryland coalition and asks that the Committee **issue a FAVORABLE report on HB 691.**

Testimony in Favor Tenant Safety Act.pdf

Uploaded by: Matthew Losak

Position: FAV



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

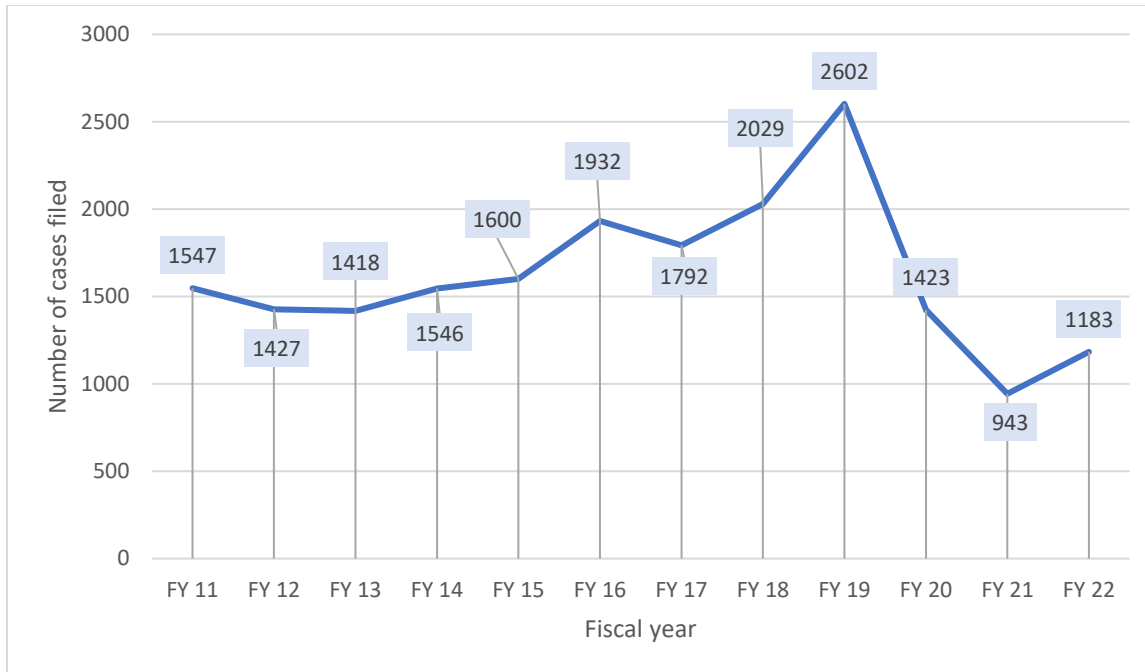
**Hearing before the Senate Judicial Proceedings Committee,
April 4, 2023, 1:00PM**

Position: SUPPORT (FAV)

The Renters Alliance is the first and only regional nonprofit dedicated exclusively to renter outreach, education, organizing and advocacy. We are the leading co-founders of Renters United Maryland.

We support House Bill 691, the Tenant Safety Act, **with sponsor amendments only**, because it would support tenants facing dangerous conditions in accessing rent escrow.

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 we 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. We support amendments offered by Del. Stewart but urge the Committee to reject any further weakening of the bill.

The Renters Alliance is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on HB0691 with sponsor amendments only**. If you have any questions, please contact Matt Losak at 301-588-3987.

HB0691 - Landlord and Tenant – Failure to Repair S

Uploaded by: Michael English

Position: FAV

HB0691- Landlord and Tenant – Failure to Repair Serious and Dangerous Defects

- Tenant Remedies (Tenant Safety Act)

Hearing before the Senate Judicial Proceedings Committee,

April 3, 2023, 1:00 PM

Position: SUPPORT (FAV)

My name is Michael English, and I strongly support House Bill 691, the Tenant Safety Act, because it would support tenants facing dangerous conditions in accessing rent escrow.

I'll be honest with you, a few months ago, I had no idea what rent escrow was, and even now my knowledge is somewhat limited, with the gaps filled in by my more well versed advocates I've come to work with. Still, that shows just how important this law is. If housing advocates aren't familiar with the legalities of collective rent escrow and lawsuits, then what are the chances a group of tenants are? What chance do they have of navigating a complex process that is set up to divide and conquer them? This reform will make it much easier for them to seek collective justice.

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. For others, the filing fee and time missed from work are infeasible on a lean budget. For others still, the intimidating prospect of facing off against landlords and judges chills their pursuit of a remedy.

HB691 addresses such obstacles by introducing 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. HB691 would enable a single tenant to file a rent escrow case about building and unit conditions that other tenants with the same landlord 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.

HB691 facilitates tenants in demanding necessary housing improvements that would benefit all Marylanders, renters and homeowners alike. The bill allows a single tenant or a group of tenants, incorporated or unincorporated, living on the same premises with the same landlord, to seek repairs, damages for unaddressed repairs, and attorney's fees. 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 collective option for seeking repairs through the courts and the added remedy of damages and attorney's fees, 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.

HB691 also 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. HB691 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, by permitting tenants to pursue damages against a landlord who fails to make repairs, landlords and their agents will be required to account for the actual harm caused by their refusals and failures to make necessary repairs – a remedy that is much more persuasive than lost rental income alone. 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.

HB691 also codifies the already-existing implied warranty of habitability and clarifies tenants' 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. HB691 provides an important tool to hold these negligent landlords accountable.

Further, HB691 promotes judicial economy by allowing tenants to address building or complex-wide conditions issues in a single case

HB691 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. Indeed, practitioners report that it is functionally impossible to bring an escrow case on behalf of a group of tenants because existing class action requirements are not designed with escrow in mind. Instead, tenants on the same premises with the same

landlord are generally required to file individual actions, with each tenant paying a filing fee, drafting a separate complaint and appearing in court. This process is particularly onerous for older and disabled renters, for whom it may be difficult travel to the courthouse on multiple occasions, and low-income renters, for whom taking three separate days off of work to go to court could risk their livelihoods. In addition, this process requires judges to hear building or complex-wide conditions issues piecemeal and prevents them from assessing and addressing important safety issues in a single determination. HB691 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.

I ask that the Committee move HB691 to the floor for approval .

Thank you

Michael English

Downtown Silver Spring

HB0691 - JPR Hearing - Michael Lent.docx.pdf

Uploaded by: Michael Lent

Position: FAV

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

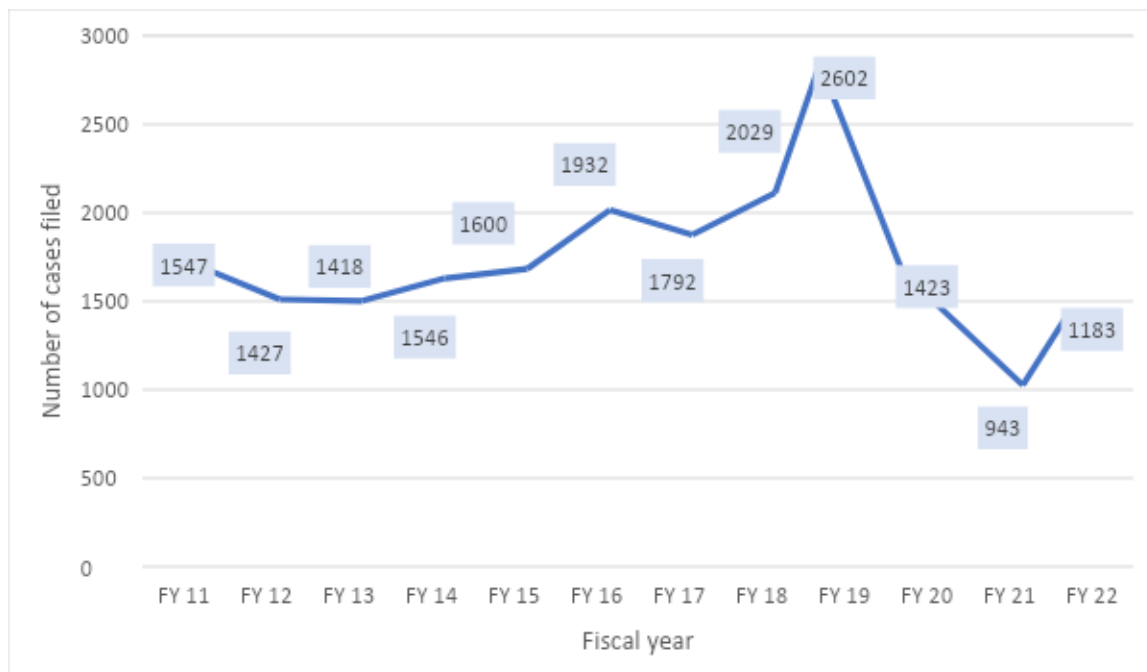
Hearing before the Senate Judicial Proceedings Committee,
April 4, 2023, 1:00PM

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.

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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
District 08
2504 Creighton Ave Parkville MD 21234

CASA_FAV_HB691.docx (1).pdf

Uploaded by: Ninfa Amador

Position: FAV



Testimony in SUPPORT of HB 691

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

Senate Judicial Proceedings Committee

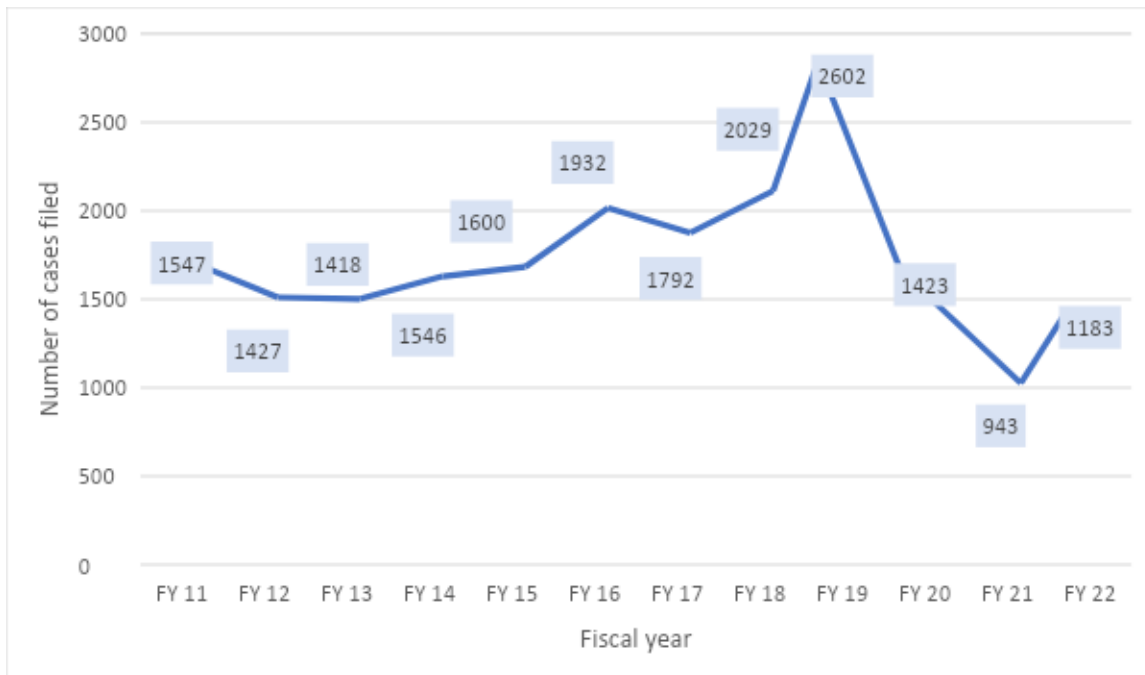
April 4, 2023

Dear Honorable Chair Smith and Members of the Committee,

CASA is pleased to support HB691, the Tenant Safety Act, **with sponsor amendments only**. CASA is the largest immigrant services and advocacy organization in Maryland, and in the Mid-Atlantic region, with a membership of over 120,000 Black and Latino immigrants and working families. Our mission is to create a more just society by building power and improving the quality of life in working-class and immigrant communities. We envision a future where our members stand in their own power, our families live free from discrimination and fear, and our diverse communities thrive as we work with our partners to achieve full human rights for all.

For nearly forty years, CASA has employed grassroots community organizing to bring our communities closer together and fight for justice, while simultaneously providing much-needed services to these communities, helping to ensure that low-income immigrants are able to live rich and full lives. CASA member-led tenant associations are increasing in number and in their power. Our grassroots organizing has created safer housing for some of our members in communities such as White Oak in Montgomery County. Our Housing Legal team has also been working closely with members facing uninhabitable living conditions who have brought cases against their unresponsive landlords. 10 CASA members successfully filed individual rent escrow cases against their landlord for issues that were complex-wide. From rodent infestation to water intrusion concerns. With the help of CASA's housing legal team, these members even received monetary compensation for their landlord's negligence. These were 10 individual rent escrow cases that our legal team represented. These cases, all for the same reason, resulted in over 12 different court appearances. We know that many more renters have sufficient claims to file rent escrow but do not.

HB 691, the Tenant Safety Act is key legislation that ensures tenants, facing dangerous housing conditions, have access to collectively file for rent escrow. As current law stands, many more tenants are suffering from uninhabitable living conditions than are filing for rent escrow. For many, the prospect of bringing an individual lawsuit raises insurmountable fear of retaliation and abuse by unscrupulous landlords. For others, the filing fee and time missed from work are infeasible on a lean budget. For others still, 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.



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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 we 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 the 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 the District Court. While a 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. We support amendments offered by Delegate Stewart but urge the Committee to reject any further weakening of the bill.

CASA is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on HB 691 with sponsor amendments only.**

HB691.pdf

Uploaded by: Rebecca Shillenn

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with CASA & Renters United Maryland. I am a resident of **District 45. I am testifying in support of the Tenant Safety Act (HB0691).**



This bill would enable a group of tenants with the same landlord facing issues in the same property to join a single rent escrow action together, much as a similar law currently does in New York City¹. Under this law, tenants could make use of the rent escrow process without each having to create a separate filing, ensuring tenants who may be behind on rent are still able to demand remedies from their landlords to potentially life-threatening conditions. It would also provide for attorney's fees and damages in these group actions to allow groups of tenants to enlist the assistance of counsel in organizing a case.

At present in Maryland, a group of tenants experiencing the same substandard living conditions from the same landlord each have to file an action individually, and they frequently do not have the benefit of representation as it can be challenging to afford counsel. Even when tenants are able to file, as has been the case in Baltimore for decades, only 6% of cases in rent court result in reduced rent, according to a Baltimore Sun review of over 5,500 cases from 2010 to 2016² – a troublingly low rate.

Maryland was ranked 32nd among the 50 states for severe housing problems in a recent analysis of US Housing & Urban Development data from 2015-2019³. Our state should be leading the nation at providing safe and affordable housing. Instead, we have too many properties bearing significant issues like severe cost burden or insufficient kitchen and plumbing facilities.

This legislation addresses two growing concerns among Marylanders: first, their need for safer housing conditions, and second, the need to lower the barrier of entry to courts to address poor housing conditions. Remarkably, this bill addresses both concerns *while increasing court efficiency*. Since conditions issues cases can be compiled across a particular property owned by a particular landlord into a single proceeding, the courts are saved the administrative burden of duplicative cases.

It is for these reasons that I am encouraging you to vote **in support of HB0691**.

Thank you for your time, service, and consideration.

Sincerely,

Rebecca Shillenn

5401 Elsrode Avenue Baltimore MD 21214

Showing Up for Racial Justice Baltimore

¹ <https://www.nysenate.gov/legislation/laws/RPP/230>

² <https://data.baltimoresun.com/news/dismissed/>

³ https://www.americashealthrankings.org/explore/annual/measure/severe_housing_problems/state/MD

Eckel SURJ HB691 FAV.pdf

Uploaded by: Rianna Eckel

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

My name is Rianna Eckel and I am a renter in the 43rd District. I am submitting this testimony as a member of Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with CASA & Renters United Maryland. **I am testifying in support of the Tenant Safety Act (HB0691).**



This bill would enable a group of tenants with the same landlord facing issues in the same property to join a single rent escrow action together, much as a similar law currently does in New York City¹. Under this law, tenants could make use of the rent escrow process without each having to create a separate filing, ensuring tenants who may be behind on rent are still able to demand remedies from their landlords to potentially life-threatening conditions. It would also provide for attorney's fees and damages in these group actions to allow groups of tenants to enlist the assistance of counsel in organizing a case.

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It is for these reasons that I am encouraging you to vote **in support of HB0691**.

Thank you for your time, service, and consideration.

Sincerely,
Rianna Eckel
2300 Hunter St, 21218
Showing Up for Racial Justice Baltimore

¹ <https://www.nysenate.gov/legislation/laws/RPP/230>

² <https://data.baltimoresun.com/news/dismissed/>

³ https://www.americashealthrankings.org/explore/annual/measure/severe_housing_problems/state/MD

HB0691 Testimony.pdf

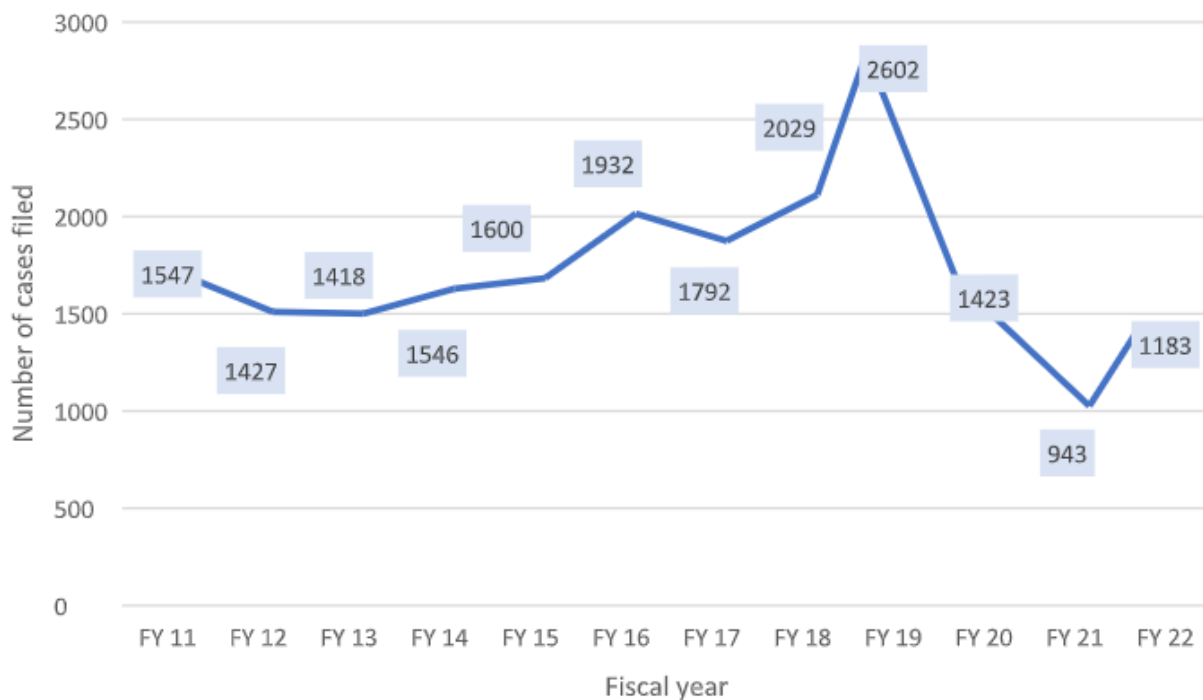
Uploaded by: Shirley Fuller

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee:

I am a member of Showing Up for Racial Justice Annapolis and Anne Arundel County. I am a resident of District 3. I am testifying in support of House Bill 0691, the Tenant Safety Act, because it would support tenants facing dangerous conditions in accessing rent escrow.

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. For others, the filing fee and time missed from work are infeasible on a lean budget. For others still, 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.



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HB0691 mirrors an existing procedure in New York City, one that routinely supports tenants in addressing harmful building conditions quickly and collectively. Our organization supports the Tenant Safety Act because we 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 single tenant or a group of tenants, incorporated or unincorporated, living on the same premises with the same landlord, to seek repairs, damages for unaddressed repairs, and attorney's fees.

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 collective option for seeking repairs through the courts and the added remedy of damages and attorney's fees, 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, by permitting tenants to pursue damages against a landlord who fails to make repairs, landlords and their agents will be required to account for the actual harm caused by their refusals and failures to make necessary repairs – a remedy that is much more persuasive than lost rental income alone. 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.

HB0691 also codifies the already-existing implied warranty of habitability and clarifies tenants' 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.

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. Indeed, practitioners report that it is functionally impossible to bring an escrow case on behalf of a group of tenants because existing class action requirements are not designed with escrow in mind. Instead, tenants on the same premises with the same landlord are generally required to file individual actions, with each tenant paying a filing fee, drafting a separate complaint and appearing in court. This process is particularly onerous for older and disabled renters, for whom it may be difficult to travel to the courthouse on multiple occasions, and low-income renters, for whom taking three separate days off of work to go to court could risk their livelihoods. In addition, this process requires judges to hear building or complex-wide conditions issues piecemeal and prevents them from assessing and addressing important safety issues in a single determination. 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.

I ask that the Committee **issue a report of FAVORABLE on HB0691.**

I appreciate your time, service, and consideration.

Sincerely,

Shirley Fuller
820 Janet Dale Ln, Severn 21144

HB0691 Testimony.pdf

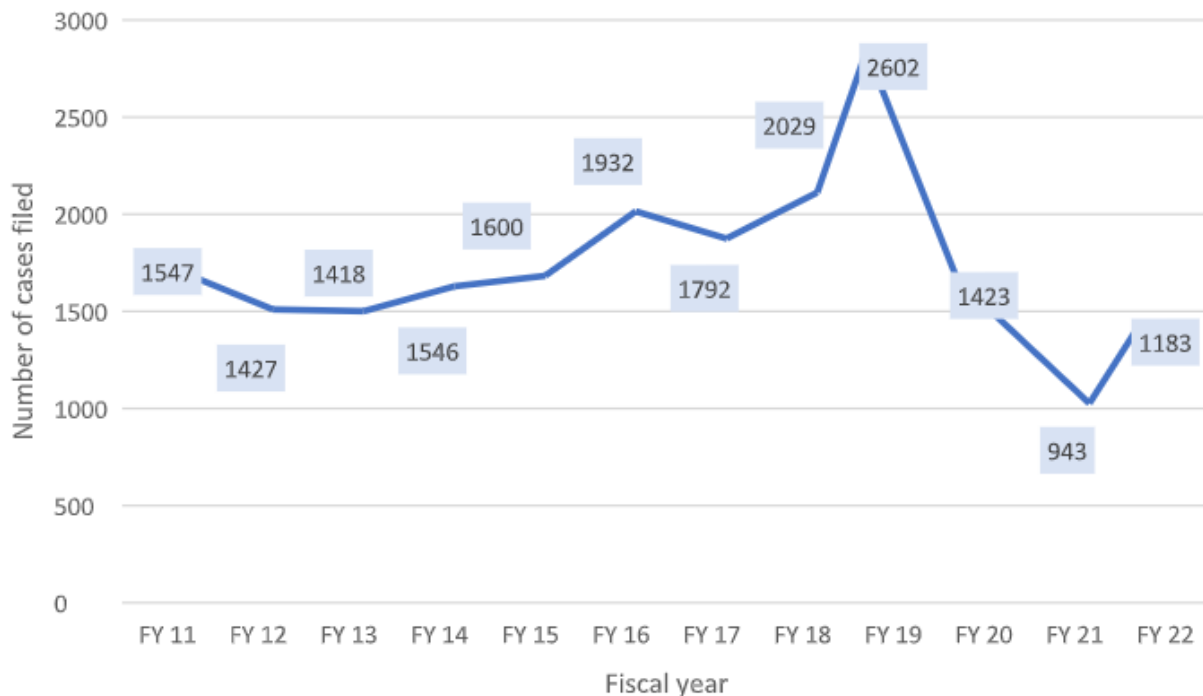
Uploaded by: Shirley Fuller

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee:

I am a member of Showing Up for Racial Justice Annapolis and Anne Arundel County. I am a resident of District 3. I am also a member of Ark and Dove Presbyterian Church as well as ACT, Anne Arundel Connection Together. Because I believe everyone in our county deserves to live in habitable conditions, I am testifying in support of House Bill 0691, the Tenant Safety Act, because it would support tenants facing dangerous conditions in accessing rent escrow.

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. For others, the filing fee and time missed from work are infeasible on a lean budget. For others still, 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 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 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, one that routinely supports tenants in addressing harmful building conditions quickly and collectively. Our organization supports the Tenant Safety Act because we 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 single tenant or a group of tenants, incorporated or unincorporated, living on the same premises with the same landlord, to seek repairs, damages for unaddressed repairs, and attorney's fees.

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 collective option for seeking repairs through the courts and the added remedy of damages and attorney's fees, 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.

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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.

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HB0691 - JPR - Maryland Legal Aid - FAV.pdf

Uploaded by: Zafar Shah

Position: FAV



**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 Senate Judicial Proceedings Committee on April 4, 2023

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 cases involving substandard conditions. MLA urges the Committee’s favorable report on HB0691, which would allow groups of tenants to file rent escrow actions.

HB0691 creates 4 long-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.
2. HB0691 also codifies the Implied Warranty of Habitability (“IWH”), which is typically ignored in Maryland courts.
3. HB0691 sets forth a “fee shifting” provision in the existing rent escrow law, whereby prevailing tenants would win attorney’s fees and costs.
4. The bill also establishes mold hazards as a specific grounds for establishing a rent escrow.

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

Lead Petition for Rent Escrow

As passed in the House, HB 691 introduces a Lead Petition, in which a single tenant may initiate an action for rent escrow asserting that substantially similar dangerous defects affect multiple households in a multi-family property. If the court establishes the escrow account, the Lead Petitioner would then pay rent into the account in order to maintain the action. Next, a 30-day opt-in process begins during which additional tenants may add their units into the case. Each of these opt-in tenants would file a request to join the action and indicate whether they wish to pay their rent into escrow accounts. Although an opt-in tenant is not required to pay into escrow, if they elect not to and then also fail to pay rent to their landlord, they would be left unprotected from the landlord's pursuit of collection or eviction. In other words, HB0691 does not contemplate that an entire rental community could "live rent free."

Notably, too, the opt-in procedure is limited to claims for equitable relief, namely court-ordered repairs. The bill does not allow a group action for money damages.

The House adopted an amendment to HB 691 to ensure that the Lead Petitioner does not practice law on behalf of the opt-in tenants. Nonetheless, the Maryland Judiciary has raised concerns that, no matter what the bill says expressly, HB 691 requires the Lead Petitioner to undertake unauthorized practice of law ("UPL") by filing pleadings and papers on the group's behalf and by testifying on the group's behalf. There are no such requirements in the bill, however. HB 691 requires each opt-in tenant to file a request with the court that pleads facts about their unit and their grounds for joining the Lead Petition. The bill leaves to judges' sound discretion how a court should proceed with taking testimony in proceedings. Presumably, whenever an opt-in tenant's testimony is needed, the court would summon that person to testify.

Warranty of Habitability

HB 691 expressly states that a warranty of habitability is implied in all rental agreements and additionally provides both affirmative and defensive claims for violation of the warranty.

Although "[t]he concept of an implied warranty of habitability is no stranger to the common law,"¹ Maryland district courts invariably deny tenants' claims based on violation of the warranty in part because judges interpret the rent escrow statute as overriding the warranty. For instance, when a tenant raises dangerous defects as a set-off defense to non-payment of rent, the bench may

¹ *Jack Spring, Inc. v. Little*, 50 Ill. 2d 351, 360 (1972).

respond, “If you are asserting that there are poor conditions, you must file an escrow case.” This ubiquitous confusion of two distinct legal claims – one for compensation based on past defects, the other for injunctive relief (repairs, rent abatement) based on continuing defects – requires the clarification offered by this bill.

Fee-shifting

The fee-shifting provision in HB 691 would increase the accessibility and effectiveness of the rent escrow law. Opponents of the bill have objected to this language that allows a court to award attorneys’ fees to the prevailing tenants. This Committee is well-aware that fee-shifting provisions depart from the “American Rule” on attorney’s fees, i.e., that each party is responsible for paying their own attorneys’ fees, regardless of the outcome of the case. Fee-shifting breaks with the rule to promote utilization and enforcement of remedial laws. Civil rights, consumer protection, and environmental laws are examples. Another example is Maryland’s retaliatory eviction statute (Real Prop. § 8-208.1) whereby a court may award attorneys’ fees to the tenant who prevails in showing that their landlord retaliated by attempting an eviction. HB 691 proposes the same measure for rent escrow and the warranty of habitability.

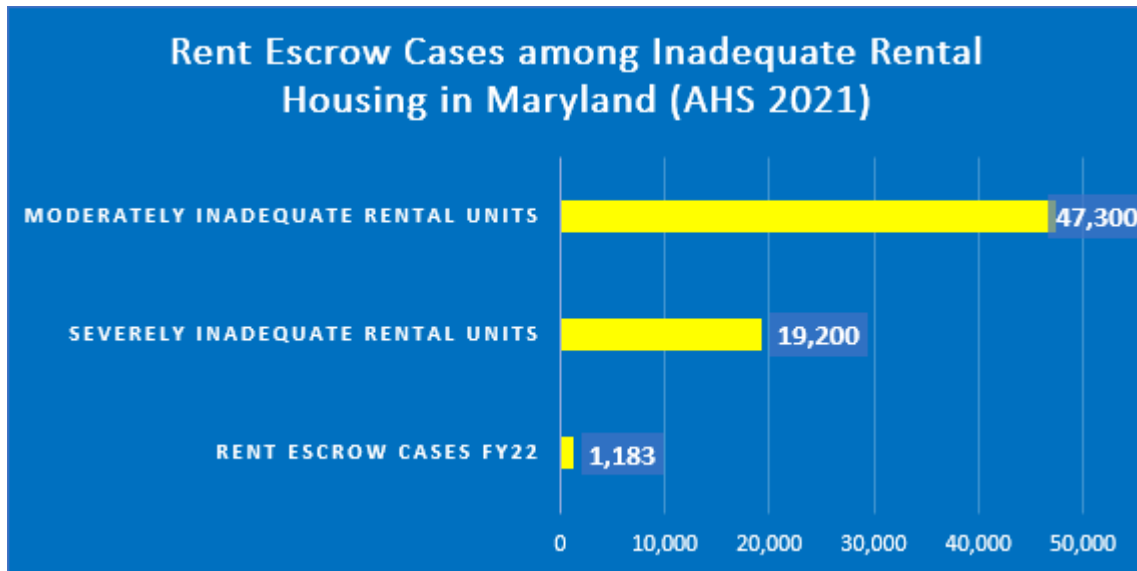
Absent a fee-shifting mechanism, few attorneys in the private bar represent tenants in rent escrow cases. Their potential clients, who typically earn low incomes, are unlikely to be able to afford to pay attorney fees. Nor can these renters obtain free legal representation for affirmative rent escrow cases under the Access to Counsel in Evictions law. Under the recent enactment, the Access to Counsel law did not include affirmative rent escrow actions except where the renter has been constructively evicted (meaning, they have already temporarily or permanently vacated the rental unit). Maryland Legal Aid frequently raises rent escrow claims on behalf of our income-eligible clients, but we do not have the resources to meet all requests for assistance. The availability of an attorneys’ fee award would increase the likelihood that low-income renters are able to obtain legal representation, which in turn boosts the likelihood that they utilize the laws that the General Assembly intended for their protection.

Notably, the rent escrow statute already includes a provision by which landlords may win an award of attorneys’ fees if the court finds the rent escrow action was frivolous or brought in bad faith.

Low utilization of rent escrow

The Maryland Judiciary’s statistics on rent escrow filings also demonstrate the low utilization of rent escrow. The number do not lie: renters, individually, file these cases only rarely. As reported

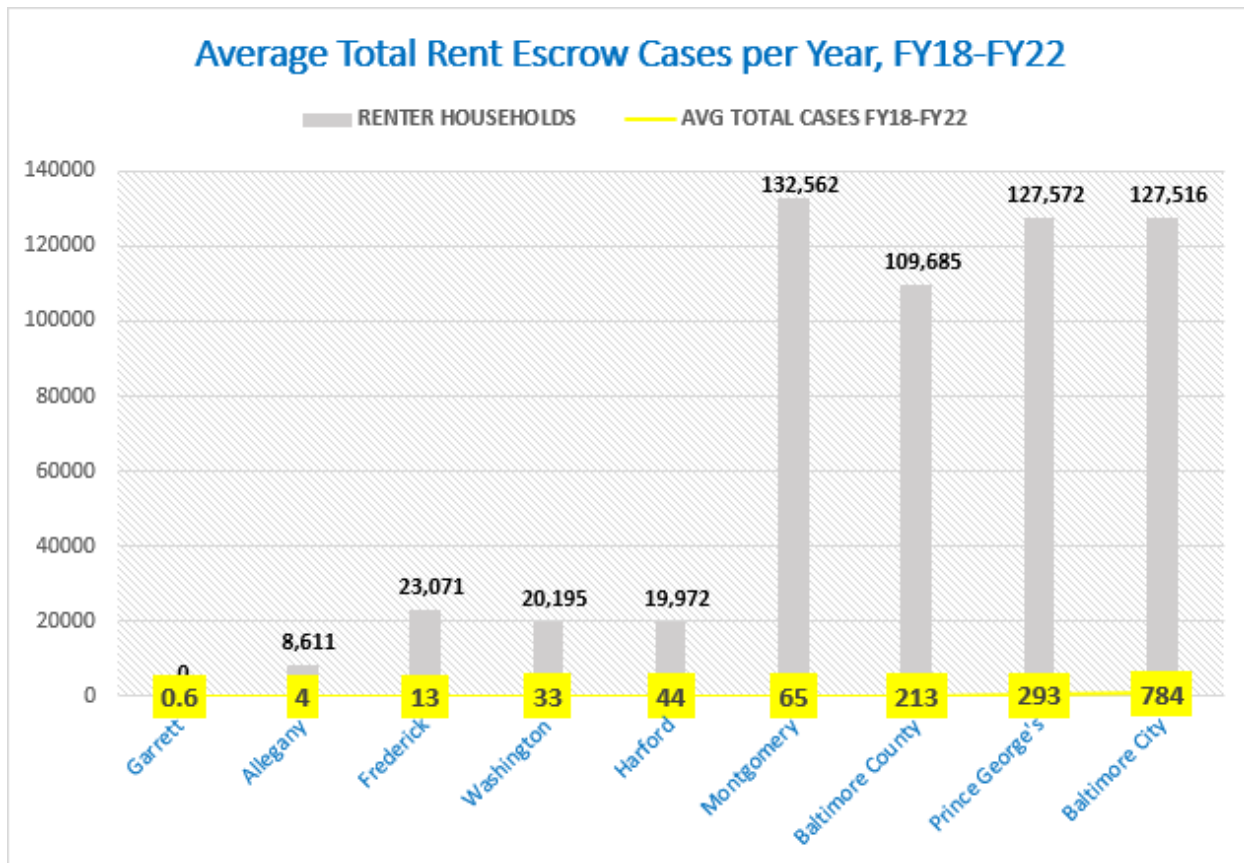
by the Maryland Judiciary, the number of rent escrow cases filed in FY 22 pales in comparison to the number of Maryland households that reported “severely” and “moderately” inadequate defects in the 2021 American Housing Survey²:



Sources: U.S. Census Bureau, American Housing Survey for the United States: 2021, Table Creator (Select area: Maryland, Select a table: Housing Quality); Maryland Judiciary, About the District Court: Statistics, <https://mdcourts.gov/district/about#stats>.

These data tell us that, under the existing constraints of the rent escrow law, approximately one case is filed for every severely inadequate rental unit. This low utilization of rent escrow is even starker when compared to the overall number of renter households. In the jurisdictions represented by Committee members, the 5-year averages of total rent escrow cases represent not even 1% of the total number of renter households per jurisdiction:

² U.S. Census Bureau, American Housing Survey for the United States: 2021, Appendix A-13, <https://www2.census.gov/programs-surveys/ahs/2021/2021%20AHS%20Definitions.pdf>.



Sources: U.S. Census Bureau, American Community Survey, 2021: ACS 5-Year Estimates Subject Tables, S2501 Occupancy Characteristics (Filter by county); Maryland Judiciary, About the District Court: Statistics, <https://mdcourts.gov/district/about#stats>.

Despite the potential value of the rent escrow law, the law itself is clearly under-used. HB 691’s opt-in provision is a serious measure to increase access and utilization of rent escrow when systemic hazards occur.

Case Study: Prince George’s County

Several years ago, MLA clients in Prince George’s County at an affordable rental housing building, primarily serving the elderly, experienced burst pipes. The property was flooded on several floors. The owner decided only to 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. Rent escrow could provide relief only for individual units, and not ever tenant suffering with disrepair could escrow their rent. They endured months of hardship as they attempted to find counsel to explore a class action for money damages. HB0691 which would have offered this group of tenants a direct means to access the courts together and to obtain, by virtue of a lead tenant’s escrow of rent, a court’s order of repairs to the entire property.

Mold hazards

House amendments to HB 691 also incorporated the language of HB0972, which adds “mold... that presents serious and substantial threat to the health of the occupants” as one of 6 specific grounds for establishing a rent escrow. Although opponents of this measure suggest that “mold” is already a basis for establishing rent escrow, practitioners know that the courts are inconsistent in how they view the appearance of mold under the rent escrow law. The language in HB0691 will clarify for judges, landlords, and tenants alike that mold hazards are cognizable under the statute and, furthermore, that the health of the tenant would be a factor in how a court assesses mold in establishing an escrow case.

For all these reasons, **Maryland Legal Aid urges the Committee’s favorable report (with any Sponsor amendments)**. If you have any questions, please contact:

Zafar S. Shah
Assistant Advocacy Director – Access to Counsel in Evictions
zshah@mdlaborg | (443) 202-4478

Gregory Countess
Director of Advocacy for Housing and Community Economic Development
gcountess@mdlaborg | (410) 951-7687

HB0691:senate judicial proceedings - RUM Tenant Sa

Uploaded by: Gwen DuBois

Position: FWA



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

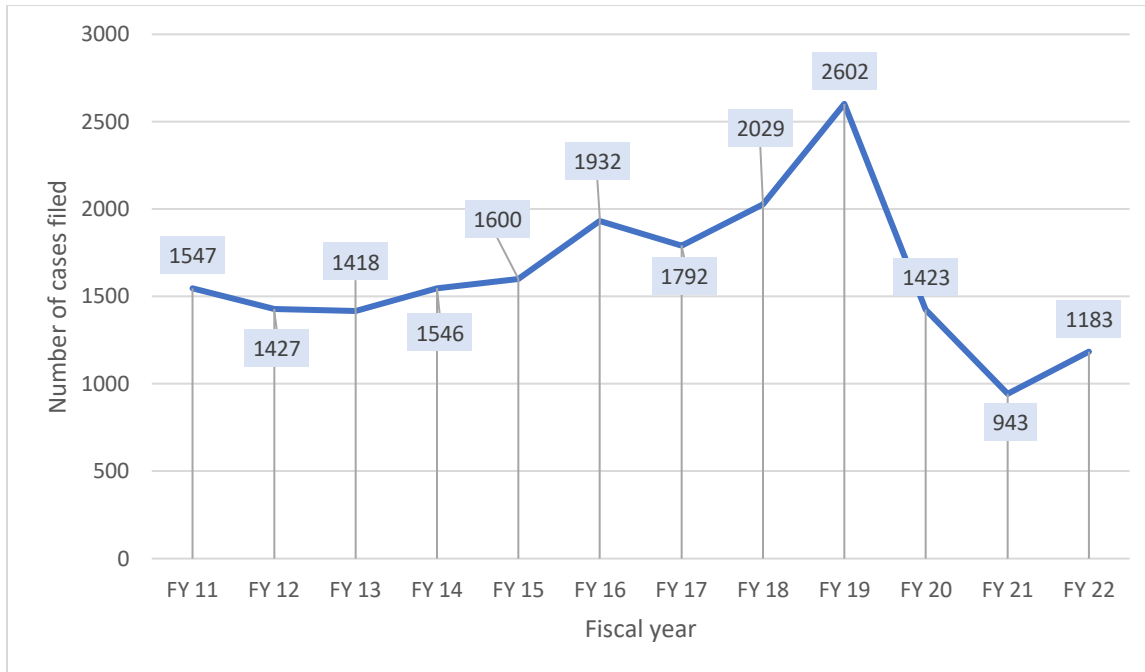
**Hearing before the Senate Judicial Proceedings Committee,
April 4, 2023, 1:00PM**

Position: SUPPORT (FAV)

Chesapeake Physicians for Social Responsibility is a non-profit organization of over 900 physicians, medical students, other health care providers and supporters whose mission is to address the existential threats to public health through a lens of racial and social justice. This includes the climate crisis and risk of nuclear war. Because housing is a major social determinant of health, this includes the pursuit of housing that is not a danger to health and safety.

We support House Bill 691, the Tenant Safety Act, **with sponsor amendments only**, because it would support tenants facing dangerous conditions in accessing rent escrow.

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.



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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 we 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.

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

Chesapeake Physicians for Social Responsibility is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on HB0691 with sponsor amendments only**. If you have any questions, please contact:

Gwen L. DuBois MD, MPH

President Chesapeake Physicians for Social Responsibility

gdubois@jhsph.edu or 410-615-0717

Economic Action Maryland_HB691_FAV with Sponsor Am

Uploaded by: Michael Donnelly

Position: FWA



**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: Favorable w/ Sponsor Amendments

April 4, 2023

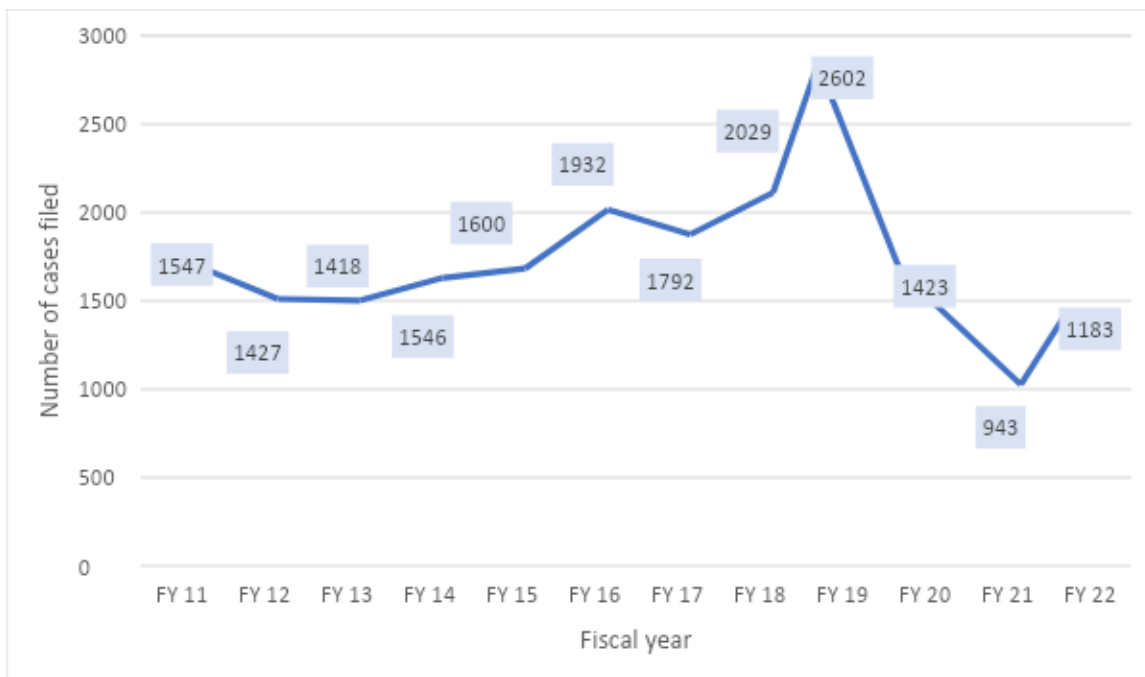
**The Honorable William C. Smith, Jr., Chair
Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, MD 21401
Cc: Members, Judicial Proceedings Committee**

Honorable Chair Smith and Members of the Judicial Proceedings Committee:

Economic Action Maryland is a nonprofit organization that works to advance economic justice and equity through direct-service, research, education, and advocacy. Our tenant advocacy program assists renters and property owners in every Maryland county.

We write in support of House Bill 691, the Tenant Safety Act, **with sponsor amendments only**, because it would support tenants facing dangerous conditions in accessing rent escrow.

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.



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2209 Maryland Ave · Baltimore, MD · 21218 · 410-220-0494

info@econaction.org · www.econaction.org · Tax

ID 52-2266235

Economic Action Maryland is a 501(c)(3) nonprofit organization and your contributions are tax deductible to the extent allowed by law.

compelling negligent landlords to act in the interest of life, health and safety.

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Economic Action Maryland is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on HB0691 with sponsor amendments only.**

Respectfully submitted,
Michael C. Donnelly
Economic Action Maryland

2209 Maryland Ave · Baltimore, MD · 21218 · 410-220-0494
info@econaction.org · www.econaction.org · Tax
ID 52-2266235

Economic Action Maryland_HB691_FAV with Sponsor Am

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Position: FWA



**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: Favorable w/ Sponsor Amendments

April 4, 2023

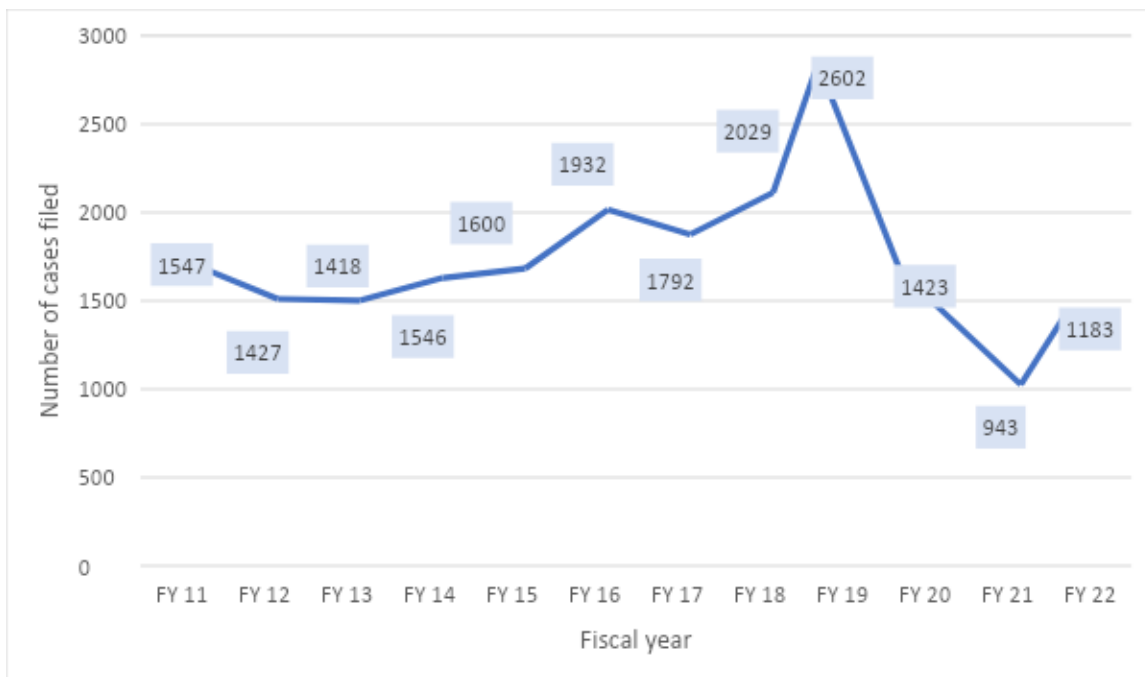
**The Honorable William C. Smith, Jr., Chair
Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, MD 21401
Cc: Members, Judicial Proceedings Committee**

Honorable Chair Smith and Members of the Judicial Proceedings Committee:

Economic Action Maryland is a nonprofit organization that works to advance economic justice and equity through direct-service, research, education, and advocacy. Our tenant advocacy program assists renters and property owners in every Maryland county.

We write in support of House Bill 691, the Tenant Safety Act, **with sponsor amendments only**, because it would support tenants facing dangerous conditions in accessing rent escrow.

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 we 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

2209 Maryland Ave · Baltimore, MD · 21218 · 410-220-0494

info@econaction.org · www.econaction.org · Tax

ID 52-2266235

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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. We support amendments offered by Del. Stewart, but urge the Committee to reject any further weakening of the bill.

Economic Action Maryland is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on HB0691 with sponsor amendments only.**

Respectfully submitted,
Michael C. Donnelly
Economic Action Maryland

2209 Maryland Ave · Baltimore, MD · 21218 · 410-220-0494
info@econaction.org · www.econaction.org · Tax
ID 52-2266235

MMHA - 2023 - HB 691 - Tenant Safety Act - JPR(2).

Uploaded by: Aaron Greenfield

Position: UNF



Bill Title: House Bill 691, Landlord and Tenant - Failure to Repair Serious and Dangerous Defects - Tenant Remedies (Tenant Safety Act)

Committee: Judicial Proceedings Committee

Date: April 4, 2023

Position: Unfavorable

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose membership consists of owners and managers of more than 207,246 rental housing homes in more than 937 apartment communities. Our members house over 667,000 residents of the State of Maryland throughout the entire State of Maryland. MMHA membership also includes more than 216 associate members that supply goods and services to the multi-housing industry. More information is available at <https://www.mmhaonline.org/>

House Bill 691 amends the rent escrow statute and authorizes a single tenant or tenants' organization to bring an action for money damages against the housing provider for breach of the warrant of habitability stemming from a failure to repair serious and dangerous defects on the leased premises. The bill provides details on what must be contained in a petition.

MMHA opposes this bill because it seeks to dismantle Maryland's long standing rent escrow procedure which balances the rights of tenants to live in housing free of serious and substantial defects with the responsibilities of landlords to supply such housing. This bill further establishes a specialized type of multi-plaintiff litigation which circumvents Maryland's current stringent judicial process to certify class actions, usurping judicial discretion and upending the protections provided by current rent escrow proceedings. Specifically, MMHA has the following objections to House Bill 691:

1. “Actual Notice”: Given this new ability to effectively file a class action in rent escrow, we have questions about what constitutes “actual notice” on page 4, line 3. What does actual notice mean in this context? And actual notice to who? Can a tenant just tell the building porter or some other person who is not designated to address maintenance issues and then call that actual notice for a whole building? Actual notice should be in writing by certified mail with proper service on the resident agent. Otherwise, this could be a due process violation.
2. Damages/Attorneys’ Fees: Page 4, line 18, allows a tenant to bring “damages” against the landlord for breach of the warranty of habitability. The bill deletes “money” damages.



What kind of damages does this cover? At the same time, on page 7, line 29, only a tenant can receive attorneys' fees from the landlord. This is a significant expansion of the rent escrow statute as it currently does not allow a tenant to receive attorneys' fees. Why aren't attorney's fees mutual?

3. Rent Escrow Accounts: Such a rent escrow action should only occur if all tenants pay into an account. This way we know that the tenants are taking this seriously and not seeking to delay a failure to pay rent. Two provisions of the bill appear to be at odds. Page 5, beginning at line 18 (8-211(I)(4)(I)) requires each tenant to pay into separate escrow accounts in order to join the rent escrow action. However, page 8, lines 1-4, (8-211(k)(2)) allows relief by escrow if paid by the tenant or lead petitioner.
4. Multiple Buildings: Page 5, beginning at line 2, allows this class action amongst multiple buildings, which need not be contiguous. This bill would create a class action to extend to multiple buildings across several city blocks as long as the property is owned by the same landlord. As written, this could extend to hundreds of units. Some of these projects are several city blocks, on completely different streets. There should be more of a limit than what is expressed in the statute.
5. Breach of Warranty of Habitability: Page 5, line 5, allows for relief based on the breach of warranty of habitability which may not be conditioned on payment by the tenant of rent into the court. Can this be based on an allegation? The language is not clear. This should only be, if and when, the court actually finds a breach, not just based on the allegation. Otherwise, all the tenants will allege so they need not pay into escrow. Also while the measure of damages in a Warranty of Habitability matter is as stated in Williams vs. Baltimore City Housing Authority 361 Md. 143 (Md. 2000), 760 A.2d 697, 2000

"damages for breach of the warranty shall be computed retroactively to the date of the landlord's actual knowledge of the breach of warranty and shall be the amount of rent paid or owed by the tenant during the time of the breach less the reasonable rental value of the dwelling in its deteriorated condition."

Will the results vary between joining members because different types of items are damaged in their units with a variety of seriousness in each?

6. Res Judicata/Collateral Estoppel: On page 6, lines 8, prior to judgment, a tenant who joined the lawsuit may request leaving the action and pursuing a remedy individually without prejudice. This bill could violate res judicata/collateral estoppel for a tenant to leave the group after the case has started but before conclusion, and then let the tenant bring their own separate action. Once a tenant joins, they should not be able to depart "without prejudice" if the court has already made findings of fact or conclusions of law.



7. Tenant Notification: Page 6, beginning at line 22, requires the landlord to allow the tenant the ability to notify other tenants of this class action to “drum up” more tenants, in a manner determined by the court. In large multi-family buildings, would this require a landlord to give a tenant access to their tenant portal? For how long? In typical class actions, the plaintiff’s counsel notifies potential tenants rather than using the defendant/landlord as a means to increase the class. That should be the case here.

For these reasons, we respectfully request an unfavorable report on House Bill 691.

For additional information, please contact Aaron J. Greenfield, 410.446.1992

HB691 Memo.pdf

Uploaded by: Matthew Pipkin

Position: UNF

STACY A. MAYER
CIRCUIT COURT
JUDGE
BALTIMORE COUNTY
CHAIR
P: (410) 887-6510

RICHARD SANDY
CIRCUIT COURT
JUDGE
FREDERICK COUNTY
VICE-CHAIR
P: (301) 600-6810



SUZANNE PELZ
STAFF
P: (410) 260-1523

MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

To: Chairman Smith
From: The Maryland Judiciary
Date: March 28, 2023
RE: House Bill 691

The Maryland Judiciary remains strongly opposed to House Bill 691 as amended. The proposed bill is confusing, unworkable and would likely lead to individuals engaging in the unauthorized practice of law. Among the many issues in the bill are the following:

Unauthorized Practice of Law

As drafted, the bill allows a lead tenant, on behalf of other tenants, to file a rent escrow complaint alleging that a common serious and substantial defect exists in their apartments that puts the life and safety of the occupants at risk. This is not simply a lead tenant filling out paperwork. It requires the lead tenant to investigate the condition of other apartments, identify that the serious and substantial threat to life and safety is common to all the tenants joining the group, and draft and file a rent escrow complaint on behalf of themselves and all the other group members. Importantly, someone, presumably the lead tenant, must provide proof at trial to the court of the condition in each class members' apartment. If the lead tenant is not permitted to practice law pursuant to Section 10-206 of the Business Occupations and Professions Article of the Maryland Code, this conduct would likely be considered the unauthorized practice of law.

The purported justification for the need for this type of quasi class action is so every tenant would not have to come to court when the tenants have common issues. However, if only the lead petitioner were to appear for the hearing, they would be unable to satisfy the proof requirement for the other class tenants without engaging in the practice of law. They may be called upon to argue as to the conditions present in the other apartments, whether those other tenants satisfied the notice requirements to the landlord, whether the damages to the dwelling were a threat to health and safety of the occupants, and that the damages were not caused by the occupants among other issues. The bill is silent on who is required to attend both the initial hearing and any subsequent hearings regarding the action.

The amendments on page 6, lines 31-33 and page 7, lines 1-3 provide that nothing in the bill authorizes the lead petitioner to represent the interests of any other tenant do not properly address the issue of the lead tenant being engaged in the unauthorized practice of law. The amendments ignore that the lead tenant would be required to satisfy basic proof requirements not only when filing an initial rent escrow complaint on behalf of other tenants, but also at trial.

To further compound this issue, there is no requirement that the lead petitioner seek the permission of other tenants before naming these other tenants in the action. Even if the lead petitioner has permission from the other tenants, their interests may diverge at any time during the pendency of the action i.e., the lead tenant may have a worse condition in their apartment than another tenant or tenants, the lead tenant and the other tenants may disagree about the terms of settlement or whether the damage or danger has satisfactorily been fixed by the landlord. If the lead tenant is expected to continue to represent to the court the interests of the other tenants even when divergent from their own, the lead tenant would once again be engaging in the unauthorized practice of law. The amendments added to pages 6-7 simply turn a blind eye to what is occurring and do not satisfy this issue. Please see *Lukas v. Bar Association of Montgomery County*, 35 Md. App. 442, 371 A.2d 669 (1977) regarding the unauthorized practice of law.

Class Action

House Bill 691 attempts to create a new type of class action while completely ignoring the detailed requirements and safeguards set forth in the class action rule found in Maryland Rule 2-231. Please note that Maryland Rule 2-231 applies only to circuit court and that the District Court does not have jurisdiction over class action cases. The District Court is not structured to handle class action cases as both class actions and cases created by this bill could potentially include hundreds of litigants and could take multiple trial days. This would require tremendous additional judicial resources that are not accounted for in the bill. Not only would hearing times increase exponentially but other resources would be necessary to create and reconcile sub-escrow accounts, plus receive, organize, and rule on potentially hundreds of motions made by tenants asking to join the rent escrow action.

Substitution of Lead Petitioner

The amendments to House Bill 691 do not adequately address the practicality of court hearings required to reach appropriate relief as described in the bill. For example, the bill is devoid of direction if the first lead tenant has had their case satisfied, moved, paid rent, or decides to leave the action prior to the conclusion of the case. It purports to permit the court to appoint another lead petitioner but does not address how the court would determine who to appoint. What if there is a disagreement among the remaining tenants as to who should act as the lead petitioner? What if no one is prepared or wants to be named the lead petitioner? The court should not be involved in the appointment of individuals who bring actions in court. Further, and notwithstanding that the court should not be determining who the lead petitioner will be, the bill lacks a meaningful standard of review or direction of how a second tenant would be qualified to become the lead tenant. Would this be done by hearing? By motion? Additionally, the bill is silent on whether a tenant once replaced as lead needs to be notified at all. The constant substitution of lead petitioners allows the initial tenants to vanish out of the case and a whole new set of tenants to appear and carry the case forward prior to a judgement being entered.

The bill remains silent on what happens to the funds in the escrow account of the lead tenant were the tenant to depart the case prior to the issuance of a judgment. Do the funds remain held in escrow and

not disbursed until final judgment? Page 9, lines 14-21 describes the forfeiture of escrow funds to the tenant after six months if repairs are not made but given the complexity of balancing many tenants and many repairs, six months could easily pass without appropriate repairs being concluded in all dwellings. If the funds are returned to the lead tenant, and the new lead tenant has not funded their escrow account, it is unclear whether the case may proceed. Page 6, lines 18-19 allows the court to remove the lead tenant if the lead tenant fails to fund their escrow account. Would the court be appointing a new lead tenant and then promptly removing them for failure to fund the escrow account?

Other Issues presented by proposed House Bill 691

In addition, the bill allows any tenant to join the case with leave of the court but does not allow other tenants already in the action to either consent or decline the joinder. Again, page 5, lines 18-21 are silent on all the complex factors of joining tenants to an existing case, without certifying a class or establishing a class action. Presumably, each tenant would have to attend a scheduled hearing to provide proof to the court that joinder should occur and to support the facts set out in their request. Who would be required to be present at the hearing? A lead petitioner or the tenant who has requested to be joined? Further, the proposed language provides no standard of review for the court to determine whether to allow or reject the joinder of other tenants. How would the lead petitioner know the conditions of a tenant's apartment that is seeking joinder? If the purported goal of this bill is to avoid the necessity of these individuals participating in the court hearing and instead deferring to a lead petitioner, how would their evidence be proven to the court?

The bill permits an endless number of tenants to join the class at different 30-day increments. For example, the bill provides that tenants may join the action after the lead petitioner first established the rent escrow. If new members join the class during the 30-day window, new escrow accounts would be established, and new members could then join again during the new 30-day window. Presumably the court could not move forward to adjudicating the case until all these tenants have joined. This would cause significant delays for all parties involved and would also strain judicial resources to consistently track the moving target of a 30-day timeframe.

Page 6, line 20-21 of the amended bill permits the court to remove a lead petitioner if it is in the "interest of justice." This is not a standard that provides any guidance to the judiciary.

In addition, page 8, lines 1-4 of the amended bill seem to condition relief by rent escrow on payment by either a tenant or the lead tenant, but not both. This would presumably allow the court to disburse funds from one tenant to the landlord to assist with repairs on all tenant dwellings.

Existing Relief

The existing statutory and rule structure provide the relief sought by this bill. For example, 10 tenants can presently file rent escrows and move to consolidate the cases for trial. Consolidation is a well understood mechanism in the court and provides for the orderly and efficient adjudication of cases. The process outlined in House Bill 691 ignores this existing protection and significantly confuses the process.

House Bill 691 codifies the warranty of habitability which already exists in common law and has already been codified in Baltimore City. To codify again would be redundant and unnecessary.

Additionally, House Bill 691 adds language to allow a rent escrow when a tenant alleges that the existence of mold in a dwelling is a serious and substantial threat to life and safety. A claim of mold as a threat to health as a basis for rent escrow can already be brought under the existing language in Real Property Code §8-211(e)(5): “The existence of any condition which presents a health or fire hazard to the dwelling unit.”

Conclusion

Given the serious gaps in language, silence on important operational issues, and the potential for court users to engage in the unauthorized practice of law, proposed House Bill 691 in its original form and as amended, has not been comprehensively designed and raises significant legal concerns.

HB 691-- AOBA--UNF.pdf

Uploaded by: Ryan Washington

Position: UNF



Bill No: HB 691-- Landlord and Tenant—Failure to Repair Serious and Dangerous Defects—Tenant Remedies (Tenant Safety Act)

Committee: Judicial Proceedings

Date: April 4, 2023

Position: Unfavorable

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George’s Counties.

House Bill 691 establishes that housing providers that offer rental housing shall warrant the units fit for human habitation. The bill authorizes a single resident to seek remedies on behalf of a group of residents or a tenant’s organization if a housing provider fails to repair serious and dangerous defects on the property. Additionally, a group of residents or a tenant organization can employ remedies for any violation resulting in failure to repair defects in multiple units. The bill allows a resident to bring a civil action for monetary damages against the Housing provider for failure to repair defects within 90 days of the Court finding the conditions still exist. A resident that prevails in an action is entitled to reasonable attorney's fees.

AOBA opposes this legislation for the following reasons:

- The bill will amend the rent escrow process and establish a new specialized type of class action that evades the current process to certify class actions;
- Existing rent escrow laws provide protections for residents.

As drafted, an organization or group of tenants can employ remedies on behalf of a resident. This presents grave concerns for AOBA members as it creates a new process for class action suits for one individual to represent an entire group without legal rights and liabilities to speak for other residents and bring a civil action to a housing provider.

This bill essentially creates a "collective action" that conceptually fails to be a useful model for rent escrow proceedings. Residents use rent escrow to get the courts to require a housing provider to perform necessary repairs in the dwelling unit. Collective action will prolong the process for remedies and delay repairs as there are specific rules within the statute that the housing provider and resident must follow to ensure the Court determines the facts and appropriate remedies for each case. These include:

- whether notice of the problem was adequately given to the housing provider,
- whether the defects constitute a "substantial threat to the life, health, and safety" of the resident,
- whether the housing provider has a defense to the complaint, such as lack of cooperativeness of the resident, interference with access, and the tenant having too many prior judgments to bring an action for escrow,
- how much rent to put in escrow while repairs are made,
- whether there has been a disruption of the resident's "quiet enjoyment" of their unit and, if so, how much rent abatement should be awarded to compensate for that, and in severe cases, whether the situation warrants the Court issuing an injunctive action for an outside contractor to make repairs and ultimately, if warranted, to end the tenant's lease and award damages.

Even where a defect might affect a common area or an entire building (for instance, if the whole roof collapses or the heat is out in the entire building), the unique impact experienced in each rental unit and/or by each tenant mitigates against the "collective action's" core idea that all tenants are similarly situated claimants who can rely on one person to represent their interests. Additionally, tenants who decide not to "opt-in" to the proceedings present the specter of never-ending rent escrow actions, which could quickly exhaust legal and operational resources for housing providers.

AOBA members believe the existing rent escrow statute provides potent remedies to protect tenants. Unlike complicated class action litigation, the typical rent escrow case involves addressing a particular problem or problems in a specific resident's rental unit. Even in multifamily buildings, residents' repair issues are generally unique to their living situation and easily identifiable through resident complaints and inspections by the housing provider or Code Officials. Housing providers must repair and eliminate conditions that seriously threaten occupants' life, health, or safety. Suppose a housing provider fails to fix severe or dangerous problems in a rental unit. In that case, a resident can pay rent into an escrow account established at the local District Court.

For these reasons, AOBA urges an unfavorable report on HB 691. For further information, contact Ryan Washington, AOBA Government Affairs Manager, at rwashington@aoba-metro.org or call 202-770-7713.

HB 691X_realtors_unf.pdf

Uploaded by: William Castelli

Position: UNF



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

Position: Unfavorable

Maryland REALTORS® oppose HB 691 which, among other provisions, allows for damages under the rent escrow law.

REALTORS® often manage property for owners who lease their single-family property for many reasons. Sometimes it is because the owner is seeking to create additional income for their family by holding onto property they once lived in. Sometimes, they choose rental real estate as a separate investment vehicle where the rent helps pay the mortgage allowing landlords to build equity in the property. Sometimes, it is because the owner of the property has a job relocation but wants to return to Maryland.

Regardless of the reason, not all landlords are large corporations. In fact, many times, their rent payments barely cover the cost of their mortgage and maintenance costs. Their payoff is not the yearly rent income, but the equity that builds in the property over many years.

HB 691 poses a significant challenge for these landlords by allowing a tenant to use the rent escrow law to sue for damages. The purpose of the law is to provide tenants with a tool to force landlords to repair serious and dangerous defects rather than simply making a landlord pay damages that do nothing to improve living conditions in the dwelling unit. If the landlord fails to make a repair within the statutory time limit, the landlord may not collect the escrowed rent.

Furthermore, HB 691 establishes the right for landlords to be sued by multiple tenants which can significantly increase legal fees for small landlords that may be managing a 2-3 unit building.

For this reason, the Maryland REALTORS® recommend an unfavorable report.

**For more information contact lisa.mays@mdrealtor.org or
christa.mcgee@mdrealtor.org**