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HB 853 Residential Leases - Late Payment Penalties - Calculation
Hearing of the Senate Judicial Proceedings Committee, March 21, 2024

Position: SUPPORT (FAV)

Public Justice Center (PJC) is a nonprofit public interest law firm that assists over 800 renters and their families each year. As part of Renters United Maryland, we stand with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing.

We support HB 853 as a clarification of what we consider to be the plain meaning of the existing 5% late fee limitation in Md. Code, Real Prop. § 8-208(d). That is, a landlord is limited to charging a penalty for the late payment of rent that is no more than 5% of the rent still due. In other words, if the rent is \$1,000 per month, and the tenant has paid \$600, then the landlord may charge a late fee that is 5% of \$400 (\$20) not 5% of \$1,000 (\$50). The landlord already has use of the \$600 paid, and thus their “loss” related to the late payment of rent should be limited to 5% of the remaining \$400. There is no public policy rationale for providing a landlord a 5% late fee calculated on the full amount of monthly rent called for under the lease when only a part of that monthly rent remains unpaid. Imagine if the rent is \$1,000, and a tenant pays \$997 timely. Would the tenant then be charged a late fee of \$50 despite the remedial statutory protection of a 5% late fee?

Again, we think that this is already the most logical, plain meaning interpretation of the existing language in RP § 8-208(d). We welcome HB 853’s reinforcement of that interpretation by adding the clarifying adjective “unpaid” to delineate which number forms the basis for calculating a 5% late fee.

Public Justice Center asks that the Committee **issue a report of FAVORABLE on HB 853.**