



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

Senate Bill 171

Landlord and Tenant – Office of Home Energy Programs – Financial Assistance

Hearing in the Senate Judicial Proceedings Committee

Hearing on January 30, 2024

Position: FAVORABLE

Maryland Legal Aid (MLA) submits its written and oral testimony on SB0171 at the request of bill sponsor Senator Malcolm Augustine.

MLA is a non-profit law firm that provides free legal services to the State’s low-income and vulnerable residents. Our offices serve residents in each of Maryland’s 24 jurisdictions and handle a range of civil legal matters, the most prominent of which is housing. Our Tenants’ Right to Counsel Project represented tenants in over 2,000 cases in 2023. Maryland Legal Aid asks that the Committee report **favorably** on SB0171 to require landlord’s cooperation with the energy assistance programs administered under the Department of Human Services Office of Home Energy Programs.

SB0171 establishes a new requirement that landlords (1) provide their tenants, upon request of the tenant, those documents necessary for their participation in energy assistance programs and (2) accept energy assistance funds paid by the programs on behalf of tenants. In MLA’s experience representing low-income renters, these measures are essential and long needed.

Residential leases are required to state the distribution of utility payment responsibilities between the landlord and the tenant.¹ **Often, utility accounts remain in the name of the landlord. In those cases, landlords pass utility charges onto tenants as “rent.” Although the tenants bear the costs, they do not gain the rights of an account holder.** They typically cannot obtain account records from the utility company. Energy assistance providers rely on account records to ensure that the assistance funds are directed to the correct recipient. When landlords fail to provide that information, their tenant cannot complete the energy assistance process and remain liable for the energy charges they are unable to pay.

Unless the landlord shares account records with the tenant, the tenant is unable to complete an energy assistance application. At the same time, tenants who are approved for energy assistance may face the

¹ Md. Real Property § 8-208(c)(2). “A lease shall include:… (2) The landlord’s and the tenant’s specific obligations as to heat, gas, electricity, water, and repair of the premises[.]”

hurdle of the landlord's refusal to accept funds from the energy assistance provider. SB 0171 squarely addresses these problems.

Effect of energy costs on tenants

When energy charges become unaffordable and a tenant cannot pay them, they may be evicted for breaching the terms of their lease. The landlord's refusal to participate in the tenant's energy assistance application or refusal to accept energy assistance funds (paid by the agency to the landlord on the tenant's behalf) increases the prospect of eviction. Currently, neither tenants nor energy assistance providers have a legal mechanism to compel landlord's cooperation in the assistance process.

Consequently, utility companies may shut off power for lack of payment despite the availability of assistance. Beyond the immediate harm caused to tenants by loss of utilities, utility shut-off also puts tenants in breach of their lease agreements. For federally subsidized tenants, a utility shut-off additionally puts in jeopardy their eligibility to remain in subsidized housing.

Expanding Access to Existing Programs

SB0171 does not create a new utility assistance program. SB0171 does not expand eligibility to an existing utility assistance program. SB0171 only removes barriers to an existing program that benefits people already eligible to participate in those programs.

Mandatory Document Production

SB0171 would remove a key barrier to participation for Maryland renters. This bill requires landlords, upon request of the tenant, to provide utility account documentation which is inaccessible to the tenant but nonetheless necessary for the tenant to participate in energy assistance programs. Landlords are not required to work directly with the energy assistance provider. Landlords are not required to apply on the tenant's behalf.

Potential to Prevent Homelessness

SB0171 would enable low-income renters to avoid eviction for failure to maintain utility service. If a tenant fails to maintain energy to their residence, they are in breach of their lease and may be evicted by

their landlord² or removed from their subsidy program.³ SB0171, by increasing tenants’ access to energy assistance programs, would allow some Maryland renters to avoid homelessness by keeping their lights on and keeping them compliant with their lease and/or subsidy program obligations.

No Confidentiality Concerns Implicated

SB0171 defers to the confidentiality requirements imposed by state and federal law. Under the bill, a landlord must provide only the information necessary for the energy assistance program’s determination of eligibility to participate in the program.

Maryland Legal Aid urges the Committee to issue a FAVORABLE report on Senate Bill 171. If you have any questions, please contact Joseph Loveless, Staff Attorney, (410) 925-8572, jloveless@mdlal.org or Zafar Shah, Assistant Advocacy Director – Tenants’ Right to Counsel Project, (443) 202-4478, zshah@mdlal.org.



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² Md. Code Ann, Real Prop. art. § 8-402.1 (“[W]here an unexpired lease for a stated term provides that the landlord may repossess the premises prior to the expiration of the stated term if the tenant breaches the lease, the landlord may make complaint in writing to the District Court of the county where the premises is located[.]”).

³ See, e.g., Model Lease for Subsidized Programs (HUD-90105a (12/2007)), available at <https://www.hud.gov/sites/dfiles/OCHCO/documents/90105a.pdf>. A landlord may terminate the tenancy because of “the tenant’s material noncompliance with the terms of this agreement.” Paragraph 23(c)(1). Material noncompliance is defined as including “repeated minor violations of the lease.” Paragraph 23(d). The HUD Handbook, produced by HUD to aid the administration of subsidized housing programs, contains a list of “minor violations,” which includes “tenant fails to pay utilities.” HUD Handbook, Occupancy Requirements of Subsidized Multifamily Housing Programs (4350.3), Chapter 8, page 13, available at https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsg/4350.3.